

EVA STALIN IAS ACADEMY

12/24, Muthuranga Mudali St, next to Deepam Hospital,
West Tambaram-600045

A referendum on India's future

Even as campaigning gathers pace for the 2024 general election, distant seem the days when the world hailed our elections as a wondrous and clamorous affair that reaffirmed our greatest achievement: being the world's largest democracy. But the past decade has diminished us in the eyes of the world, and to some extent our own, to an "electoral autocracy". There is a palpable sense that in this election, we are fighting to save our democracy itself.

It is impossible to escape the widespread perception that our elections increasingly sustain only the bare bones of democracy, even as its sinews – the legislature, judiciary, media, "autonomous" watchdogs such as the Election Commission of India and the Reserve Bank of India, and agencies such as the Enforcement Directorate and the Central Bureau of Investigation – are either hollowed out or hijacked.

More pernicious still is the politics of hate, vigilantism in the name of religion, and the demonisation of minorities that the Bharatiya Janata Party government and its fellow travellers have promoted. Together with the intimidation of large sections of the media, the purchasing of Opposition Members of Parliament and Members of the Legislative Assembly and the villainisation of dissidence as "anti-national", democracy is gasping for air in the suffocating embrace of its self-proclaimed "Mother".

As we elect our 18th Lok Sabha, at stake here are not only 543 seats but also the India of our Constitution, the Hindustan which Iqbal eulogised as *saare jahaan se achcha*, and the Bharat for whose pluralism and inter-religious coexistence Mahatma Gandhi laid down his life; 2024 is a referendum on India's future: a choice between a hateful ethno-nationalism that disdains democratic accountability, and a civic nationalism – anchored in the Constitution and its institutions – that safeguards our democracy and diversity.

Much has changed

Our first general election of 1951-52, the most audacious democratic experiment in history, was also a referendum on India's future. The farther we drift from that moment in time, the more we take for granted its majesty. To remember it now, over 70 years later, is to realise how much has changed.

The spadework of nearly five years, carried out in cataclysmic conditions, preceded that general election. Onerous enough were the tasks of nation-building and reversing the depredations of colonial rule, but the makers of modern India had a lot more to reckon with: the flames of Partition had to be doused and refugees rehabilitated, the ferocious invasion of Kashmir had to be quelled, and over 500 princely states with recalcitrant rulers had to be drawn into the Union. Yet, nothing could dampen the democratic zeal of Jawaharlal Nehru and his



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As Indians wait to elect their 18th Lok Sabha, at stake are not only 543 seats but also the 'India' and 'Bharat' of the Constitution

compatriots. While many other decolonised nations tumbled into authoritarianism, India drafted a trailblazing Constitution, affording a largely indigent and illiterate populace universal adult franchise: something even the United States, the world's oldest modern democracy, had not yet done. With the passage of the Representation of the People Act, 1950, we began evolving a system of voting for our enormous, geographically diverse country with 176 million eligible voters, about 85% of them unlettered. An American observer noted that the challenge of preparing for the world's largest election was of "colossal proportions".

A quest to translate a vision into a reality

Far from building a cult of personality around himself to consolidate his power, Nehru faced, even before the electoral contest of 1951-52, a formidable challenge to his values and leadership from within his own party. In August 1950, Purushottam Das Tandon had become president of the Congress. The elderly and socially conservative Tandon represented everything Nehru detested: a belief in the primacy of Hindus over India's minorities, a searing mistrust of Muslims, and a fervour for Hindi's nationwide imposition.

In Nehru's view, Tandon's presidency blurred the lines between the Congress and communal organisations such as the Rashtriya Swayamsevak Sangh and Hindu Mahasabha. Worried that the party was abandoning its ideals, Nehru resigned from the Congress Working Committee, Parliamentary Board and Central Election Committee, stopping just short of quitting the party itself. Terrified of losing their foremost vote-getter right before the election, the Congress rallied behind the Prime Minister. This compelled Tandon to resign in September 1951, at which point Nehru himself was elected president.

With the party in his thrall, Nehru strove to reshape it into a vehicle for delivering a "stable, secular and progressive" India. Though it inherited the legacy of our freedom struggle, the Congress was never unopposed – not even at the genesis of our democracy. From J.B. Kripalani and Jayaprakash Narayan to Babasaheb Ambedkar and S.P. Mookerjee, redoubtable leaders of all stripes berated Nehru and the Congress every day. Not one to criticise the Opposition for doing their job, and frequently commending them on the campaign trail, Nehru devoted himself to translating the Constitution's vision into reality.

Desiring greater representation of women in Parliament, he wrote to the Chief Ministers in 1950 and suggested they encourage women legislators to resign from the State assemblies and contest for the first Lok Sabha. As adoring crowds swirled around him everywhere on the campaign trail, he persistently reminded them to exercise their franchise: "It does not matter for whom you vote," the star campaigner of the Congress would say, "but vote."

While the intoxicating popularity of two men – two Prime Ministers – characterises both our first and latest general election, the ideas of India they embody are radically antithetical. Weeks ahead of the 2024 general election, the bank accounts of India's largest Opposition party were frozen and an incumbent Chief Minister, a leading light of the Opposition, was cast behind bars. Long gone is Nehru's age, where even the Communist Party of India, which had launched an armed rebellion against the Indian state in 1948, was welcomed into the political fray as a legitimate competitor. In the event, the Communists emerged second, garnering 16 out of 489 seats in the first Lok Sabha and testifying to the freeness and fairness of our great experiment with democracy.

Indians went to the polls in 1951-52 amid a surcharged communal atmosphere. While the horrors of Partition continued to haunt their victims, the reprehensible persecution of Hindus in East Pakistan had led to vengeful violence against the Muslims of Calcutta, sparking more atrocities against Hindus in Dacca and its vicinity. This bolstered Nehru's resolve to pursue, regardless of how Pakistan treated its minorities, his efforts at forging a secular state, making him thunder in Parliament that "we shall not let India be slaughtered at the altar of bigotry". Commencing his electoral tour at Ludhiana in 1951, he declared an "all-out war against communalism", lambasting parties that in the garb of Hindu and Sikh culture were sowing hatred like the Muslim League had once done. Nehru waged a battle in defence of India's soul, and called upon ordinary Indians to be his soldiers: their votes were to determine our future. Sure enough, harmony triumphed over hatred, with Jawaharlal Nehru leading the Congress to a resounding victory.

A battle again

Standing alone before a ballot box during the first general election, 107 million Indians (out of the 176 million eligible), their breaths held in awe, cast their votes and became the custodians of India's fate. Today, 17 general elections later, we are again waging a battle for India's soul. Let us honour the wisdom of our ancestors of the 1950s, who voted for an India that belonged to everyone, where Ram and Rahim were equivalent, and where their devotees together toiled to propel this country to dazzling new heights.

Such an India appals our ruling party. Petrified of the power of a united people, it has sought to divide us, hoping we never rise as one in defence of our republic. The choice is ours. We have already witnessed a partition of the Indian soil; the past decade has threatened to partition the Indian soul. This we must resolutely oppose, for in the words of our first Prime Minister: "Who lives if India dies?"

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No support from the BJP, 'partial allies' in the Opposition

From opposing the legalisation of same-sex marriage in the Supreme Court of India initially to maintaining a diplomatic silence after the Court handed down its eventually disappointing judgment in 2023 (in *Supriyo @ Supriya Chakraborty & Anr. vs Union of India*), the Congress party has released its Nyay Patra, its election manifesto for 2024, which has a dedicated section on the rights of senior citizens, persons with disabilities, and LGBTQIA+ people. The party promises that, if elected to power, they would fulfil the Court's mandate of ensuring a high-powered committee at the Union government level is set up to hold widespread consultations with relevant stakeholders to pass a law legalising civil unions for LGBTQ+ couples.

A few things must be noted here. First, during the marriage equality hearings, Solicitor General Tushar Mehta, appearing for the Bharatiya Janata Party government, opposed marriage equality and sought the views of all States and Union territories. At that time, there was a studied silence by the Congress. However, the Rajasthan Congress, led by Chief Minister Ashok Gehlot, weighed in, stating in his submissions that legalising same-sex relationships would create "imbalance" in the social fabric of the country, and would lead to "widespread consequences for the social and family systems". What these consequences were and how legalising such marriages could lead to "imbalance" and not "inclusion" remains a mystery.

State responses

As per the Centre's submissions, Assam (led by Assam Chief Minister Himanta Biswa Sarma of the BJP) and Andhra Pradesh (led by Andhra Pradesh Chief Minister Y.S. Jagan Mohan Reddy of the YSR Congress) joined Rajasthan in opposing same-sex



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marriage. Meanwhile, Maharashtra (led by Eknath Shinde of the Shiv Sena), Uttar Pradesh (led by Yogi Adityanath of the BJP), Manipur (led by N. Biren Singh of the BJP), Sikkim (led by Prem Singh Tamang, of the Sikkim Krantikari Morcha), and Assam (led by Himanta Biswa Sarma of the BJP) sought more time to examine the issue. Trinamool Congress leader and West Bengal Chief Minister Mamata Banerjee, when asked about the issue, said rather diplomatically, "I love people who love others. This matter is sensitive, and I have to see the pulse of the people." In short, not a single State government expressed support for the cause.

Once the judgment was eventually pronounced, Communist Party of India (CPI) leader and Rajya Sabha MP, Binoy Viswam, was one of the few lone political voices displaying solidarity with the LGBTQ+ community, calling the judgment "unfortunate." Congress leader and Rajya Sabha MP, Jairam Ramesh also weighed in, stating that the party was "studying" the different judgments (there were four separate opinions). The end result, it seems, is the promise in the Nyay Patra for a law on civil unions for LGBTQ+ couples. Here too, the Congress stopped short of guaranteeing marriage (civil unions are not the same as marriages).

It is also rather odd that the Congress party promises passing a new law on civil unions even before starting the consultative process and prematurely foreclosing the possibility of recognising LGBTQ+ marriages (civil unions are not the same as marriages). As Mr. Ramesh pointed out earlier, the Congress has, in his opinion, always been "a party of inclusion.. that firmly believes in non-discriminatory processes." If that is the case, how can the exclusion of LGBTQ+ couples from the institution of marriage,

yet again, sit in accordance with the Congress's own purported principles of non-discrimination and inclusion?

Even the CPI(M) general election manifesto contains a promise for legally recognising and protecting same-sex couples' rights in a form "similar to marriage" – but not the same as marriage. LGBTQ+ couples, it seems have "partial allies" among the Opposition and no allies within the ruling BJP on this issue.

A subject in the concurrent list

If opinion polls are anything to go by, the BJP is projected to win comfortably in the general election. That said, State governments still have a lot of latitude to pass laws favourable to LGBTQ+ couples. Just as Uttarakhand became the first State in independent India to implement a Uniform Civil Code, one that not only excludes LGBTQ+ couples from its ambit but also criminalises non-disclosure of live-in relationships among heterosexual couples, so too could State governments pass progressive laws recognising LGBTQ+ couples and expanding state benefits to them.

No State in India, including those governed by Opposition parties, has done this so far. Marriage and divorce, after all, fall in the concurrent list of the Indian Constitution, meaning that both State and central governments have latitude to pass laws on this subject.

While it is significant that the Congress and the CPI(M) have added LGBTQ+ rights to their manifestos, their half-hearted approach defies their liberal credentials and begs the question whether they genuinely care about LGBTQ+ rights or are just queer-baiting, trying to woo the LGBTQ+ vote by handing out breadcrumbs instead of the actual pie.