

**Guardians of the Ballot: Electoral Laws in India and the European Union.****Dr. Manvendra Singh<sup>1</sup>, Dr. Vaishali Arora<sup>2</sup>, Kushagra Kulshreshtha<sup>3</sup>, Dr. Mohammad Asif<sup>4</sup>, Dr. Mohd Kaif<sup>5</sup>**<sup>1</sup> Associate Professor, Sharda School of Law, Sharda University, Greater Noida, Uttar Pradesh, India.

Email: manav.humanity@gmail.com

ORCID: 0000-0001-8750-5877

<sup>2</sup> Associate Professor, Sharda School of Law, Sharda University, Greater Noida, Uttar Pradesh, India.

Email: vaishali.arora@sharda.ac.in

ORCID: 0000-0002-5767-1898

<sup>3</sup> Assistant Professor, Department of Law, Raja Mahendra Pratap Singh University, Aligarh, Uttar Pradesh, India.

Email: kushagrakulshreshtha@gmail.com

ORCID: 0009-0002-9445-120X

<sup>4</sup> Assistant Professor, Department of Law, Raja Mahendra Pratap Singh University, Aligarh, Uttar Pradesh, India.

Email: lawlex6299@gmail.com

ORCID: 0000-0003-4449-0593

<sup>5</sup> Assistant Professor, Department of Law, JIMS Engineering Management Technical Campus, Greater Noida, Uttar Pradesh, India.

Email: mohdkaialig@gmail.com

ORCID: 0000-0001-8478-1593

**Corresponding Author:**

Dr. Vaishali Arora

Associate Professor, Sharda School of Law, Sharda University, Greater Noida, Uttar Pradesh, India.

Email: vaishali.arora@sharda.ac.in

ORCID: 0000-0002-5767-1898

**Introduction**

When analysing social phenomena, the investigation of electoral law is especially important, as it helps to appreciate the overarching architecture that underpins democracy. Electoral structures, for instance, in India as well as in the European Union (EU), play a central role in ensuring citizens' right to free and fair elections where their views are expressed. Nonetheless, even with difference in legal boundaries for general elections in these two regions for instance, Europe and India, they are quite different, owing to their specific political, constitutional and historical situations. It is quite understandable that both countries - India and the European Union with its considerable diversity in its member states present incredible viewpoints with regard to electoral governance (Dann & Thiruvengadam, 2021). This study becomes necessary due to the existing knowledge gaps concerning the analysis and in-depth comparisons of such systems, especially in this period characterized by the decline of electoral integrity due to sociopolitical, economic and technological factors. Therefore, this scholarly work aims to add to the conversation by presenting legal elements and structures that govern elections in both areas, with a focus on the analysis.

The electoral process in the country is a tribute to the democratic principles embedded in her laws that come with the universal practice of holding elections periodically for the purpose of enhancing political responsibility (Chhatre, 2007). The Indian system is governed by a multitude of constitutional provisions, statutory laws, and governmental agencies such as the Elections Commission of India (ECI) whose aim is to promote and safeguard the free and fair conduct of elections in the vast and heterogeneous population of India (Bhat, 2021). The multi-level governance system of the European Union embraces an electoral system whereby there are elections at the level of member states and outer level elections such as the European parliament elections (Börzel & Risse, 2000). National elections in EU states are carried out under various national legal arrangements but centralized in the elections of the EU parliament which is governed by treaties and EU laws (Hrbek, 2012). The variation in electoral mechanism in the EU member states poses a threat as far as integration and transformation of the basic democratic

principles of the union are concerned especially in the case of 27 states with diverse political systems (Bellamy, et.al., 2022).

Electoral regulatory regimes have comparative political studies as an example. These studies help to understand the pros and cons of various kinds of legislations. They also assist policymakers and researchers in best-practice identification and the highlighting of reform areas (Boix, & Stokes, (2007). This research aims to explore the legal provisions for elections in India and within the European Union, in order to illustrate how different systems that struggle with the same issues of engaging voters, regulating the funding of campaigns as well as the corruption in elections function. Furthermore, it is claimed that the cause conjunctions are crucial as well that includes the historical case, institutional framework, and political relations of the country relevant to the operation of the electoral laws (Boix, & Stokes, (2007). Where such political scenarios permit for expectable withdrawal from or enhancement of democracy, as the current world order is, more scrutiny of such political relations has to be undertaken (Miller & Vaccari, 2020). This proposes that regardless of their personal preferences, finest practices are shared across the regions of India and the EU, which can help strengthen democracy worldwide.

The primary objective of this study is to carry out a systematic and cross-sectional study on the electoral laws in India and in the European union. Such a cross-sectional analysis help in realizing how free and fair elections are organized within the confines of each system. The study assesses constitutional guarantees, the function of election management bodies and methods of protecting the electoral process, making these aspects the subject of comparison. The work will examine these parameters by employing laws, court decisions and institutions from both volumes evaluating democratic principles compliance in reality India and the EU.

### **Research Methodology**

The research approach adopted in this paper follows a doctrinal methodology, which focuses on a detailed examination of legal texts, including case laws, statutes, constitutional provisions, and relevant academic commentary. By employing this method, the study aims to provide a structured analysis of the legal frameworks governing elections in India and the European Union (EU). The doctrinal approach allows for a deep understanding of how electoral laws have developed over time and how they operate within each jurisdiction. Furthermore, the study's comparative nature adds a critical dimension, enabling an evaluation of similarities, differences, and potential areas for reform between the electoral laws of India and the EU.

The comparative critical analysis will focus on three essential parameters to test and contrast the electoral laws of India and the EU. First, the Constitutional Provisions and Legal Foundations will be evaluated to understand the core legal principles that shape elections in both regions. This includes examining key constitutional articles and statutory frameworks that define the rights of voters, the conduct of elections, and the responsibilities of election bodies. By analysing these foundational laws, the study will explore how each system seeks to uphold democratic principles.

To support the comparative analysis, specific case studies from both jurisdictions will be examined. Landmark judgments from Indian courts and the European Court of Justice, as well as key decisions from national courts within EU member states, will be analysed to demonstrate how legal institutions have shaped electoral governance. These case studies will illustrate the judicial role in upholding democratic principles and influencing electoral reforms in response to evolving political, social, and technological challenges. This structured doctrinal approach provides a comprehensive framework for critically comparing the electoral laws of India and the EU.

### **Role of Election Commissions**

The very idea of electoral laws in the Indian context is very much related to the constitutional history of India and to the dream of building a democratic country, which is, the postcolonial state (Mitra, 2017). The architects of Constitution of India who were influenced by the democratic structures around the globe also aimed at creating a structure that would ensure elections for the various sections of the country (Sundar, 2024). Situating the constitutional precepts along with the Representation of the People Acts (1950 and 1951), Part XV of the Constitution of India is the foundation of the Election management system in India which is responsible for the constitution of the Election Commission of India (ECI) as a separate body to monitor the elections. This was done in order to ensure that elections were conducted in a free and fair manner with regard to the principles of adult suffrage, electoral fairness and equality in politics (Rubinstein & Roznai, 2018). And over time, in India, electoral reforms have been in most cases and historically the consequent of reforms enacted by legislation and/or case law responding to the social and political dynamics within the polity, including electoral (mal)practices, corruption, and the growing threat of money politics (Avgerou, et.al., 2019). The trajectory of evolution that demonstrates the development has been that of electoral laws in India has been cautious evolutionary development of the values of democracy under changing aspirations in a large and diverse country (Sundar, 2024).

Unlike the singular electoral vision of India, the European Union (EU) exists at the core of a multi-level governance arrangement and operates through and across various electoral law regimes which have been

developed over time due to the peculiarities associated with the supra-nationality of the EU (Achenbach, 2021). The integration of electoral laws in the context of the European Union or EU itself first came into existence of the European Parliament by the Act of 1976 concerning the election to the office of members of the European Parliament (Costa, 2016). Nevertheless, this came into existence due to the foundational treaty ratified in 1991 called Maastricht and a treaty ratified in 2007 called the Lisbon treaty which preceded the integration of member states in the management of the European Parliament's elections. The principles of representative democracy found its way into the Lisbon Treaty as it essayed various ways in which European citizens could be allowed to exercise their voting rights. Instead of exercising their voting rights in their home countries only, citizens were allowed to vote in the country of residence instead. In contrast to India where electoral laws emanate primarily from the provisions of the constitution, the regulations on elections organized in the territories of the European Union's member states are determined by many treaties as well as couturiers legislative acts, thus implementing and more fragmented and complex electoral procedure.

When we compare the structure of electoral laws in the territory of India and that of the European Union, the first one has a much more active position with regard to electoral management. In India, for instance, the electoral laws are found in a set of statutes which is controlled by and incorporated within a written constitution, which stipulates clearly the manner of conducting elections. On the other hand, electoral laws of the EU are governed by a number of treaties which place the EU member states in a very delicate relationship. This highlights the differences in the structural characteristics, politics and the geopolitical paradigms of a unitary nation-state like India and the Indian subcontinent as the EU. In India, the Constitution mandates the Election Commission of India to act as a central supervisory body of the electoral processes within the entire jurisdiction of the country (Pedada, 2019). In Europe, however, the elections to the European Parliament are based on a European regulative framework and members' states provisions on elections, thereby forming a different mix with different levels of integration (Popelier, 2019). It is here that the EU restricts construed electoral laws; as one finds that electoral laws in India are more centered, while in the EU member states, a centralizing approach is moderated with the need for member states' distinctiveness.

In India, the significant constitutional provisions concerning elections can be found in the Constitution of India from Articles 324 to 329, which provide for the establishment of the Election Commission, the management of elections, and the adjudication of election related matters. The Representation of the People Act, 1951, on the other hand, is developed from these and spells out the purport of legal provision with regard to the conduct of elections such as qualification, registration of voters and politics. On the contrary however, there exists a distinct electoral landscape in European Union institutions which emerges from member states political treaty obligations where the most important in this case being treaty of Lisbon signed in 2009 which extended the scope of enjoyment of electoral rights. This treaty not only made direct election to the European Parliament a core principle but also brought significant changes such as the right to vote in another Member State's elections and adding to the citizens' power within the EU, allowing them to influence the law-making processes of the Union, which enhanced its democratic credentials (Grimm, 2017). While every country follows a written constitution, in India codified constitutional is the basis, Treaty Law in the case of E. U. stands on a more flexible approach constituting more than one treaty to capture the development in politics within the Union (Arato, 2013).

The interpretation of electoral laws across both India and the European union has seen the courts perform a very useful function in as far as upholding democracy is concerned. In the case of India for instance, due to the importance of the constitutional provisions regarding elections, there have been several Supreme Court rulings on the subject, the most notable being (*Kesavananda Bharati v. State of Kerala*, 1973). In this matter the Court invented 'the basic structure doctrine,' which states that certain essential features of the Constitution, including free and fair elections, cannot be even amended out of the Constitution itself. This ruling has an effect on political democracy in India that goes beyond temporal limits in that any legislative amendment to the electoral laws can be made only within the limits imposed by the fundamental provisions of democracy as contained in the Constitution. Concerning the EU, I would also highlight the importance of the Court of Justice of the European Union (CJEU). In relation to the electoral law the CJEU provided commentary on many aspects, in particular bearing on the cases where the democratic rights of EU citizens were in question. The role of the judiciary was further enhanced by the Treaty of Lisbon that provided a legal basis for the protection of fundamental rights pertaining to the conduct of elections and thus empowered the court to entrench such rights among member countries.

The *Kesavananda Bharati* case (1973) is again very important because it enables one to illustrate the practice of constitutional interpretation with respect to the electoral legislation in India. The judgment of the Supreme Court not only prevented any alteration to the basic structure of the Constitution but also addressed the issue of election in government. The case is a good example of the, how US judiciary protects the basic structure from undue interference by the legislature and executive in the name of electoral reforms. In the EU, (the Lisbon Treaty 2009) is a groundbreaking milestone concerning the view of electoral rights in general. The treaty simplified already

existing norms on the electoral process in the European imprisonment by enhancing the powers attributed to the European Parliament and ennobling the right to vote outside one member state (Lu, 2015). The provisions of the treaty contained this as well, that the citizens of the EU had the right to participate in the decision-making processes of the Union improving the overall governance mechanisms (Lu, 2015). Both case studies highlight the significant influence of constitutional and treaty-based reforms in strengthening electoral governance in their respective regions.

### Legal Basis for Free and Fair Elections

Electoral rights in India are outlined in the Constitution and further extended through different judicial instruments that can ensure that every citizen participate in the democratic processes (Dey et al, 2020). The right to exercise the vote is discussed as a fundamental right deserving protection from discrimination in Article 326, which ensures that a system of universal adult suffrage is the basis of the electoral process in India (Achanta, 2023). Many challenges remain to electoral participation, especially those arising from socio-economic inequalities, political alienation and some groups' sociocultural indifference (Luwemba, 2023). While activities aimed at educating the voters by the Election Commission of India (ECI), as well as the efforts to ease accessibility and use registration have been encouraging, it has not completely bridged the existing gaps (Maheshwari & Maheshwari, 2022). Other obstacles that have not favored voter turnout and inclusiveness of the voting process include regional aspects, caste politics, and monetization of politics (Aneja, et al., 2022).

In the end, although the legislation provides for the protection of electoral rights, their execution becomes a problem due to the need to keep addressing the existing challenges to India voter turnout. In the European Union, electoral rights are also embedded in a legal framework that facilitates democratic engagement within its countries. The right of citizens of the Union to vote in elections for the European parliament is enshrined in the treaties of the EU which stipulates that every citizen of the Union enjoys the right to vote and to stand as a candidate in the Member State in which he or she resides (Shaw & Khadar, 2022). This is done to promote the level of participation and representation of different ethnic groups of the people of Europe in the legislative activities of the EU. Nonetheless, the EU's multilayered governance system poses specific problems with respect to voter mobilization. This is due to different countries having different electoral processes and the difficulties that arise with voting in other countries. (Shaw & Khadar, 2022). The differences in the levels of voter turnout among the countries of the European Union is an indicative problem which points to the level of participation of the citizens in the process and the problems of communication of the electoral information (Sloam, 2014). Measures aimed at increasing participation have included creating the European Citizens' Initiative or organizing campaigns on the European elections; however, the problem remains the creation of a European identity that would facilitate and thrive on overseas voting and election participation. (Sloam, 2014).

A comparison of the mechanisms in place to prevent election rigging in India and the European Union leads to some affirmative conclusions as well as divergences. In India, the Constitution and electoral laws stipulate an in-depth mechanism undermining Electoral malpractices and establishing an independent Election Commission (Singh & Roy, (2019). The ECI has the power to impose legal laws concerning the election process, supervise the finances of political parties, and deal with election-related conflicts using existing legal procedures (Singh & Roy, (2019). In contrast to India, the EU promotes free and fair elections by embedding various levels of national election laws and EU laws which may raise issues of uniformity of the legal protections available to the member states (Scheppele et.al., 2020). The European Parliament, as well as the Venice Commission and similar institutions, advocates for standards of election quality that are observed in the countries, but the lack of central authority in such matters creates difficulties in execution of such standards in practice. (Mauri, 2021). This comparative analysis underscores the importance of both legal frameworks and institutional mechanisms in safeguarding electoral integrity and ensuring that democratic ideals are upheld in both regions.

The processes and procedures for voter registration in India and the European Union show the different ways of ensuring inclusive electoral participation. To encourage voter participation, for example, the ECI in India put in place systems such as registration drives and online registration with the help of other stakeholders like NGOs (Katju, 2021). Bright as these success stories sound, there are still challenges to the attaining effective voter registration especially to women, rural dwellers and low-income earners even with the measures being put in place, issues such as bureaucracy, ignorance and socio-economic factors still prevail. On the other hand, the European Union has a more federalised approach in dealing with the process of voter registration where member states have their own systems (Trechsel & Mendez, 2005). While this has the advantages of local solutions, it also has the disadvantage of creating a system which lacks uniformity in relation to how accessible and inclusive it is across the Union. This the EU has tried to address through their efforts by undertaking initiatives that will enable the citizens cross borders to vote as well as other citizens who are outside their countries in the course of elections. Nevertheless most of the Indian and the EU provisions on inclusivity and voter registration are limited in effectiveness, which signals the urgency for reforms and effective campaigns.

While both India and the European Union developed appropriate legal palliatives and mechanisms for resolving the disputes resulting due to electoral abuses, their practical implementation significantly differs owing to the structural variance of the two systems of election (Avgerou et.al., 2019). In India, the Commission of India (ECI) holds the greatest responsibility in watching the elections and understanding the infringements by using enforcement and the judicial authority. In addition to providing provisions for overturning the electoral decision by filing election petitions in the High Courts which is often associated with excessive legitimacy, such a provision tends to be undermined by the sluggishness of the court system lately (Prakash, 2023). Many such provisions exist within the laws, meaning they profess to impose heavy punishments for any infringements of election laws, the problem is that such provisions are not implemented due to Mathew's (2014) explanation of the politics of patronage. In the case of the EU, there is acknowledgment of the wish to maintain the standards that are expected for organizing elections. However, this gives room for involving courts of different jurisdictions in disputes which risks issues of accountability being dealt with in a piecemeal manner. The guidelines by the Venice Commission on maintaining electoral integrity highlight what best practices ought to be, however, the same is not implemented uniformly among the countries under the commission (Chudyk, et.al., 2022). Thus, in both cases, there is a problem of how to ensure that there is an appropriate legal response to electoral offences which is efficient in time and cost.

The case of the Election Commission v. the State of Haryana (1984) illustrates the importance of judicial interpretation in relation to electoral improprieties in India. The Supreme Court stressed the significance of conducting elections in a free and fair manner, thereby empowering the Election Commission to ensure adherence to the provisions of electoral laws. This ruling not only defined the jurisdiction of the ECI, but also established the rules for any other disputes concerning the election, thus underscoring the importance of the judiciary in upholding the integrity of the elections. In turn, within the European Union, the Venice Commission has made considerable efforts to promote the fulfilment of these expectations through their recommendations and reports. The Commission's mandate is to facilitate the member states' democratization process and respect for international standards by setting out the basic principles of electoral conduct. Yet, the action on these standards is contingent upon the disposition of particular nations to embrace them. Taken together, these case studies reinforce and exemplify the significance of legal instruments and courts in resolving electoral problems and point out the need for constant presentism and development in protecting the democratic order in India and the European Union equally.

### Campaign Finance and Electoral Integrity

The issue of campaign finance regulation in India has taken centre stage, especially due to the scrutiny of the electoral process and the fear of corruption (Kapur & Vaishnav, 2018). The campaign finance rules are principally provided by the Representation of the People Act, 1951; such act requires political parties and candidates to furnish their respective campaign costs. Regardless of these provisions, it has proved difficult to achieve transparency, as several parties take advantage of dubious or secret sources of funds, which in some cases, are in breach of the law (Sukhtankar & Vaishnav, 2015). Also relevant in this framework is the establishment of the Electoral Bonds Scheme, which was introduced in 2018, allowing individuals and companies to 'donate' money to political parties without revealing their names (Press Information Bureau, 2018). This scheme, they say, brings more money into politics, while others argue that it erodes the very principle of transparency in politics and makes the people more cynical toward the electoral process (Van Biezen, 2003). The challenges of controlling the finances of political campaigns in India are part of larger discourses about money in politics, which calls for persistent changes where transparency is functional and political parties uphold the tenets of democracy in getting funds for campaigning.

While some campaign finance rules are established by the European Union, their application varies between countries due to distinct political customs and legal order. Hix & Hoyland, (2022). The EU has implemented international legal acts in the area of financing elections in order to decrease the level of corruption in the financing of elections and increase the accountability of the actors involved... (Piccio, 2012). As political parties attend to the Union level, the European Parliament adopted rules on the financing of political parties and campaign activities, that unfortunately their implementation and supervision is left to the discretion of each member states, resulting in uneven application of such rules (Day & Shaw, 2003). Countries, such as Germany and France, have tried to adopt tougher regime on the regulation of campaigning financing by instituting detailed reporting of deposits and outgoings on campaign funds, while the rest of them show a rather weaker stance on the issue (Holman & Luneburg, 2012). The lack of a proper EU-level authority to ensure compliance with the rules makes the doubts as to whether the laws serve their purpose and can curb electoral abuses. In addition to this, the opportunities relating to financing political activity over borders and the restraints on following such funds in another jurisdiction suggest that there should be better communication among the western countries for the politics free of campaign finance corruption in the whole region.

The study on political party financing laws in India and in the European Union provides a clear perspective on the existing convergences and divergences regarding the regulation of campaign financing. While in India the most devastating effect is caused by the Electoral Bonds Scheme which permits cash donations with minimal regulation leading to opaque aspect of electoral financing. On the other hand, several states within the EU have put in place stringent provisions on disclosure of campaign finances and even imposes limits on campaign expenditures to prevent the injection of money in politics. For example, there are very strict party funding and expenditure regulations in the UK, which is much different from the case in India's Scarrow, 2018 – citation needed; Scarrow, 2018). Furthermore, Both regions face the problem of rich donors and corporations having an undue influence on the governance but in the case of the EU, it is possible because of the input from each state, for instance, the states themselves can bring forth policies that would work to prevent such influence. On the other hand, the absence of uniform degrees of enforcement and oversight within the Union gives rise to campaign financing laws in a patchwork, rendering difficult of evaluating their impact as a whole.

The introduction of Electoral Bonds Scheme in India, which commenced in 2018 (Press Information Bureau, 2018), brings a notable and significant transformation in the political financing. The scheme enables individuals and between corporations through the purchase of certain bonds which can be given to political parties down the authorisation of the donators. While supporting this system, the government maintains that it facilitates and encourages political parties to seek for additional resources. Since its inception, however, it has been popularly condemned for encouraging lack of transparency in political financing (Kumar, 2024). Kumar notes that whereby the scheme is designed to protect the identity of the political party supporters, it is more dangerous because such provisions finitely do repression controls outlaws in censorship. Normally, there are provisions of legislation on controls over such activities so that there is no political corruption and we do not have abuse of power by politicians. In addition, the controversy surrounding the policy also concerns increasing the reach of the corporations over political parties since such policy enables abuse of political donations by the large companies outright without the need of lobbying (Biju & Das, 2022). This development further calls for an assessment of the effects of Electoral Bonds Scheme on the quality of elections in particular, to the worry about the working of the democracy.

Transparency and oversight mechanisms for campaign finance across EU member states vary widely, reflecting differing political traditions and regulatory approaches. The European Parliament has advocated for greater transparency in political financing, promoting guidelines that encourage member states to adopt robust disclosure requirements for political donations and campaign expenditures (Holman & Luneburg, 2012). Some countries, such as France and Italy, have established comprehensive frameworks that include stringent reporting obligations and limits on campaign spending, effectively minimizing the potential for corruption (Paltiel, 1981). However, other member states have adopted more lax regulations, resulting in inconsistent enforcement and accountability measures. The challenge of ensuring effective oversight is compounded by the lack of a centralized enforcement authority at the EU level, leading to calls for enhanced cooperation among member states to share best practices and develop common standards. This inconsistency highlights the need for a more unified approach to campaign finance regulation within the EU, aiming to strengthen democratic processes and ensure that electoral funding remains transparent and accountable.

The suit that Association for Democratic Reforms v. Union of India (2002) is perhaps the most pivotal in the Indian narrative on campaign finance where the apex court accepted the need for openness in political donations. The court concluded that political parties ought to reveal their funders and how much they spent on elections, stressing the necessity of such practices in upholding the true essence of democracy. This case also laid down the groundwork for all the legal and policy measures that followed focusing on the need for increased transparency in electoral funding. On the other hand, some difficulties have lingered on the issue of carrying out such measures as enshrined in the policies. In that respect, the European Union is also no stranger to the issue of campaign finance, with the Court of Justice of the European Union (CJEU) having issued a number of judgments in this regard and focusing on non-discrimination and transparency in electoral activities (Cannizzaro, 2019). Such rulings, as well as contributed to redefining the relationship regarding political funds upon member states of the union and completed the horizon of the respect for democracy and rule of law supremacy ideal of the EU (Cannizzaro, 2019). In both situations, the necessity for the protection of campaign finance regulations encompasses the ingenuity of the courts, which of course, calls for persisting revisionism with a scythe righting both Indian and EU democracies.

### Digitalization of Elections and Legal Challenges

The evolution of the the electoral system in India with the introduction of electronic voting systems (EVMs) is a milestone with the purpose of making the elections more efficient, accurate and secure (Avgerou et.al., 2019). Due to their introduction in the late 1990s, EVMs have enhanced the voting process and curbed cases of vandalism noticed with the use of paper voting (Desai and Lee, 2017). Alongside the adoption of EVMs, this period in history has witnessed a remarkable change in gearing up for elections with less emphasis on traditional means and more

on E. campaigning whereby numerous social media channels are utilized by the political parties for voter engagement (Kumar & Kumar, 2023). Kuo and Kuo further emphasize that while these new tools can potentially open up information to wider audiences and encourage higher levels of participation to more segments of the society, such advancement also poses a risk for the urban-rural divide owing to a the gap in availability of relevant technologies] (Kumar & Kumar, 2023). Clean elections in today's democratic age translates into heavy dependence on reliable systems, which calls for close examination of the technology employed to check that the systems are fool-proof and cannot be compromised. Therefore, the countries efforts to embrace EVMs and online campaigning may be viewed as an appropriate response to the contemporary ideology that seeks modernization of electoral processes, but it also signifies a need for enhanced efforts to safeguard the elections from fraud.

Digital elections particularly the e-voting system victory in many ways ushers in a new paradigm in electoral activity in the European Union (Otrosinova, & Hueber, 2020). Conjoined with an overall trend of easing voters' access to the elections a number of member states have already tried out e-voting systems. On the other hand, digital elections are also accompanied by various risks and challenges, especially with regards to information technology security and safeguarding the privacy of voters (Nwankwo et.al., 2023). Various types of threats such as cyber wars and disinformation campaigns can compromise the integrity of the integrity of the e-voting systems (Nwankwo et.al., 2023). There are also dynamic factors at play within the member states which cause problems in innovation and security, namely the differences in technological development. The European Commission urged the development of cybersecurity policies to protect infrastructures targeted by cyber threats and compliant legislation enacted with the purpose of preventing the exposed threats. Nowadays, with the implementation of digital voting processes within the EU being implemented, the challenge is how to do this without compromising the security of such processes in the name of enhancing voters' participation.

A comparative assessment of the advancements in technology and electoral integrity in India and in the European Union demonstrates both progress and limitations that reflects the level of each region's embrace of new trends in electoral management. In India, the introduction of Electronic Voting Machines (EVMs) has improved the voting procedure but due to persistent worries regarding their safety and transparency, there have been instances of calls for additional strategies such as Voter Verifiable Paper Audit Trails (VVPATs) to enhance people's faith in the entire election process. On the other hand, even though the EU has made progress towards introducing e-voting systems in some of its member states this is not done uniformly resulting in protection and transparency at different e-voting levels within the Union. Furthermore, the threat of digital exclusion in the two areas represents other challenges in making efforts towards including every citizen but especially the disadvantaged ones in the process of voting (Trevisan, 2019). Therefore, the comparative approach suggests the necessity of using effective technological interventions alongside the moral and operational issues that are expected in their use.

The convergence of information warfare and cyber crime poses an existential risk on democratic processes in India and even EU, more so with the growing dependence on digital platforms for electioneering (Yazdi, 2021). For instance, in India, the constant use of social media networks in political campaigns has led to the spread of lies and hate at the voters which has influenced their voting preferences (Mathew et.al., 2019). The Election Commission of India has already recognized these issues and brought forth the guidelines of enforcement in regard to political advertisement and the dissemination of erroneous information. Again, in the ITU, they have experienced a similar situation, although the surge in disinformation in an electoral context has raised concerns for stricter measures against fighting disinformation and provision on the integrity of election information (Nenadic, 2019). The threat landscape becomes more alarming when the aspect of cybersecurity is thrown into the mix. This is because most of the national laws or policies do not protect for example, the integrity of the electronic voting system by reference to its potential abuse. To combat security issues and the spread of fabricated information on the Internet, policy makers should not rely on the implementation of simple measures, but rather complex actions consisting of legal assurance, informational counteraction, and cooperation of hardware and software engineering with the power institutions.

In both India and the European Union, legal shields for digital elections are crucial to the adoption of technology without compromising the electoral processes. With respect to India, the legal regime in relation to electronic voting machines (EVM'S) and conduct of digital campaigns has been responsive to the demands of security and transparency. The apex court has also acted on the use of VVPATs insisting on their proper usage for purposes of credibility of the exercising of electronic voting systems by the voters. It is however noted that the changes in technology are so rapid that the provisions of the law will require constant review and modifications. In the EU, it has come to be appreciated among member states the existence of strong legal structures on the issues of e-voting and e-voting security are needed, although with different levels of efficiency. The call for action by the European Parliament regarding these issues has been to urge the construction of internal rules that would guarantee checks and balances in the conduct of electronic elections and deterrence to cybercrime. On the flip side, these legal protections are not winning the wars as fights over laws are being complicated by the existence of inconsistencies among member states. Therefore, formulating and implementing sound legal systems in both regions is an imperative step towards the victory of digital democracy over digital dystopia.

The Supreme Court's ruling on Visual Voter Verified Paper Audit Trail (VVPAT) 2019 turned out to be a landmark decision in the context of security and transparency of electronic voting in India. The 'Voter Authentication' principle of electronic voting systems was further upheld by the Court through the directions that VVPATs were necessary so that electronic votes could be verified by the voters often. These decisions also highlighted the important role of the law to protect democracy. In Eastern Europe, of all the m-elections that were set up – Estonia's e-voting system can serve as a model, as it has a good developed legislation that combines the use of modern technologies and its security. As such, it reiterates the positive side of the coin regarding e-voting that is, Availment of Casted Votes Increases as well as the Efficiency of the Elections that can be shown by the case of Estonia but also makes it clear that these could be misused hence the need for effective Cyber security measures should the risks involved. Both case studies support the key aspects of the regulation and justice in these technological advancements in voting systems; hence, the evolution of such systems in India and the EU requires constant changes because of the dynamics of managing elections.

### **Key Milestones and Reforms**

In India, various legal issues have arisen in connection to the functioning of Electronic Voting Machines (EVM) and the Voter Verifiable Paper Audit Trail (VVPAT) system which the Supreme Court has often upheld the importance of the electoral process. In the 2024 case pertaining to the EVM and VVPAT, the Supreme Court dismissed all petitions challenging their credibility stating that they were unmeritorious. This ruling is noteworthy especially when seen in relation to other proposing or envisaged electoral changes including the 'One Nation, One Election' project seeking to hold all elections at once, both for the Lok Sabha and state assemblies to enhance the efficiency of the electoral cycle (One Nation One Election, n.d.). The system is designed to lessen the occurrence of such inconveniences associated with repeated elections. However, issues related to the readiness of the electoral system, especially the capacity of the EVM and VVPAT systems, are equally important in this debate, thereby reinforcing the importance of having measures in place that promote confidence in the electoral system. Italics or lower case may be used to indicate correct or incorrect spellings.

In the European Union, the introduction and development of implementation of electoral laws has been greatly dictated by important treaties and reforms aimed at promoting democracy within the nations that constitute the union. These treaties and other agreements have been cardinal in the establishment and even the extension of the scope of electoral rights within the tenets of the European Union. The importance of such considerations was even reinforced by the Lisbon Treaty, which focused in particular on measures concerning the participation of citizens in democracy, that is the right to vote and to be elected in local as well as European elections. While the reforms have centered on the inclusion of citizens to the process of election, they have also worked on the improving the existing election processes in every one of the member states to make them uniform and fair. Nonetheless, the different political ethics and systems of law within the EU compromises the possibility of establishing a uniform structure for elections. However, it remains crucial for the development of the EU that the changes in perceptible electoral practices, brought about by the situations in society and the demands for democracy, persist relative to the changes in engagement of citizens and the electoral processes of the Union.

The analysis of electoral systems in India and the European Union teaches several positive and negative attributes of both systems. For example, one of the positive attributes of the electoral system of India lies in its internal mechanism to combat political defection which is meant to encourage cohesion in a multi-party setting. On the flip side, the problem of issue of political cupboards, especially the Electoral Bonds Scheme is quite a serious drawback that dilutes public confidence and accountability. As an example, one of the elements of the internal market of the EU which is brought in by treaties and case law allows the citizens of the union to expand their political opportunities, it is the right to vote internationally in the EU space. Such vision, however, may be constrained by differences in the regulation of electoral processes in various member countries whereby a country may undertake electoral governance while failing to protect voters' rights. Both of them also underline the importance of judicial intervention as an accountability strategy for the protection of democracy, but they differ in the degree to which the courts are involved in the process and to what extent that influences the respect of electoral processes. These lessons mean that previous deficiencies should not be ignored when making the most of the positive aspects that already exist in order to improve the efficiency of the electoral regime.

There are certain recommendations which can be put forth to improve the electoral system within India and European Union. In India, an emphasis should be on increasing transparency in political funding and hence it becomes imperative to look into the workings of the Electoral Bonds Scheme to enable citizens to trust the funding of political parties. It will also be beneficial to increase the focus on democratic practices by enhancing measures for voter education as well as voter accessibility especially among the rural and vulnerable populations. For the latter, it is important to acknowledge the fact that a single set of rules defining electoral processes will play a very big role in protecting the right of the voters. In addition with the fact that there are increasing trends of using technology in the conduct of elections, there is a need to put in place strict rules governing the use of e-voting system and protection from cyber crimes. Last but not least, working together with electoral authorities, civil

society actors and the technology sector can help improve the strategies aimed at counteracting disinformation and fostering civic activism. Following these suggestions, both regions can understand the importance of striving towards a better democratically supportive electoral structure and work towards building one.

### Conclusion

On the one hand, the analysis of electoral legislation and reform in India and the European Union showcases similarities and differences, which in turn affects the credibility of elections within each system. Noteworthy is the fact that political accountability and transparency in the conduct of elections has improved in both places, yet the two regions have distinct challenges which are determined by the global, cultural and legal orders of the two. In India, some policy initiatives such as the Anti-defection Law and The Electoral Bonds Scheme think to promote political stability even though concerns regarding transparency and money politics still persist. On the other hand, in case of treaties and governance of law of the EU, much emphasis is laid on increasing the voter rights and inclusion of all groups but the effectiveness of these provisions is usually complicated by how these laws are applied across the member countries. In addition, both areas emphasize the importance of judicial interpretation in the context of electoral governance, supported by a series of court decisions that show how democracy should be safeguarded by the courts. In the end, this discussion entails the need for changes to be made periodically in these two regions in order to cope with the changes and protect the conduct of elections.

Democracy in India and the EU is jealous of the electoral processes and to this end, requires active reform and constant monitoring of the threats to the electoral process that may arise in the future. Strengths and limitations in both regions illustrate the need to be responsive to shifts in the political environment while keeping democracy at the center of all these changes. In India, developing an electoral system that is inclusive in nature, transparent and accountable will be key to maintaining the public confidence in the democratic institutions. Correspondingly, the EU must work towards undifferentiated electoral system in all the member states, such that every citizen is able to enjoy their voting rights without any hindrance. As both regions face challenges of contemporary governance, the findings of this cross-country study will be valuable considerations for future reform processes, calling for an extensive embrace on integrity of the electoral processes. At the end, the exceptional values attached to democracy, civic engagement, and rule of law will be the key pillars in the protection of democracy in India as well as the European Union

..

### References

1. Achanta, S. (2023). Upholding the Right to Vote for Undertrials: An Imperative for Democratic Governance. Issue 1 Indian JL & Legal Rsch., 5, 1.
2. Aneja, A. P., Grumbach, J. M., & Wood, A. K. (2022). Financial inclusion in politics. NYUL Rev., 97, 566.
3. Arato, J. (2013). Treaty interpretation and constitutional transformation: Informal change in international organizations. Yale J. Int'l L., 38, 289.
4. Association for Democratic Reforms v. Union of India, (2002) 5 SCC 294.
5. Avgerou, C., Masiero, S., & Poulymenakou, A. (2019). Trusting e-voting amid experiences of electoral malpractice: The case of Indian elections. Journal of Information Technology, 34(3), 263-289.
6. Avgerou, C., Masiero, S., & Poulymenakou, A. (2019). Trusting e-voting amid experiences of electoral malpractice: The case of Indian elections. Journal of Information Technology, 34(3), 263-289.
7. Avgerou, C., Masiero, S., & Poulymenakou, A. (2019). Trusting e-voting amid experiences of electoral malpractice: The case of Indian elections. Journal of Information Technology, 34(3), 263-289.
8. Bellamy, R., Kröger, S., & Lorimer, M. (2022). Flexible Europe: differentiated integration, fairness, and democracy. Policy Press.
9. Bhat, M. M. A. (2021). Governing democracy outside the law: India's Election Commission and the challenge of accountability. Asian Journal of Comparative Law, 16(S1), S85-S104.
10. Biju, N., & Das, S. S. (2022). Bondage of the Electorate and Electoral Bonds. Part 2 Indian J. Integrated Rsch. L., 2, 1.
11. Boix, C., & Stokes, S. C. (Eds.). (2007). The Oxford handbook of comparative politics (Vol. 4). Oxford Handbooks Online.
12. Börzel, T. A., & Risse, T. (2000). Who is afraid of a European federation? How to constitutionalise a multi-level governance system. What kind of constitution for what kind of polity, 45-59.
13. Cannizzaro, V. (2019). The 2019 Elections and the Future Role of the European Parliament: Upsetting the Institutional Balance? European Papers, 4(1), 3-7.

14. Chhatre, A. (2007). Accountability in decentralization and the democratic context: theory and evidence from India.
15. Chudyk, N., Teremetskyi, V., Podoliaka, A., Gryshko, L., Zubenko, H., Danicheva, K., & Harashchuk, I. (2022). Implementation of International and Legal Standards of Judicial Control over the Realization of Electoral Rights as a Step towards Ukraine's European Integration. *J. Legal Ethical & Regul. Issues*, 25, 1.
16. Constitution of India.
17. Costa, O. (2016). The history of European electoral reform and the electoral act 1976. Issues of democratisation and political legitimacy.
18. Dann, P., & Thiruvengadam, A. K. (2021). Comparing constitutional democracy in the European Union and India: an introduction. In *Democratic Constitutionalism in India and the European Union* (pp. 1-41). Edward Elgar Publishing.
19. Day, S., & Shaw, J. (2003). The evolution of Europe's transnational political parties in the era of European citizenship. *The State of the European Union*, 6, 149-69.
20. Desai, Z., & Lee, A. (2017). Technology, Choice, and Fragmentation: The Political Effects of Electronic Voting in India. Unpublished mss.
21. Dey, N., Roy, A., & Swamy, R. (2020). *We the people: Establishing rights and deepening democracy*. Penguin Random House India Private Limited.
22. Election Commission v. State of Haryana (1984)
23. Erinjingat, N. (2018). Kesavananda Bharti Case: A Political Fight Masquading in Legal Garb. *Int'l JL Mgmt. & Human.*, 1, 64.
24. European Union. (1992). Treaty on European Union (Maastricht Treaty). Official Journal of the European Communities, C191.
25. European Union. (2007). Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community (Lisbon Treaty). Official Journal of the European Union, C306.
26. Government of India. (1950). The Representation of the People Act, 1950 (Act No. 43 of 1950). Ministry of Law and Justice.
27. Grimm, D. (2017). *The constitution of European democracy*. Oxford University Press.
28. Hix, S., & Hoyland, B. (2022). *The political system of the European Union*. Bloomsbury Publishing.
29. Holman, C., & Luneburg, W. (2012). Lobbying and transparency: A comparative analysis of regulatory reform. *Interest Groups & Advocacy*, 1, 75-104.
30. Holman, C., & Luneburg, W. (2012). Lobbying and transparency: A comparative analysis of regulatory reform. *Interest Groups & Advocacy*, 1, 75-104.
31. Hrbek, R. (2012). The role of National Parliaments in the EU. *The European Union after Lisbon: Constitutional Basis, Economic Order and External Action*, 129-157.
32. India Today (2024). Supreme Court dismisses plea seeking probe into EVM and VVPAT sanctity; says case lacks merit. India Today. <https://www.indiatoday.in/law/story/supreme-court-election-commission-of-india-evm-vvpat-case-sanctity-2528660-2024-04-18>.
33. Kapur, D., & Vaishnav, M. (Eds.). (2018). *Costs of democracy: Political finance in India*. Oxford University Press.
34. Katju, M. (2021). Institutional initiatives towards expanding democracy: the Election Commission of India and electoral mobilisation. *Contemporary South Asia*, 29(2), 147-161.
35. Kumar, D. (2024). The Supreme Court's Verdict on Electoral Bonds: Proposing a New Framework for Political Funding in India.
36. Kumar, S., & Kumar, P. S. (2023). The Impact of Technology and Cyber Diplomacy on Elections in India. *Jus Corpus LJ*, 4, 542.
37. Lu, C. Y. (2015). Democratic Implications of the Treaty of Lisbon. *EurAmerica*, 45(3).
38. Luwemba, M. (2023). Re-conceptualising Voter Apathy in Modern Day Democracies: A Causal Effect Relationship. *Islamic University Journal of Social Sciences*, 2(2), 43-66.
39. Maheshwari, V., & Maheshwari, A. (2022). *The Power of the Ballot: Travail and Triumph in the Elections*. Bloomsbury Publishing.

40. Mathew, B., Dutt, R., Goyal, P., & Mukherjee, A. (2019). Spread of hate speech in online social media. In *Proceedings of the 10th ACM conference on web science* (pp. 173-182).
41. Mauri, F. (2021). *The Contribution of the Venice Commission to the Strengthening of the Rule of Law in Europe* (Doctoral dissertation, Université Côte d'Azur; Università degli studi di Milano-Bicocca).
42. Miller, M. L., & Vaccari, C. (2020). Digital threats to democracy: Comparative lessons and possible remedies. *The International Journal of Press/Politics*, 25(3), 333-356.
43. Mitra, S. (2017). *Politics in India: structure, process and policy*. Routledge.
44. Nenadić, I. (2019). Unpacking the "European approach" to tackling challenges of disinformation and political manipulation. *Internet Policy Review*, 8(4), 1-22.
45. Nwankwo, W., Chinedu, P. U., Masajuwa, F. U., Njoku, C. C., & Imoisi, S. E. (2023). Adoption of i-voting infrastructure: addressing network-level cybersecurity breaches. *Electronic Government, an International Journal*, 19(3), 273-303.
46. Otrsinova, D., & Hueber, R. (2020). E-Government, E-Voting, E-Administration: Joys and Perils of Digital Citizenship. *Common L. Rev.*, 16, 27.
47. One Nation One Election. (n.d.). One Nation One Election. Government of India. <https://onoe.gov.in/>.
48. Paltiel, K. Z. (1981). Campaign finance: Contrasting practices and reforms. *Democracy at the Polls*, 138-173.
49. Pedada, M. R. (2019). Election Commission of India and Its Independence-A Critical Study. *Int'l JL Mgmt. & Human.*, 2, 146.
50. Piccio, D. R. (2012). Party regulation in Europe: a comparative overview. *The Legal Regulation of Political Parties Working Paper Series*, 18.
51. Popelier, P. (2019). Concluding chapter-Bicameralism in multi-tiered systems. In *Constitutional Reform of National Legislatures* (pp. 107-118). Edward Elgar Publishing.
52. Prakash, A. (2023). *Autocratic Legalism and Juridical Veto: Reflections on Politics and the Law in India*. Social & Legal Studies.
53. Press Information Bureau. (2018). Electoral bond scheme 2018. Government of India. <https://pib.gov.in/Pressreleaseshare.aspx?PRID=1537149>.
54. Rubinstein, A., & Roznai, Y. (2018). The Right to a Genuine Electoral Democracy. *Minn. J. Int'l L.*, 27, 143.
55. Scarrow, S. E. (2018). Political finance regulation and equality: comparing strategies and impact. In *Handbook of Political Party Funding* (pp. 103-124). Edward Elgar Publishing.
56. Scheppele, K. L., Kochenov, D. V., & Grabowska-Moroz, B. (2020). EU values are law, after all: Enforcing EU values through systemic infringement actions by the European Commission and the member states of the European Union. *Yearbook of European law*, 39, 3-121.
57. Shaw, J., & Khadar, L. (2022). Article 39—Right to Vote and to Stand as a Candidate at Elections to the European Parliament. In *The EU Charter of Fundamental Rights* (pp. 1085-1112). Nomos Verlagsgesellschaft mbH & Co. KG.
58. Singh, U. K., & Roy, A. (2019). *Election commission of India: Institutionalising democratic uncertainties*. Oxford University Press.
59. Sloam, J. (2014). New voice, less equal: The civic and political engagement of young people in the United States and Europe. *Comparative Political Studies*, 47(5), 663-688.
60. Sukhtankar, S., & Vaishnav, M. (2015, July). Corruption in India: Bridging research evidence and policy options. In *India Policy Forum* (Vol. 11, pp. 193-261).
61. Sundar, N. (2024). 'We Will Teach India Democracy': Indigenous Voices in Constitution Making. *The Journal of Imperial and Commonwealth History*, 52(1), 181-213.
62. Trechsel, A. H., & Mendez, F. (2005). The European Union and e-voting. Addressing the European Parliament's Internet Voting Challenge.
63. Trevisan, F. (2019). Using the Internet to mobilize marginalized groups: People with disabilities and digital campaign strategies in the 2016 US presidential election.
64. Van Biezen, I. (2003). *Financing political parties and election campaigns: guidelines*. Council of Europe.
65. von Achenbach, J. (2021). Electoral systems and representation. In *Democratic Constitutionalism in India and the European Union* (pp. 137-161). Edward Elgar Publishing.
66. Yazdi, M. V. (2021). The digital revolution and the demise of democracy. *Tul. J. Tech. & Intell. Prop.*, 23, 61..