

**PROVISIONS OF LAW RELATING TO
ELECTORAL OFFENCES AND CORRUPT
PRACTICES IN CONNECTION WITH ELECTIONS**



2011

ELECTION COMMISSION OF INDIA

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ELECTORAL OFFENCES AND CORRUPT PRACTICES AT ELECTIONS

The Election Commission of India has been approached by individuals and organizations with requests to create awareness among the electorate of the country on various malpractices resorted to by the candidates or their representatives during the elections held to the two Houses of Parliament and Legislature of the States/UTs and to enlighten them on the complaint redressal mechanism available, penal actions provided under law, for such offences and malpractices.

There are several offences related to elections, listed in the Representation of the People Act 1951, and in the Indian Penal Code. For convenience of reference and understanding of the various penal provisions related to elections, these provisions are indicated in this booklet. These provisions of the law also show commensurate punishment provided for these offences.

The Commission has uploaded on its website various provisions of Law relating to electoral offences and corrupt practices in connection with elections and has also published Compendiums and Handbooks for reference of the Electoral Management machinery, but a ready reference book for the information of ordinary citizens and electorate was not available. Therefore, this booklet is being brought out for reference and information of the general public as well as other stake holders, who may find it useful.

**PROVISIONS OF LAW RELATING TO ELECTORAL
OFFENCES AND CORRUPT PRACTICES IN
CONNECTION WITH ELECTIONS**

Sl. No.	Brief Description of offence	Section/ Rules	Type	Punishment
ELECTORAL OFFENCES CONCERNING MEETINGS:				
1	Promoting or attempting to promote on ground of religion, race, caste, community or language, feeling of enmity or hatred, between different classes of the citizens of India.	Sec 125 of the Representation of the People Act, 1951 and Section 153A of the IPC.	Cogni- zable	3 years imprisonment or fine or both.
2	Prohibition of public meetings during period of forty-eight hours ending with the hour fixed for the conclusion of the poll :- No person shall – (a) convene, hold or attend, join or address any public meeting or procession in connection with an election; or (b) display to the public any election matter by means of cinematograph, television or other similar apparatus; or (c) propagate any election matter to public by holding, or by arranging the holding of, any musical concert or any theatrical performance or any other entertainment or amusement with a view to attracting the members of the public thereto, in any polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in the polling area.	Sec 126 of the Representation of the People Act, 1951	N o n - C o g n i - z a b l e	2 years imprisonment or fine or both.

3	Acting or inciting others to act in disorderly manner at a public meeting, for the purpose of disturbing the meeting.	Sec 127 of the Representation of the People Act, 1951.	Cognizable	6 months imprisonment or fine or both.
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OFFENCES CONCERNING VEHICLES

1	If any person illegally hires or procures any vehicle for the free conveyance of any elector other than the candidates himself, member of his family or his agent, to or from any polling station commits an offence.	Sec 133 of the Representation of the People Act, 1951.	Non-Cognizable	3 months imprisonment and fine.
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CONCERNING OFFICERS/PERSONS INVOLVED IN ELECTION DUTY

1.	Every officer, clerk, agent, or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain the secrecy of the voting. Its violation constitutes an offence.	Sec 128 of the Representation of the People Act, 1951	Non-Cognizable	3 months imprisonment or fine or both.
2	No official connected with conduct of elections shall do any act (other than giving of vote) for the furtherance of the prospects of election of any candidate.	Sec 129 of the Representation of the People Act, 1951.	Cognizable	6 months imprisonment or fine or both.
3	Breach of official duty, without reasonable cause, by any person involved in any duty in connection with an election.	Sec 134 of the Representation of the People Act, 1951.	Cognizable	Fine upto Rs. 500/-.
4	Any person in the service of the Government acting as an election agent or a polling agent or a counting agent of a candidate at an election.	Sec 134A of the Representation of the People Act, 1951.	Non-Cognizable	3 months imprisonment or fine or both

AT OR NEAR POLLING STATION ON THE DATE(S) OF POLL

1	Prohibition on the date(s) of poll of :- (a) canvassing in or near polling station; or (b) soliciting the vote of any elector; or (c) persuading any elector not to vote for any particular candidate; or (d) persuading any elector not to vote at the election; or (e) exhibiting any notice or sign (other than an official notice) relating to the election.	Sec 130 of the Representation of the People Act, 1951.	Cognizable	Fine upto Rs. 250/-.
2	Any person shouting in a disorderly manner or using loudspeakers, megaphones etc. so as to disturb the poll, in or around the polling station can be arrested and such apparatus seized by any police officer.	Sec 131 of the Representation of the People Act, 1951.	On the orders of the Presiding Officer, Police can arrest the offender.	3 months imprisonment or fine or both
3	Misconduct by any person in the polling station, or disobedience of lawful directions of the Presiding Officer may result in that person being removed from the polling station by any police officer on duty. Any person who has been so removed from a polling station re-enters the polling station without the permission of the presiding officer can be arrested.	Sec 132 of the Representation of the People Act, 1951.	Cognizable	3 months imprisonment or fine or both

AGAINST CARRYING OF ARMS:				
1	No person, other than the Returning Officer, the Presiding Officer, any police officer or any other person appointed to maintain peace and order at the polling station who is on duty at the polling station, shall, on a polling day, go armed with arms (as defined in the Arms Act, 1959) within the neighbourhood of polling station. If he does so, he commits an offence.	Sec 134B of the Representation of the People Act, 1951.	Cognizable	2 years imprisonment or fine or both
AGAINST TAMPERING OF EVMS/BALLOT PAPERS				
1	If the Presiding Officer of a polling station has reason to believe that any person has removed ballot paper or EVM out of polling station, such officer may arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer.	Sec 135 of the Representation of the People Act, 1951.	On the orders of the Presiding Officer, Police can arrest the offender.	1 year's imprisonment or fine or both.
2	Booth capturing is an offence. 'Booth capturing' includes – 1. seizure of a polling station or a place fixed for the poll by any person making polling authorities surrender the ballot papers or voting machines; 2. or allowing only his or their own supporters to exercise their right to vote and prevent/coerce others from free exercise of their right to vote; 3 seizure of a place for counting of votes.	Sec 135A of the Representation of the People Act, 1951.	Cognizable	3-5 years imprisonment and fine, if offence committed by person in govt. service, and 1 to 3 yrs and fine for others.

3	If any person fraudulently defaces or fraudulently destroys any ballot paper or EVM or the official mark on any ballot paper or EVM or puts into any ballot box anything other than the ballot paper, or pastes any paper, tapes etc. on the symbol/names/ballot button of EVM for the purpose of the election commits an offence.	Sec 136 of the Representation of the People Act, 1951.	Cognizable	2 years imprisonment or fine or both, if offence committed by any officer or clerk employed on election duty, and 6 months imprisonment or fine, for others.
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AGAINST DENYING SOMEONE RIGHT TO VOTE:

1	Non-granting of paid holiday to the employees entitled to vote on the date of the poll by the employer.	Sec 135B of the Representation of the People Act, 1951.	Non-Cognizable	Fine upto Rs. 500/-.
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CHECKING THREAT/INDUCEMENT OF VOTERS:

1	Whoever forces or intimidates a member of SC/ST not to vote or to vote a particular candidate or to vote in a manner other than that provided by law commits an offence.	Sec 3(1) (vii) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.	Cognizable	
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2	<p>Bribery.—(1) Whoever—</p> <p>(i) gives a gratification to any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right; or</p> <p>(ii) accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right, commits the offence of bribery:</p> <p>Provided that a declaration of public policy or a promise of public action shall not be an offence under this section.</p> <p>(2) A person who offers, or agrees to give, or offers or attempts to procure, a gratification shall be deemed to give a gratification.</p> <p>(3) A person who obtains or agrees to accept or attempts to obtain a gratification shall be deemed to accept a gratification, and a person who accepts a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, shall be deemed to have accepted the gratification as a reward.</p>	Sections 171B/171E of the Indian Penal Code.	Non-cognizable	1 year's imprisonment or fine or both
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3	<p>Undue influence at election –</p> <p>(1) Whoever voluntarily interferes of attempts to interfere with the free exercise of any electoral right commits the offence of undue influence at an election.</p> <p>(2) Without prejudice to the generality of the provisions of sub-section(1), whoever-</p> <p>(a) threatens any candidate or voter, or any person in whom a candidate or voter is interested, with injury of any kind, or</p> <p>(b) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of Divine displeasure or of spiritual pleasure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter, within the meaning of sub-section (1).</p> <p>(3) A declaration of public policy or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this section.</p>	<p>Sections 171C/171F</p> <p>of the Indian Penal Code.</p>	<p>Non-cognizable</p>	<p>1 year's imprisonment or fine or both.</p>
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4	<p>Personation at elections.— Whoever at an election applies for a voting paper or votes in the name of any other person, whether living or dead, or in a fictitious name, or who having voted once at such election applies at the same election for a voting paper in his own name, and whoever abets, procures or attempts to procure the voting by any person in any such way, commits the offence of personation at an election:</p> <p>Provided that nothing in this section shall apply to a person who has been authorised to vote as proxy for an elector under any law for the time being in force in so far as he votes as a proxy for such elector.</p>	Sections 171D/171F of the Indian Penal Code.	Cognizable	1 year's imprisonment or fine or both.
5	Whoever with intent to affect the result of an election makes or publishes any statement purporting to be a statement of fact which is false in relation to the personal character or conduct of any candidate commits a crime.	Sec 171G of the Indian Penal Code.	Non-cognizable	Fine

6	<p>Whoever without the general or special authority in writing of a candidate incurs or authorizes expenses on account of the holding of any public meeting, or upon any advertisement, circular or publication, or in any other way whatsoever for the purpose of promoting or procuring the election of such candidate.</p> <p>Provided that if any person having incurred any such expenses not exceeding the amount of ten rupees without authority obtains within ten days from the date on which such expenses were incurred the approval in writing of the candidate, he shall be deemed to have incurred such expenses with the authority of the candidate.</p>	Sec 171H of the Indian Penal Code.	Non-cognizable	Punishment with fine which may extend to five hundred rupees.
7	<p>Statements creating or promoting enmity, hatred or ill-will between classes—</p> <p>Whoever makes, publishes or circulates any statement or report containing rumour or alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment which may extend to three years, or with fine, or with both.</p>	Sec.505 (2) of the Indian Penal Code.	Cognizable	Imprisonment upto 5 years and fine.

8	Filing of false affidavit, or concealing any information in the affidavit filed by the candidate.	Section 125A of the Representation of the People Act, 1951.	Non-cognizable	Six months imprisonment or fine or both
9	False declaration in connection with preparation, revision or correction of electoral roll, or inclusion or exclusion of any entry in or from the electoral roll.	Section 31 of the Representation of the People Act, 1950.	Non-cognizable	1 year's imprisonment or fine or both

AGAINST HARMING A PUBLIC SERVANT ON DUTY:

1	Whoever voluntarily causes simple or grievous hurt or assaults to deter a public servant from discharging his duty.	Section 332/333/353 of the Indian Penal Code	Cognizable	Imprisonment from 2 to 10 years and fine.
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CONCERNING PAMPHLETS/POSTERS//HANDBILLS/ PLACARDS:

1	Whoever prints or publishes any election pamphlets, poster, handbills or placards which does not bear on its face the name and the address of the printer and the publisher commits an offence.	Section 127A of the Representation of the People Act, 1951.	Non-cognizable	Six months imprisonment or fine upto Rs.2000/- or both
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CORRUPT PRACTICES:

1	<p>Bribery-</p> <p>(A) any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate, or his election agent of any gratification, to any person whomsoever, with the object, directly or indirectly of inducing-</p> <ul style="list-style-type: none">(a) a person to stand or not to stand as, or (to withdraw or not to withdraw) from being a candidate at an election, or(b) an elector to vote or refrain from voting at an election, or as a reward to –<ul style="list-style-type: none">(i) a person for having so stood or not stood, or for (having withdrawn or not having withdrawn) his candidature; or(ii) an elector for having voted or refrained from voting; <p>(B) the receipt of, or agreement to receive, any gratification, whether as a motive or a reward-</p> <ul style="list-style-type: none">(a) by a person for standing or not standing as, or for (withdrawing or not withdrawing) from being, a candidate; or(b) by any person whomsoever for himself or any other person for voting or refraining from voting, or inducing or attempting to induce any elector to vote or refrain from voting, or any candidate (to withdraw or not to withdraw) his candidature.	Section 123(1) of the Representation of the People Act, 1951.		Corrupt practices can be agitated in an Election Petition before the High Court.
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2	<p>Undue influence – Any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person (with the consent of the candidate or his election agent), with the free exercise of any electoral right:</p> <p>(a) without prejudice to the generality of the provisions of this clause any such person as is referred to therein who -</p> <p>(i) threatens any candidate or any elector, or any person in whom a candidate or an elector interested, with injury of any kind including social ostracism and ex-communication of expulsion from any caste or community; or</p> <p>(ii) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause;</p> <p>(b) a declaration of public policy, or a promise of publication, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.</p>	Section 123(2) of the Representation of the People Act, 1951.		Corrupt practices can be agitated in an Election Petition before the High Court
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3	The appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to religious symbols or the use of, or appeal to, national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate:	Section 123(3) of the Representation of the People Act, 1951.		Corrupt practices can be agitated in an Election Petition before the High Court.
4	The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community, or language, by a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.	Section 123(3A) of the Representation of the People Act, 1951.		
5	The propagation of the practice or the commission of sati or its glorification by a candidate or his agent or any other person with the consent of the candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.	Section 123(3B) of the Representation of the People Act, 1951.		Corrupt practices can be agitated in an Election Petition before the High Court.

6	<p>The publication by a candidate or his agent or by any other person 4[with the consent of a candidate or his election agent], of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature, or withdrawal of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.</p>	<p>Section 123(4) of the Representation of the People Act, 1951.</p>		
7	<p>The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person 4[with the consent of a candidate or his election agent], 6[or the use of such vehicle or vessel for the free conveyance] of any elector (other than the candidate himself, the members of his family or his agent) to or from any polling station provided under section 25 or a place fixed under sub-section (1) of section 29 for the poll:</p>	<p>Section 123(5) of the Representation of the People Act, 1951.</p>		
8	<p>The incurring or authorizing of expenditure in contravention of section 77.</p>	<p>Section 123(6) of the Representation of the People Act, 1951.</p>		

9	<p>The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or, by any other person [with the consent of a candidate or his election agent], any assistance (other than the giving of vote) for the furtherance of the prospects of that candidate's election, from any person in the service of the Government and belonging to any of the following classes, namely:—</p> <p>(a) gazetted officers;</p> <p>(b) stipendiary judges and magistrates;</p> <p>(c) members of the armed forces of the Union;</p> <p>(d) members of the police forces;</p> <p>(e) excise officers;</p> <p>(f) revenue officers other than village revenue officers known as lambardars, malguzars, patels, deshmukhs or by any other name, whose duty is to collect land revenue and who are remunerated by a share of, or commission on, the amount of land revenue collected by them but who do not discharge any police functions; and</p> <p>(g) such other class of persons in the service of the Government as may be prescribed:</p>	Section 123(7) of the Representation of the People Act, 1951.		Corrupt practices can be agitated in an Election Petition before the High Court.
10	<p>Booth capturing by a candidate or his agent or other person.</p> <p>(1) In this section, the expression "agent" includes an election agent, a polling agent and any person who is held to have acted as an agent in connection with the election with the consent of the candidate.</p>	Section 123(8) of the Representation of the People Act, 1951.		Corrupt practices can be agitated in an Election Petition before the High Court.

(2) For the purposes of clause (7), a person shall be deemed to assist in the furtherance of the prospects of a candidate's election if he acts as an election agent of that candidate.

(3) For the purposes of clause (7), notwithstanding anything contained in any other law, the publication in the Official Gazette of the appointment, resignation, termination of service, dismissal or removal from service of a person in the service of the Central Government (including a person serving in connection with the administration of a Union territory) or of a State Government shall be conclusive proof—

(i) of such appointment, resignation, termination of service, dismissal or removal from service, as the case may be, and

(ii) where the date of taking effect of such appointment, resignation, termination of service, dismissal or removal from service, as the case may be, is stated in such publication, also of the fact that such person was appointed with effect from the said date, or in the case of resignation, termination of service, dismissal or removal from service, such person ceased to be in such service with effect from the said date.

(4) For the purposes of clause (8), "booth capturing" shall have the same meaning as in section 135A.]

