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# **ELECTION MANIFESTO OF POLITICAL PARTIES IN INDIAN DEMOCRACY: A LEGAL ANALYSIS<sup>1</sup>**

AUTHORED BY - ABHISHEK RAJ & KRISHNA KUMAR

## **Abstract**

This research paper analyses the role of election manifestos in Indian democracy. It highlights the importance of manifestos of political parties as a crucial tool to present their aim and objectives to the electorates, allowing them to make informed choices. This research paper gives emphasis on lack of legal accountability and enforceability of promises in India. For the accountability of political parties for their commitments towards their election manifestos, there is need of specific legal frameworks and regulations. It also suggests various measures, including the creation of statutory bodies and legal doctrines, to enhance the accountability of political parties. In the present research paper doctrinal research method is used, where in the authors have also used primary sources of legal literature for the study.

**Key Words:** Accountability, democracy, elections, electorate, manifesto, political parties, promises.

## **1. Introduction**

Elections are the centerpiece of democracy. They are the fundamental political events in a democratic society and the only occasion on which most people become directly involved in politics. An election is a discovery process, a way of finding out who will be temporarily in charge of government.<sup>2</sup>

Election Manifesto is a valuable tool in electoral politics in the hands of political parties; by presenting promises in the manifesto they display their intention before the election, allowing voters to make informed choices in democracy. Democracy is a form of government, which

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<sup>2</sup> S. James Robbins, *INTRODUCTION: DEMOCRACY AND ELECTIONS*, The Fletcher Forum of World Affairs, 21 (1997) 1–13. JSTOR, <http://www.jstor.org/stable/45288975> (last visited at 10 Aug. 2024, 4:19 PM)

represents equality, human rights, and freedom in the society and it is a globally accepted form. However, the implementation and the applicability of this form of government may vary slightly due to numerous factors, such as historical, political and social.

A leading ethicist, has argued, “The political lies have negative psychological consequences. When in a political system there is trust deficit arising due to false promises, the voters and the candidates both are the losers.”<sup>3</sup> To address false election promises in political manifestos, a legal scrutiny of various legal domains such as civil laws and criminal laws should be explored. It is very essential to ensure the integrity of political commitments in restoring trust of the people in democratic processes by way of upholding legal accountability and responsibility of political parties towards election manifestos.

## 2. Relationship between democracy, election and the election manifesto

The idea of ‘who should govern’ has generally been agreed upon, with the belief that it should be the people. Various civilizations have employed different types of governments<sup>4</sup> other than democracy to rule over their populations. However, the roots of democracy in politics can be traced back to ancient Greece in the 5th Century BC, particularly in the city-states like Athens. The term 'Democracy' which is derived from the Greek word **dēmokratia**, which was coined from **dēmos** (“people”) and **kratos** (“rule”)<sup>5</sup>, signifying ‘rule by people’ or ‘rule by many’. This form of government allows people to influence the political system directly or via elected representatives, as seen in democratic republics such as India, U.S.A., United Kingdom etc., where power is held by the common people. Essentially, democracy is a system in which people, either directly or through elected representatives, govern the political system.

1. **Herodotus** of Halicarnassus, defined democracy as,  
“Form of government in which the supreme power of the State is vested in the hands of the community as a whole.”<sup>6</sup>
2. In modern period this definition was revived by **Abraham Lincoln** as  
“It is a government of the people, by the people and for the people”<sup>7</sup>.

<sup>3</sup> S. Bok, Lying: Moral Choice in Public and Private Life, 184-185 (1979).

<sup>4</sup> Other forms of government can be referred such as: authoritarianism, aristocracy, autocracy, monarchy, oligarchy, and feudalism.

<sup>5</sup> Froomkin, et, al., "democracy". Encyclopedia Britannica, (20 Jul. 2024, 7:30 PM) <https://www.britannica.com/topic/democracy>

<sup>6</sup> Brad Martin, Herodotus, Politics and Athenian Democracy, 46-52 Xavier Jour. Of Poitics, (2011).

<sup>7</sup> Political Theory II, Rajiv Gandhi University, Arunachal Pradesh, (2021), (Jul.29, 2024, 12:19 PM) <https://rgu.ac.in/wp-content/uploads/2023/05/BAPOL202.pdf>.

3. **Seeley** has given a precise definition as,

“democracy is a government in which everybody has a share”<sup>8</sup>.

India, like many other modern democratic nations, has a Constitution in place. The Preamble of the Constitution of India begins by affirming that the country is a Sovereign, Socialist, Secular, Democratic, Republic, with people being the sovereign themselves. It serves as a declaration, which is enshrined as objective in the ideals and goals of the citizens of India, emphasizing the ultimate power in the hands of the citizens of the country. The essence of democracy in our Constitution is well elaborated in the case of *Indira Nehru Gandhi vs. Raj Narain*,<sup>9</sup> Mathew J has observed that:

“the Democracy proceeds on two basic assumptions:

- (1) Popular sovereignty in the sense that the country should be governed by the representatives of the people, that all power came from them, at their pleasure and under their watchful supervision it must be held; and
- (2) That there should be equality among the citizens in arriving at the decisions affecting them”.<sup>10</sup>

The relationship between democracy, political parties, and elections is crucial for understanding, how modern societies are governed and how interests and powers are represented and allocated. Parties nominate candidates, mobilize voters, and present distinct governance visions, offering voters choices beyond individuals and endorsing different policy agendas. Through voting, citizens express their preferences, shape political outcomes, and hold officials accountable, facilitating peaceful transitions of power crucial for political stability and continuity in a society. It will be right to say that democracy thrives on the synergy between political parties and elections as mechanisms for citizen participation, representation, and governance accountability. Understanding and nurturing the relationship between democracy, political parties, and elections is essential for ensuring that democratic systems remain responsive, inclusive, and resilient in the face of evolving societal challenges and aspirations.

Manifesto is the **British** and **Italian** term for the official document published by a political party at the start of its election campaign. The term ‘Manifesto’ has its origin from Italy, that

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<sup>8</sup> **Mohammad Mohabbat Khan, Democracy and Good Governance in bangladesh: Are They Compatible?** 5 Sage Journal, (Jul.29, 2024, 12:19 PM) <https://journals.sagepub.com/doi/10.1177/0976399613518855?icid=int.sj-abstract.similar-articles.8>.

<sup>9</sup> AIR 1975 SC 2299 (India).

<sup>10</sup> Id.

itself derived from the Latin word, “**manifestum**”, meaning clear or conspicuous. Its first recorded use in English is from 1620.<sup>11</sup>

The American term is ‘**platform**’. Practice and terminology differ widely across countries. However, for an election campaign, they issue ‘action’ or ‘economic’ programs or sometimes-different booklets for women, youth, workers and other constituencies. In **Australia** the Program may not even be officially printed. Instead, the Party leader may present it in an hour-long televised address.<sup>12</sup>

According to the **Black’s Law Dictionary**<sup>13</sup> ‘manifesto’ means:

“A written statement publically declaring the issuer’s principles, policies or intentions; esp. a form of document explaining why a State or nation declared war or took some other significant international action.”

Manifestos can be perceived as a legal agreement between political parties and the electorates, which outlines the plans and policies of a political party regarding development of the country. It can also be seen as a relationship based on essence of social contract between elected officials and the public. For democracy to function well there shall be trust among subjects that elections are conducted in free and fair manner. Any kind of fraud or manipulation during elections can hampers and erodes the confidence of voters in democratic values. “It is an important tool in the hands of the political parties, through which it earn the support of voters in formation of government. These manifestoes provide a platform to the electorates to judge the aims and objectives of the political parties. After the formation of the government, performance of the government is critically analyzed based on its manifesto issued before the election.”<sup>14</sup>

With the rise of electronic and social media, there has been a noticeable shift in the content and style of election manifestos, with catchy slogans gaining more traction than detailed policies. Despite this shift, manifestos are essential in establishing the government's agenda and guiding voters' choices. It is important for voters to scrutinize manifestos independently to make informed decisions. While manifestos serve as a measure of a party's popularity among voters and offer new commitments, there is a need for greater transparency and

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<sup>11</sup> Merriam Webster, (Jul. 24, 2024, 10:36 PM) <https://www.merriam-webster.com/dictionary/manifesto>.

<sup>12</sup> Richard Rose (ed.), International Encyclopedia of Election 161 (MacMillan Reference Ltd., London, 2000).

<sup>13</sup> Bryan A. Garner (ed.), Black’s Law Dictionary, 1048 (USA: Thomson Reuters Business, 9<sup>th</sup> ed. 2009).

<sup>14</sup> Ramesh Tiwari, Political Parties, Election manifesto of the political parties and Elections in India, 1909-2014 (Routledge India, 2020).

dissemination of manifesto promises to the electorate. The election manifesto of parties fulfills double functions:

- (i) It compels the political leader to think seriously about the problems in the country and suggest remedies; and
- (ii) Educates the electorate on the problems and their possible solutions. The most common issues for all the political parties are national unity and integrity of the country. The election manifesto also deals with the issues and problems of the society.

### 3. Manifestos in different democratic countries:

The primary goal of election manifestos is similar worldwide, yet their impact, liability and accountability can vary depending on the country, reflecting the unique political, social, and economic contexts. The issue of misleading election promises in manifestos is not limited to a single nation, accountability and legal enforceability with respect to this issue is common concern across democratic nations. Many countries face challenges with false promises made during elections, whether it is through exaggeration during campaigns, offering freebies, or written promises in election manifestos. “The political process alone cannot ensure accountability for broken promises, thus necessitating the need for legal regulation.”<sup>15</sup>

In **United States of America**, manifestos of political parties outline policies covering areas like economic policy, foreign policy, healthcare, governance reform, environmental issues, and immigration. and are issued two months prior to the general elections. The federalist system in the USA places much governance at the State or local level. False campaign promises harm the political process by spreading misinformation and undermining trust. Courts have typically deferred to the political process for handling false promises, as seen in cases like *Williams vs. Police Jury of Concordia Parish*<sup>16</sup> and *City of Farmers Branch vs. Hawnco, Inc.*<sup>17</sup> Legal measures to address deceptive campaign speeches are limited, and there is no federal law directly regulating election manifestos.

The **United Kingdom** has a Parliamentary system where election promises are not legally enforceable. Despite past commitments to electoral reform, like Labour Party in 1997, promise

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<sup>15</sup> Nirmalya Chaudhari, Right not to be misled: Identifying a constitutional basis to fix accountability for election promises, 10 IJCL (2021).

<sup>16</sup> 107 So. 126 (La. 1926) (United Kingdom).

<sup>17</sup> 435 S.W. 2d 288 (Tex. Civ. App.1968)

for a referendum, political parties often do not fulfil such promises without legal repercussions. The judiciary avoids interfering in these matters, viewing them as political rather than legal issues.

The **Representation of the People Act**, 1983, addresses false statements about candidates but not false promises made to voters. Courts have consistently ruled that manifesto pledges are not binding, and legal accountability for such promises would conflict with the principle of parliamentary sovereignty and the separation of powers.

**Mexico's** electoral system is pluralist, with the Mexican General Congress elected via a mixed system. Significant reforms under President Ernesto Zedillo led to free and fair elections. The Federal Electoral Institute (here in after referred as IFE) and the Electoral Tribunal controls and monitors the election campaign in Mexico. The Mexican Constitution also provides that the expression which may be derogatory and insulting to institution, political parties or individual shall not be used.

In Mexico, it is obligatory for the candidates and political parties to follow the regulations to ensure that their manifestos are legally compliant and to maintain the integrity of the electoral process. The Regulation mandates:

- i. "Election manifesto must be transparent, accurate and not misleading,
- ii. The content of manifestos and campaign materials is regulated to prevent the spread of false information and to ensure fair competition,
- iii. Reporting of expenditures and sources of funding related to campaigning,
- iv. The National Electorate Institute oversees compliance with these regulations and can impose sanctions for violations."<sup>18</sup>

**Bhutan**, follows "First Past The Post" in elections, laws their make it mandatory that political parties should submit their manifestos to the Election Commission for approval before public release, ensuring the content of manifesto is in confirmity with national security and stability. Manifestos cannot exploit religion, ethnicity, or the King's prerogatives. Laws in Bhutan ensure election promises are truthful and achievable, holding politicians accountable for their commitments, unlike many other democracies. It is crucial to strengthen the legal frameworks

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<sup>18</sup> Lauren TerMaat, Mexico's National Electorate Institute-Explainer, October 24, 2023, (Jul. 27, 2024, 11:14 PM) <https://www.wilsoncenter.org/article/mexicos-national-electoral-institute-explainer>.

and institutional oversight for maintaining democratic integrity and ensuring that the political parties uphold their promises.

#### 4. Accountability towards Election Manifestos and Judicial trend in India

Election manifestos are crucial for electoral democracy, it serve as a commitment by political parties to their electorate. In India, manifestos are in use since before independence. However, unfulfilled promises in manifestos are becoming empty rhetoric, as they pose challenges to the electorate and the society. A study by the Observer Research Foundation categorized promises into two segments first is "falsifiable"<sup>19</sup> (accompanied by specific actions or targets) and second is "unfalsifiable"<sup>20</sup> (vague and non-accountable). This analysis showed that parties often fail to fulfill promises, with many not carried forward to subsequent manifestos.

Election manifestos in India are not legally enforceable under the Indian Contract Act, 1872. While manifestos are central to election campaigns and can be seen as "offers" seeking voter "acceptance," but they do not form binding contracts. The Supreme Court have observed that "there is no law making political promises enforceable."<sup>21</sup> Similarly, different High Court reiterated that "no action can be taken for unfulfilled manifesto promises due to the absence of relevant legislation."<sup>22</sup>

The doctrine of promissory estoppel, rooted in the principles of equity from the English legal system, prevents a party from going back on a promise if another party has relied on it. This principle applies to both government and public authorities, ensuring that a promise, intended to create or affect legal relationships, binds the promisor if the promisee has acted upon it. In India, **Section 115 of the Evidence Act, 1872**<sup>23</sup> (now **Section 121**, Bharatiya Sakshya Adhinyam, 2023)<sup>24</sup> conveys similar principles. However, promissory estoppel cannot enforce promises that violate the law or public policy, as demonstrated in various cases.<sup>25</sup> The Supreme Court, in **Motilal Padampat Sugar Mills vs. State of U.P.**,<sup>26</sup> emphasized that promissory estoppel is applicable when the promisor's promise creates an expectation that the promisee

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<sup>19</sup> Ovee Karwa et al., Manifestos as a Tool for Accountability: A Content Analysis of the 2004-2019 UPA and NDA Poll Manifestos, Observer research Foundation, 6-8 (Jul. 28, 2024, 03:32 PM), <https://www.orfonline.org/research/manifestos-as-a-tool-for-accountability-a-content-analysis-of-the-2004-2019-upa-and-nda-poll-manifestos>.

<sup>20</sup> Id.

<sup>21</sup> Mithilesh Kumar Pandey vs. Union of India, 2014 SCC Online Del.4771 (India).

<sup>22</sup> Vivek Kumar Mishra vs. Union of India, 2019 (7) ADJ 310 (India).

<sup>23</sup> The Indian Evidence Act, 1872, No. 1, Acts of Parliament, 1872 (India).

<sup>24</sup> The Bharatiya Sakshya Adhinyam, 2023, No. 46, Act of Parliament, 2023 (India).

<sup>25</sup> Thakur Amar Singh Ji vs. State of Rajasthan. (1955) 2 SCR 303 (India).

<sup>26</sup> AIR 1979 SC 621 (India).

acts upon, making the promise binding. However, this doctrine does not apply to political manifestos.

The doctrine of legitimate expectation is a significant principle in public law that aims to protect individuals when their expectations, arising from administrative actions or policies, are not met. It exists between a “right” and “no right,” serving as a remedy for civil consequences resulting from the violation of legitimate expectations. In public law, unlike private law, the doctrine allows individuals to seek relief even when their claims are not strictly legal, based on the premise that public authorities must act fairly and justly.

But the political parties, when issuing manifestos, are not in government and lack authoritative power. Courts, including the Delhi High Court in *ANZ Grindlays Bank Pie vs. Commissioner, MCD*,<sup>27</sup> and the Supreme Court of India, have consistently ruled that political manifestos do not constitute promissory estoppel or legitimate expectations due to their speculative and aspirational nature.

Under the **Representation of People Act, 1951**,<sup>28</sup> two key points can be analyzed regarding political manifestos: whether false promises in such manifestos constitute “**corrupt practices**” under Section 123 and “**whether political parties can be derecognized**” under Section 29A for failing to fulfill those promises.

The Supreme Court in *S. Subramaniam Balaji v. Government of Tamil Nadu*<sup>29</sup> held that while the idea of considering manifesto promises as corrupt practices is appealing, it poses practical difficulties. The court emphasized that a manifesto is a policy statement of a political party, and its enforcement arises only if the party forms a government. Consequently, the distinguishment between individual candidates and political parties, allowing parties to make promises in manifestos without being labelled as corrupt practices. This observation is subsequently reiterated in other judgements also.<sup>30</sup>

Section 29A<sup>31</sup> outlines the registration process for political parties but does not provide for

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<sup>27</sup> 1995 (34) DRJ 492 (India).

<sup>28</sup> Representation of Peoples Act, 1951, No. 43, Acts of Parliament, 1951 (India).

<sup>29</sup> (2013) 9 SCC 659.

<sup>30</sup> V. P. Amavasai vs Chief Election Commissioner, 2019 SCC Online Mad 5623 (India).

<sup>31</sup> Supra note 26.

cancellation based on unmet manifesto promises. The Election Commission cannot deregister a party unless specific conditions are met, such as registration obtained through fraud or significant amendments to party rules that violate the Act. The Supreme Court, in **Indian National Congress (I) v. Institute of Social Welfare**<sup>32</sup>, ruled that the Commission lacks the authority to review or cancel registrations based on violations of manifesto promises.

In the light of above referred judgements and cited provisions it can be observed that, the political parties cannot be held accountable for false promises made in manifestos under the Representation of People Act. While voters can express dissatisfaction at the polls, the legal framework does not allow for the deregistration of parties based on unfulfilled manifesto commitments, reinforcing the idea that manifestos serve more as declarations of intent than enforceable contracts.

At present **Ashwini Kumar Upadhyay vs. Union of India**<sup>33</sup> is subjudice before the Supreme Court of India, addresses the practice of political parties offering election freebies. This case seeks to reconsider the 2013 S. Subramaniam Balaji ruling<sup>34</sup>, which classified certain election promises, like free televisions, as welfare measures rather than corrupt practices and undue influence the voters. Critics argue that this judgment overlooked relevant provisions of the Representation of the People Act, 1951, and incorrectly suggested that Directive Principles of State Policy can supersede fundamental rights.

**Chief Justice N.V. Ramana** acknowledged the complexity of the issues raised and indicated the need for extensive hearings, ultimately referring the case to a three-judge bench. After considerable deliberation, the bench, led by **Chief Justice D.Y. Chandrachud**, received input from the Election Commission, which suggested that parties disclose data regarding beneficiaries and financial implications of their promises. However, political parties urged the court to refrain from intervening in electoral politics, asserting their capability to understand fiscal responsibilities.

The lack of adequate legal statutes regarding election manifestos has led to judicial hesitance in establishing guidelines and the Election Commission's model code of conduct has not been

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<sup>32</sup> (2002) 5 SCC 685

<sup>33</sup> Live Law (SC) 717

<sup>34</sup> Supra note 29

effective. The Supreme Court has the authority under Article 142 of the Constitution significant residuary power under Article 142<sup>35</sup> of the Constitution, to bridge this gap, as it allows to issue decrees and orders necessary to ensure complete justice in cases before it. This power is designed to supplement existing laws and address situations inadequately handled by current legal provisions. The Supreme Court can exercise this power independently and at its discretion, without needing any conditions precedent. Despite this, the Supreme Court has been reluctant to apply Article 142 in matters concerning election manifestos.

## 5. Conclusion

Election manifestos are essential in a democratic system, reflecting the parties' visions and the changing priorities of voters. They guide citizens in choosing representatives who will govern on their behalf, embodying the democratic principle that sovereignty lies with the people. However, the integrity of this process is compromised when election campaigns involve misleading tactics, false promises, and manipulation of voters, which undermines the foundation of democracy.

The absence of enforcement mechanisms against false promises in India allows political parties to make unrealistic commitments without facing legal consequences. This lack of accountability means that once elected, politicians often disregard their pledges, leaving voters feeling cheated. Current legal frameworks do not adequately address the issue, as promises in manifestos are not legally enforceable under existing laws.

Political parties and the politicians should be held accountable for their actions, and legal structures must be strengthened to ensure they keep their promises. The judiciary should step in to create guidelines and enforce accountability when Parliament fails to do so. Courts have previously rejected applying public law principles like promissory estoppel and the legitimate expectation doctrine to political promises, deeming them unenforceable.

The Supreme Court of India is urged to intervene in addressing false promises and the issue of freebies in elections, as these practices violate the principles of fair elections enshrined in the Constitution. Chief Justice N.V. Ramana acknowledged the complexity of these matters, indicating the need for extensive hearings to determine the scope of judicial intervention.

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<sup>35</sup> CONST. INDIA, art 142.

In light of the discussion, the following suggestions are proposed to address the issue of accountability regarding election manifestos of political parties in India:

1. At present, there is no legal provision for the accountability and enforcement of promises made in election manifestos. To ensure accountability, Parliament should enact laws regulating the contents of manifestos. Even the Supreme Court of India have also observed there is no enactment that directly governs the contents of the election manifesto.<sup>36</sup>
2. There should be a statutory body formed to review the election manifesto of political parties. It could be an independent body or a body formed under the election commission of India. Political parties shall submit their manifestos for approval before the body and manifesto could be made public subject to approval of the body. It should be ensured that they are clear, specific, and free from promises that are unambiguous, threat to national security or exploit social divisions. Model of Bhutan and Mexico shall be taken into consideration for this purpose.
3. Political parties should be mandatorily fulfill the promises made their manifestos. If they fail, they must publish a record of unfulfilled promises alongside new promises in subsequent manifesto of next election.
4. The Supreme Court can exercise its powers to do complete justice under Article 142, but they are escaping from this duty. Supreme court should exercise this power to issue nationwide guidelines regarding election manifesto promises, to fill legislative gaps and ensure justice.
5. Doctrine of promissory estoppel is not applicable on political parties and their manifestos. In order to attract the applicability of the doctrine of promissory estoppel the promisee acting in reliance of the promise, should have altered his position in reliance of the promise. Parties making the promise is not the government, but when it comes to the government after being elected, then to ensure legal accountability of manifesto, a mechanism to apply promissory estoppel on the manifesto of the political parties could be explored, while, as per law, the doctrine of promissory estoppel is not applicable on the government.
6. Although the doctrine of legitimate expectation is not applicable to political manifestos, a framework should be established to hold parties accountable for delivering on their promises once in power. Voters have a legitimate expectation that their representatives

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<sup>36</sup> S. Subramaniam Balaji vs. State of Tamilnadu and Others, (2013) 9 SCC 659 (India).

will fulfill their commitments made in the election manifestos.

These measures aim to strengthen the accountability of political parties in India, ensuring that election promises are taken seriously and upheld.

