

Much remains to be done in order to make the world's largest democracy also the world's greatest

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“Voting is not only our right, it is our power.” - Loung Ung

This paper elaborates upon three of the several challenges faced by the most powerful electoral management body in the world - the Election Commission of India (ECI), and how it proceeded to solve them. As the guardian of world's largest elections, it has faced a diverse range of challenges over the past seven decades in delivering free, fair and transparent elections at the state and national level. In light of the massive constitutional mandate that the Constitution of India bestows upon it, it has stood the test of time, emerging as among the most trustworthy constitutional body in the country.

An Electoral Wonder

In a move termed as nothing short of a silent revolution, India chose democracy, becoming a “sovereign, democratic republic”¹ in 1950. Universal Adult Franchise was granted to us in one stroke.² This was a big deal, considering the case of US, which took 144 years, and the UK, which took 100 years to confer political equality on women.³ But at that time when India became a republic and a democracy, people thought this was a grave adventure, with a country with 84 percent illiteracy!⁴ How will they cope with the responsibility of democracy?

Needless to say, it was not a foolhardy adventure. While many postcolonial countries fell to dictatorships, the largest and the most complex among them not only survived, but thrived. We are a bustling democracy, an economic powerhouse, IT major, a space giant and a major nuclear power.

From 360 million at independence, the electorate is now 900 million! In 2019, a million polling stations, 600 million votes, 2.33 million ballot units, 1.63 million control units and 1.74 million

¹ <https://www.jagranjosh.com/general-knowledge/preamble-of-the-constitution-1434782225-1> Accessed Aug 2, 2019

² The voting age was reduced to 18 by the 61st amendment Act, 1988

³ <https://doc-research.org/2019/05/the-scale-of-the-indian-elections/> Accessed Aug 3, 2019

⁴ https://www.cgihamburg.gov.in/pdf/2015_06_India_The_Wonder_Republic65.pdf Accessed Aug 2, 2019

Voter Verifiable Paper Audit Trails (VVPATs) were managed by the Election Commission of India (ECI). Airplanes, helicopters, boats, tractors, motorcycles, bullock carts, mules, elephants and camels are hired to transport individuals and materials on a tight schedule. The Commission and its 12 million polling staff (larger than the population of 160 countries!⁵) proved its mettle yet again by executing such a historic management exercise with precision.

The Guardian of Indian Elections

The ECI was born a day before the Indian Republic. The Constitution framers were very particular about the importance of the institution of elections.⁶ The kind of power they gave to the Commission, the independence and distance they created between the EC and the Government is a testament to their vision.

[Article 324\(1\)](#) of the Indian Constitution⁷ vests in the Commission *‘the superintendence, direction and control of ... all elections to Parliament and to the Legislature of every State and of elections to the offices of President and Vice President’*. Free and fair elections were considered so important that the Assembly even considered making the independence of elections a Fundamental Right!⁸

The [Chief Election Commissioner](#) , once appointed, enjoys security of tenure.⁹ S/he is in no way accountable to the government appointing them, and cannot be removed except through impeachment similar to a judge of the Supreme Court. The [Ministry of Law and Justice](#) is the nodal ministry, which interacts with EC on budgetary matters, legislative amendments concerning elections, and the framing of rules.

But EC’s power does not imply lack of accountability. Under the Right to Information Act, it is obliged to furnish information to the citizens as a “pubic authority”¹⁰. It is subjected to periodic audits as well by the Comptroller and Auditor General of India (CAG)¹¹.

⁵ <http://statisticstimes.com/demographics/countries-by-population.php> Accessed Aug 3, 2019

⁶ <http://www.businessworld.in/article/India-100-Democracy-Polls-In-2047-/30-08-2017-124733/> Accessed Aug 2, 2019

⁷ <https://indiankanoon.org/doc/359300/> Accessed Aug 2, 2019

⁸ <https://theasiadialogue.com/2019/04/02/institutions-and-elections-in-india/> Accessed Aug 2, 2019

⁹ <https://knowindia.gov.in/general-information/chief-election-commissioners-of-india.php> Accessed Aug 3, 2019

¹⁰ https://en.wikipedia.org/wiki/Right_to_Information_Act,_2005 Accessed Aug 3, 2019

¹¹ <https://cag.gov.in/> Accessed Aug 1, 2019

The right to vote is provided by the Constitution and the Representation of People's Act, 1951, subject to certain disqualifications. Article 326 guarantees the right to vote to every citizen above the age of 18.¹² Further, Section 62 of the RPA states that every person who is in the electoral roll of that constituency will be entitled to vote. This is a nondiscriminatory, voluntary system of voting.¹³

To enable access to franchise and conduct of free and fair elections, the Commission has heralded continuous improvements and innovations over the last seven decades. From separate boxes for each candidate in the first general elections, to paper ballots, to EVMs (now equipped with VVPATs), the Commission has led the way in removing technological skepticism. From introduction of electors' photo identity cards (EPIC) to check impersonation, to live webcasting of elections, to controlling money power and increasing voter participation through non coercive methods, the Commission has proved its mettle on all fronts.

It is often described as a global guru in the field, and its expertise is coveted by so many that it necessitated the setting up of an international training institution in the field of election management, called the India International Institute for Democracy and Election Management.¹⁴

The following section shall discuss three main challenges that the ECI has faced in conducting these mind-boggling elections, and how it overcame them with innovation, integrity and perseverance. The fourth and last part shall deal with the need for a proportional representation system for Indian Lok Sabha, a new emerging concern.

1. Enrolling Women Voters – Bridging the gender gap

India suffers from one of the lowest sex ratios in South Asia. Unfortunately, it is getting worse, with 930 per 1000 males down from 940 as per the 2011 census.¹⁵ We rank poorly in World Economic Forum's Global Gender Gap Index — 108 out of 149 countries. Even within that index, we rank 142 out of 149 countries on economic opportunity and participation.¹⁶ Similarly, the female literacy rate was 65.14 per cent in 2011 as compared to a male literacy rate of 82.14

¹² https://en.wikipedia.org/wiki/Sixty-first_Amendment_of_the_Constitution_of_India Accessed Aug 3, 2019

¹³ <http://www.prsindia.org/theprsblog/compulsory-voting-india> Accessed Aug 2, 2019

¹⁴ <http://iiidem.nic.in/> Accessed Aug 3, 2019

¹⁵ <https://www.census2011.co.in/sexratio.php> Accessed Aug 2, 2019

¹⁶ <https://economictimes.indiatimes.com/news/economy/indicators/india-ranks-108th-in-wef-gender-gap-index-2018/articleshow/67145220.cms?from=mdr> Accessed Aug 1, 2019

per cent. This deficit translates into gender-skewed voter lists. For instance, the ratio was as low as 800 to 1,000 males when I joined the Election Commission in 2006. Having worked for five years in the Ministry of Women and Child Development and a PhD in Gender Studies, I found this unacceptable and made it a mission to correct this imbalance.

With these socioeconomic and political milieus in mind, several steps were taken by the Commission to ensure that eligible women are not left out.

The Commission as a routine started analyzing the gender ratio, the elector–population ratio and the age cohort of voters as against the Census figure for population, which are projected on a yearly basis with the help of the decadal growth rate. A polling station-wise strategy was devised for intervention by the electoral registration officer of each assembly constituency.

Since 2006, the Commission conducted the analysis of gender-disaggregated data in the electoral rolls which indicated a considerable gender gap, much below the national population ratio. For remedying this malaise, a new innovation was called for at the grassroots.

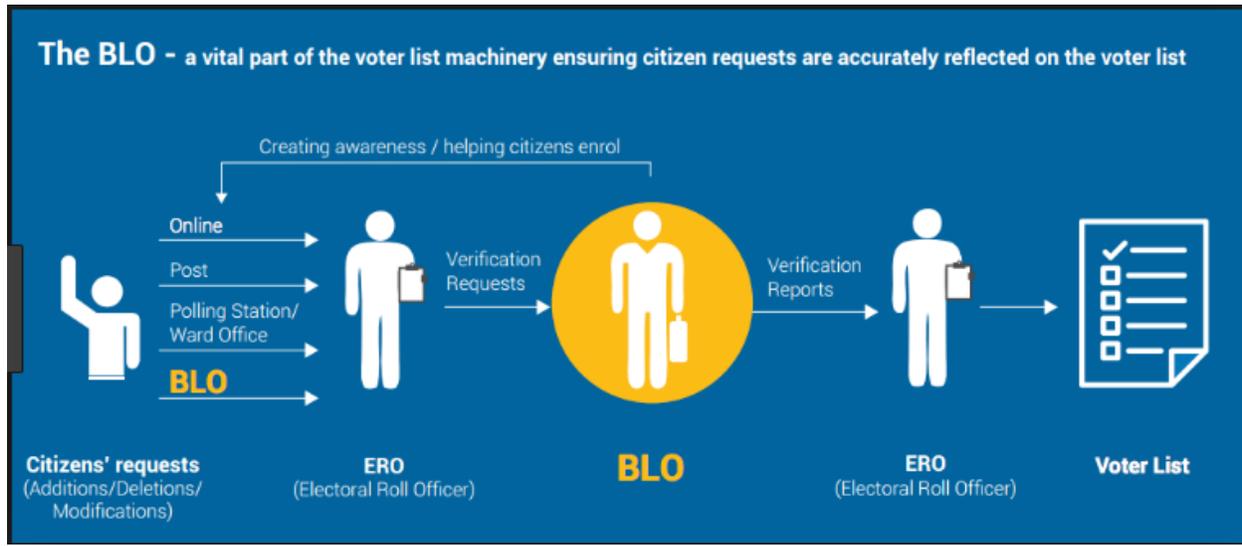
1.1 Appointment of Booth Level Officers (BLOs) helped

- The system of appointing Booth Level Officers (BLOs)¹⁷ changed the paradigm altogether (fig 1). A BLO is a government functionary (like a school teacher or patwari (revenue official)) who is designated to work within the geographical limits of a single polling station area for the purpose of voter registration, roll verification and awareness building about electoral processes. The Commission initiated the system of annual house to house verification of voters with the help of BLOs.
- Out of the 824,000 BLOs in the country, a substantial number are women and that has been a major factor in an enhanced registration of women voters.¹⁸ In the Indian state of West Bengal, most of the districts reached out to the women through anganwadi workers (village level child welfare workers); some also roped in women’s self-help groups. Partner agencies like Nehru Yuva Kendra Sangathan (NYKS) and the Song and Drama Division of Government of India were involved. The shows on All India Radio and other FM channels too dwelt on the issue before elections.

¹⁷ <https://eci.gov.in/files/file/6908-handbook-for-booth-level-officers/> Accessed Aug 3, 2019

¹⁸ <https://scroll.in/article/662941/how-the-election-commission-got-more-women-to-vote> Accessed Aug 1, 2019

Fig 1



Source - Scroll.in

It is mandatory to give hard copies of the electoral rolls to recognized political parties during every revision at the draft level, as well as of the final publication. It was felt that a soft copy of women's photos could be subjected to abuse like morphing. Hence, it is the policy of the Commission to share the soft copy without photographs. The printed copy with a small postage stamp size photo is used for identification.

As a result, Electors Photo Identity Card (EPIC) coverage of 99.36% has been achieved till date. Elector/Population Ratio is 631 currently and Gender Ratio is 958, way ahead of the national sex ratio!¹⁹ A number of states registered remarkable improvement in the ratio.²⁰

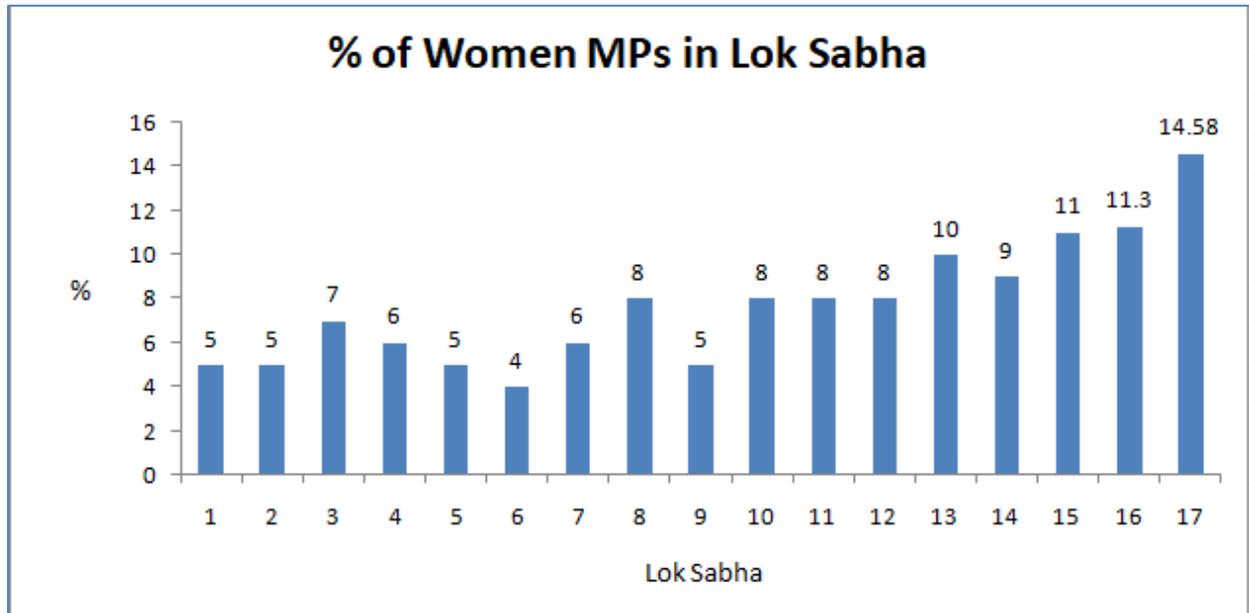
1.2 Women As Candidates, Not Just Electors

Although the active participation of women as electors and voters has been a priority for the Commission, their active political participation as candidates is an issue that the Parliament has been neglecting for a long time (Table 1). It is time that women not only choose their political representatives, but become one.

¹⁹ <http://pib.nic.in/newsite/PrintRelease.aspx?relid=189423> Accessed Aug 2, 2019

²⁰ https://www.business-standard.com/article/news-ians/record-increase-in-gender-ratio-in-tripura-electoral-rolls-119011601209_1.html Accessed Aug 2, 2019

Table 1



Source – Lok Dhaba, TCPD

As is evident from the above graph, the trend is positive, but sluggish. This is shameful as compared to even Afghanistan, Pakistan and Bangladesh, which have high female representation due to affirmative legislation. Nepal has led the way with its latest progressive constitution and has recorded dramatic increase of women at all levels of government, not just the national legislature.²¹

It is a welcome transformation that some parties competed in 2019 to give tickets to women, with Trinamool Congress giving 41% tickets to women, and Biju Janata Dal giving 33 per cent. But voluntary quotas might not be accepted across the ideological spectrum as our society is extremely patriarchal. The unfinished agenda women’s reservation at both state and National level should be pursued on a war footing.²²

²¹ Sharma, Ila. 2019. *Indian Elections- Lessons for and from Nepal* in “The Great March of Democracy- Seven Decades of India’s Elections.” Penguin Random House India. Pg 134-144

²² <https://www.wionews.com/opinions/women-shouldnt-just-choose-their-political-representatives-they-should-become-one-209788> Accessed Aug 3, 2019

2. Voter Apathy

Voter apathy has been a major concern for the country over the years. Besides traditionally low turnout areas such as the Kashmir valley²³, even politically active regions such as Koraput and Bhanjanagar in Odisha (11.58% and 11.72% respectively in 1962), Singhbhum in Bihar (15.83%, 1971), and Tarn Taran and Sangrur in Punjab (8.91% and 10.35% respectively in 1992) have required targeted intervention to bring voters to polling booths.²⁴

In the 2004 and 2009 general elections, the turnout was an abysmal 56% and 59.7% respectively.²⁵ Laziness or unwillingness could not explain why a politically conscious country wasn't coming out to vote. Hence, going beyond a conservative perception of our mandate, we took it upon ourselves to find and plug the supply side of the loopholes by spreading the wealth of knowledge about our electoral system.

2.1 SVEEP - Systematic Voters' Education for Electoral Participation

Voter education hence became integral for ECI efforts since launching Systematic Voters' Education for Electoral Participation in 2009.²⁶ An essential feature of SVEEP is that it works for, with and among the community. It means working with many other partner agencies and organizations. The manner and format of execution is flexible and innovative. Leadership is important, whether at the level of the Commission, the Chief Electoral Officer in the state or the DEO in the district.

In 2010, the country's first National Voters' Day was celebrated on January 25 with the theme "Greater Participation for Stronger Democracy." Since then, millions of voters have been enrolled year on year, making sure that no woman or man is left out. The event is celebrated from individual polling booths right up to the national level, and voters are felicitated, along with polling officials who have done remarkable work in the field.²⁷

²³ Anantnag and Baramulla in Jammu and Kashmir have understandably suffered from low voter turnouts (5.01% and 5.37% respectively in 1989)

²⁴ Quraishi, SY. 1947. Participation Revolution Through Voter Education in "The Great March of Democracy- Seven Decades of India's Elections." Penguin Random House India. Pg 111-121

²⁵ <https://carnegieendowment.org/2015/06/23/understanding-indian-voter-pub-60416> Accessed Aug 2, 2019

²⁶ <https://eci.gov.in/sveep/> . Accessed July 20, 2019

²⁷ <https://ecisveep.nic.in/articles.html/national-voters-day/> Accessed Aug 2, 2019

The SVEEP initiative has evolved over the years and reaped impressive dividends. The foundation was laid down in the starting phase (2009–10). Gaps were identified in voter turnout for districts, and it was realised that millions of eligible voters were left out due to a plethora of reasons. This phase covered roughly seventeen elections to state assemblies and three revisions of the electoral rolls based on levels of urbanization, illiteracy, security and logistics. Along with aforementioned National Voters' Day, comprehensive outreach programmes were laid down and media agencies, colleges, schools were roped in. These initiatives were especially focused on bringing the women and young people to the polling booths.

Three broad goals were underlined: increasing electoral participation through voter registration and turnout, increasing qualitative participation by ethical and informed voting, and continuous education of electoral processes. Ten polling stations having the lowest turnout were identified, and poll station-wise analysis was conducted for the purpose of intervention, followed by monitoring and evaluation. Content development for voter outreach for the literate, the neo-literate and the illiterate was worked upon.

Electoral education was made part of academic curricula through initiatives such as literacy clubs for secondary and senior secondary schools and colleges. Registration counters are set up in weekly village markets and minor forest produce collection centres for registration of migrants, especially labourers and homeless people.

Famous folk singers Malini Awasthy and Sharda Devi from UP and Bihar motivated millions of female voters.²⁸ Stalwarts such as M.C. Mary Kom (boxing), Saina Nehwal (badminton), Apurvi Chandela (shooter), Dipa Karmakar (gymnastics), Ankita Raina (tennis), Kiran Parmar (kabaddi) and Daxa Patel (Bharatanatyam) have used their star power to motivate women and youth.²⁹ National and state level icons such as late President A.P.J. Abdul Kalam, M.S. Dhoni (cricketer), Aamir Khan (Bollywood actor), Prahlad Singh Tipaniya (folk singer), Cheteshwar Pujara (cricketer), Gopinath Muthukad (magician), and Abhinav Bindra (shooter), among others have inspired people with their star power.³⁰

²⁸<https://ecisveep.nic.in/approach/national-regional-icons/> Accessed June 11, 2019

²⁹ <https://www.youthkiawaaz.com/2019/02/dr-s-y-quraishis-the-great-march-of-democracy-decodes-the-process-of-self-governance/> Accessed July 23, 2019

³⁰ http://sveepdigitallibrary.nic.in/Sveep_data/VoiceIndia-Jan2018.pdf Accessed July 13, 2019

Several steps have been taken to encourage and facilitate women's participation on polling day. For one, there are separate queues for men and women. A simple idea served to increase turnout in 2012 Uttar Pradesh elections, we allowed two women in the queue to proceed for every one man. This enabled women to return quickly, which motivated others to go and vote. This has now become a nationwide practice.

There is invariably one female polling staff member to take care of the sensibilities of female voters who, for example, may not like to have a male polling staff member applying indelible ink on their fingers or they may prefer to be identified by a female staff member. All-women polling stations are set up with only women staff members in areas with veiled voters. Women police officers are also deployed.

The rest is history. New records continue to be set in voter turnout with every election.³¹ The SVEEP efforts were rewarded manifold. Some remarkable examples include Uttar Pradesh (29.24% over 2006 in 2011), Gujarat (19.29% over 2007 in 2012), Goa (15.91% increase over 2008 in 2013) and Jharkhand (16.61% over 2009 in 2012). The most rewarding increase was among female voters. Some examples are Uttar Pradesh (a whopping 43.8% over 2007 in 2012) Goa (20.3% over 2007 in 2012) and Gujarat (21.89% over 2007 in 2012)³². Turnout increased in Odisha (12.79% over 2009 in 2014) and Jharkhand (22.87% over 2009 in 2014). As compared to 2009 (59.7%), 2014 election registered a turnout of 66.4%.

In 2018, the NVD event witnessed the felicitation of Champions of the National Elections Quiz, the largest elections quiz in the world with 1.35 million students of 9-12th standard from 38 thousand schools across India.³³ In 2019, CECs and senior officials from Bangladesh, Bhutan, Kazakhstan, Maldives, Russia and Sri Lanka graced the occasion.³⁴

Unsurprisingly, turnout keeps going up, with 67.38% voting in 2019, the highest ever³⁵(Table 2). This seems like a marginal change, but one must not forget that 86 million new voters were

³¹ https://en.wikipedia.org/wiki/2014_Indian_general_election Accessed June 9, 2019

³² Quraishi, SY. 2019 pg 115

³³ <https://eci.gov.in/files/file/9306-9th-national-voters%E2%80%99-day-to-be-celebrated-on-25th-january-2019/>
Accessed July 24, 2019

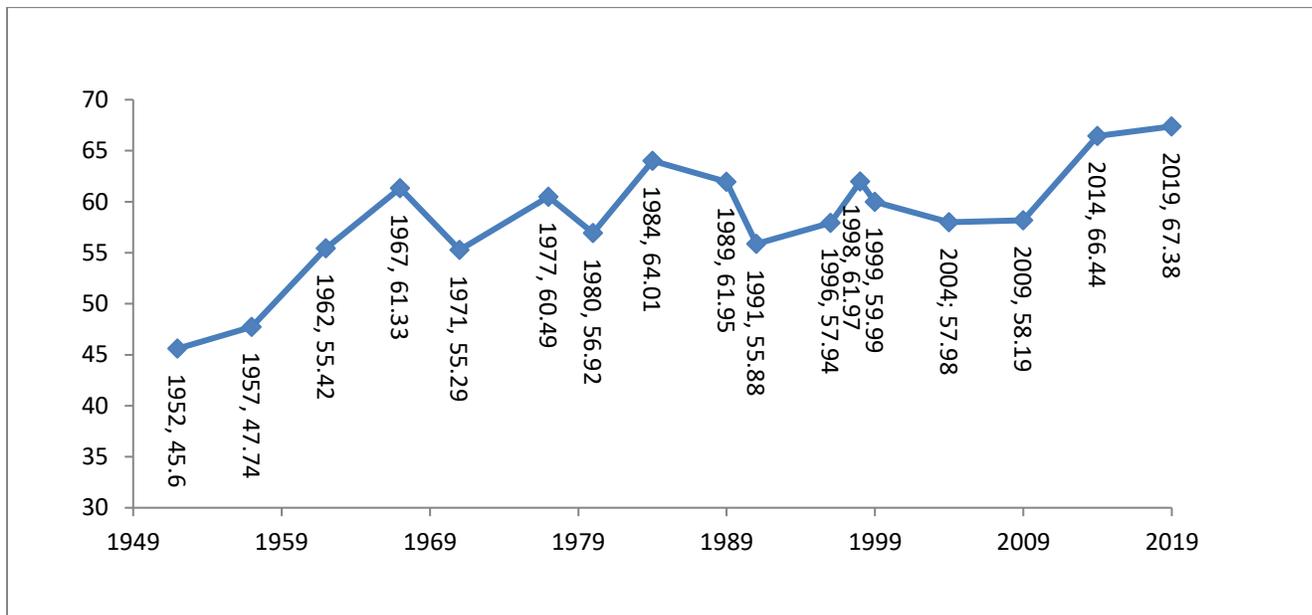
³⁴ <https://eci.gov.in/files/file/9306-9th-national-voters%E2%80%99-day-to-be-celebrated-on-25th-january-2019/>
Accessed July 24, 2019

³⁵ According to the voter turnout numbers released by the ECI on June 4, 2019, approx 613.14 million voted out of approx 910 million.

<https://eci.gov.in/files/file/9997-reconciled-consolidated-voter-turnout-data-of-lok-sabha-2019/> Accessed June 9, 2019

added since 2014 alone! The absolute increase is staggering.³⁶ According to the Voter Turnout Data of ECI³⁷, women outnumbered men in Andhra Pradesh, Arunachal Pradesh, Bihar, Daman and Diu, Himachal Pradesh, Kerala, Lakshadweep, Manipur, Meghalaya, Mizoram, Puduchhery, Tamil Nadu and Uttarakhand. The gender gap in turnout was just 0.07% overall, the lowest in any election. (Table 3)

Table 2

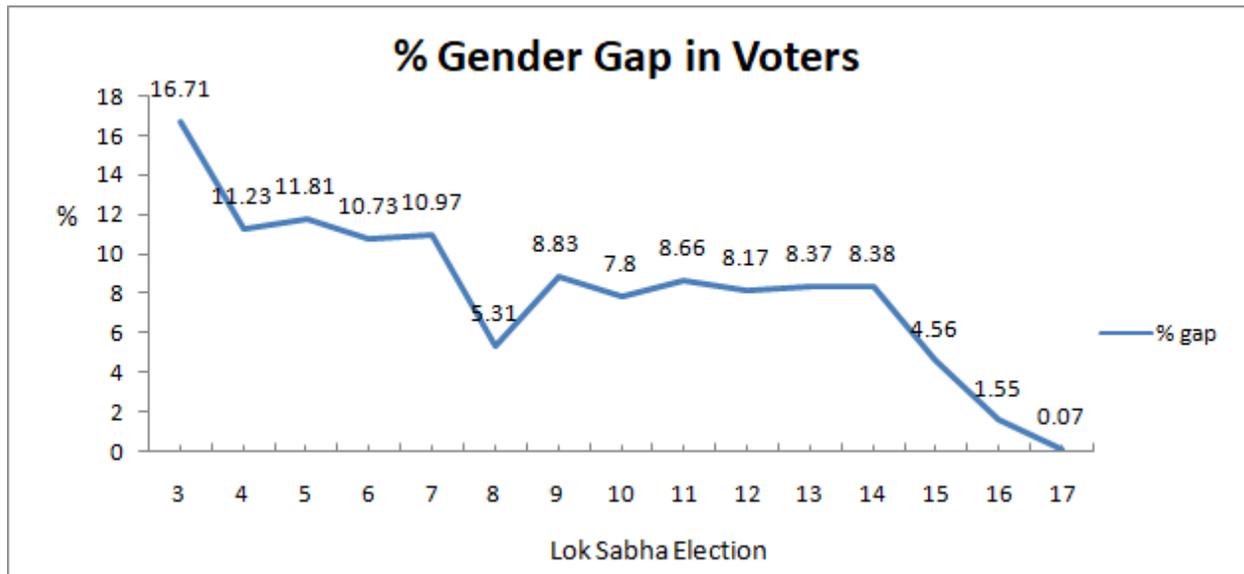


Source – ECI- SVEEP

³⁶ https://en.wikipedia.org/wiki/2014_Indian_general_election Accessed June 9, 2019

³⁷ <https://eci.gov.in/files/file/9997-reconciled-consolidated-voter-turnout-data-of-lok-sabha-2019/> Accessed July 19, 2019

Table 3 – Gender Gap in Voter Turnout



Source- ECI

With the Commission carrying forward these early achievements and nurturing the passion to create a well-informed citizenry willing to act and ready to vote, Indian democracy is becoming truly participatory. ‘The silence of the graveyard’ has given way to a festival of democracy.

2.2 Compulsory Voting- Unnecessary and Counterproductive

Despite the shortfall in participation over previous decades, the Commission never considered the easy but questionable option of compulsory voting. There are many issues with the idea. Firstly, democracy and “unfreedom” don’t go together. After all, the right to not vote is embedded within the right to vote.

Secondly, it would not be feasible in India where approximately 300 million enrolled voters didn’t vote this time for various reasons.³⁸ The cost of forcing everyone to vote is high at the individual and community level in such a huge country with a diverse socioeconomic profile. It is not only legal, but an economic issue. After all, what will happen to, say, daily wage labourers? It shall work as an assault on the poor.

³⁸ Out of 900 million enrolled, 67.38% voted.

In any case, making voting compulsory shouldn't be resorted to because of the demonstrably increasing participation of voters which has proved the success of non-coercive methods through targeted education. We cannot, after all, start 300 million legal suits! Imagine the burden of court cases that could spill out of the exercise of compulsory voting. If you look at the few countries that have resorted to this measure, they are not exactly smiling.

Besides Brazil, Argentina and Bolivia, Australia is one glaring example.

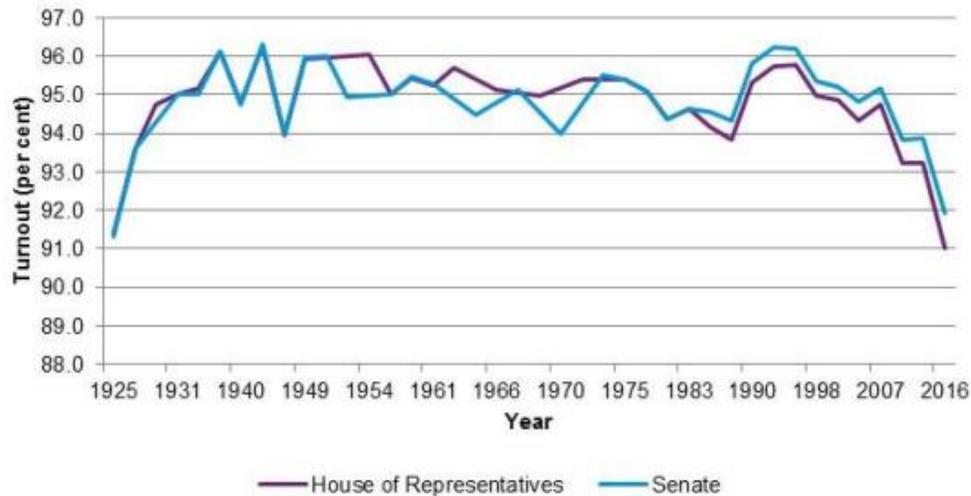
After the introduction of compulsory voting in 1925 ahead of the 1925 federal elections, the turnout has actually been going down since the 1990s.³⁹ Turnout at the 2016 House of Representatives (HoR) elections (91.0 per cent) and that at the 2016 Senate elections (91.9 per cent) was the lowest recorded since the 1925 federal election. (Table 4) The report of Australian Electoral Commission states reasons for this decreasing turnout, namely decreasing faith in the electoral system, regional imbalances, apathy among voters below the age of 40, the timing of an election, satisfaction with the delivery of previous election services, perceived competitiveness of an election etc. are contributing to decreasing turnouts.

Additionally, contrary to popular reasoning, it didn't increase people's interest in the electoral process either. The 2016 Australian Electoral Survey found that there was a record low level of voter interest, and record low levels of satisfaction with democracy and trust in government. Only 30 per cent of respondents took a good deal of interest in the 2016 federal election, down from to 33 per cent in 2013, 34 per cent in 2010 and 40 per cent in 2007.⁴⁰ This isn't divorced from international trends. The question, then, arises that what was achieved with all the fuss?

³⁹ https://www.aec.gov.au/About_AEC/research/files/voter-turnout-2016.pdf Accessed August 2, 2019

⁴⁰ AES Report, Pg 20

Table 4 Voter Turnout in Australian Elections



(Australian Electoral Commission, 2016a)

Source - 2016 HoR and Senate Elections Report

The problem of social exclusion also lingers. The rate of enrolment, while being as high as 96.8% among general voters, is not as high, however, for indigenous communities. Termed as "not good enough" by the Australian Electoral Commission, it is trying to lift indigenous voter enrollment. Many voices within the indigenous community have criticised politicians for inadequately understanding issues such as the causes of socioeconomic disadvantage.⁴¹

In fact, compulsory voting has hurt democracy if we go by the example of Australia. This is primarily because of the phenomenon referred to as "donkey voting". A donkey vote is one in which the voter simply ranks each candidate in the order/reverse order that they have appeared on the ballot paper. This is making a mockery of the system, due to compulsion! Someone who used this technique is known as a "donkey voter". There are many reasons for such a vote, including political ignorance, protest vote, apathy or disengagement, and sounds as if making voting compulsory has more cons than pros.⁴²

In India, the idea was rejected as far back as 1951 by Dr. BR Ambedkar during a debate in the constituent assembly after a comprehensive debate. Regardless, many Indian political stalwarts

⁴¹ <https://www.bbc.com/news/world-australia-48185276>. Accessed Aug 2, 2019

⁴² <https://www.polyas.com/election-glossary/donkey-vote> Accessed August 2, 2019

have time and again resurrected the idea.⁴³ LK Advani for eg, proposed that the NOTA option on the ballot will only work if it is accompanied by compulsory voting. In July 2004, a Private Member Bill was introduced, followed by one in 2009.⁴⁴ The Law Commission, in its March 2015 report on electoral reforms, had opposed the idea of compulsory voting, saying it was not practical to implement it.⁴⁵

A private member's bill was again moved in Parliament in 2015.⁴⁶ The same was reintroduced in July 2019, and the House is divided on the issue.

Compulsory voting will wreak havoc on the judicial as well as democratic system. Besides being unfeasible, it is also undesirable. One hopes that the idea is shelved for good. It is not without reason that certain countries like The Netherlands and Austria repealed such legal requirements after they had been in force for decades.

3. Money Power

The crippling influence of money and muscle power has led to the strengthening of a nexus between politicians, business houses and media. These illegal operations have become 'organized', involving advertising agencies and public relations firms, besides journalists, managers and owners of media houses.⁴⁷

Over the years, candidates have devised novel methods to disguise illegitimate expenses. Community feasts and biryani parties, costly gifts, saris and dhotis liberally offered on the eve of elections, packets containing cash along with voter slips are slipped into the morning newspapers or distributed along with the morning's milk. Pawn brokers and aarthiyas (brokers-cum money lenders) in villages are engaged to distribute cash or asked to write off petty loans taken by electors. Fake aartis (prayers for well-being with lighted lamps) are organized by women when a candidate visits his constituency so that packets of cash may be given as 'offerings'. Even fake marriages parties without bride and grooms are organised to bribe voters.

⁴³ <https://www.thehindu.com/news/national/advani-pitches-for-nota-compulsory-voting/article5206593.ece> Accessed Aug 2, 2019

⁴⁴ <http://www.prsindia.org/theprsblog/compulsory-voting-india> Accessed August 2, 2019

⁴⁵ <http://lawcommissionofindia.nic.in/reports/Report255.pdf> Accessed Aug 2, 2019

⁴⁶ <https://www.thehindu.com/news/national/mps-pitch-for-compulsory-voting/article7186319.ece> Accessed Aug 2, 2019

⁴⁷ Quraishi, SY. 2014. An Undocumented Wonder- the Making of the Great Indian Election. Rainlight Rupa. Pg 259

3.1. The Commission's Expenditure Monitoring Division

The Commission had been sending expenditure observers from the Indian Revenue Service to monitor irregularities but with each successive year, these methods seem to be getting smarter. We decided to open an “expenditure monitoring division” and to bring in an officer on deputation from the Central Board of Direct Taxes. A series of steps were devised to make misuse of money power difficult.

As a result, heavy loads of money were seized during elections. In my book “An Undocumented Wonder – the Making of the Great Indian Election” I had listed 40 modus operandi for the misuse of money power. Many more seem to have been devised by politicians since.

The problem seems to be getting ahead of the Commission. Millions can now be freely paid by companies via the regressive political finance regime of electoral bonds and the source need not be declared to the Commission. Additionally, the cap on donations, which used to be 7.5% of the average three-year profits, has now been removed. Now 100% of the profits can be donated to any party. This is a recipe for disaster as shell companies can now exist solely to fund political parties.⁴⁸

To make matters worse, the Foreign Contributions Regulation Act, 2010 (FCRA), now exempts political parties from the scrutiny of foreign funds received by them. The amendment makes it legal for political parties to receive funding from foreign donors, that too with 42 years retrospective effect! A whopping 95% of the funds collected via electoral bonds by the political parties belong to the ruling party, and 99% of these in denominations of 1 million and above. This indicates that corporations are funding them, not the common man. These regressive measures by parliament in political finance regime has institutionalized quid pro quo and legalized crony capitalism.

Unsurprisingly, money power seems to be getting out of control. According to the CMS Report released in June⁴⁹, nearly 100 crores were spent per constituency and Rs 700 per voter. Report

⁴⁸ The EC has pointed out that “this opens up the possibility of shell companies being set up for the sole purpose of making donations to political parties.”

⁴⁹ https://www.mediavigil.com/wp-content/uploads/2019/06/CMS-Report_31May2019_final.pdf Accessed July 24, 2019

estimates the total campaign and management cost of elections at a whopping 55,000- 60,000 crores, dwarfing others before it nationally and internationally!⁵⁰

The ECI seized nearly Rs. 1300 crore worth of drugs/narcotics, cash (Rs 839 crore), liquor (worth Rs 294 crore), gold/silver (valued around Rs 986 crore) and freebies/items worth Rs 58 crores; totalling Rs. 3500 crores in 2019 elections. Tamil Nadu (₹952 crore), Gujarat (₹553.76 crore), Delhi (₹430.39 crore), Punjab (₹286.41 crore) and Andhra Pradesh (₹232.02 crore) topped the list. The main cause for worry is the proportion of drugs/narcotics seizures, with Gujarat (almost ₹524.35) crore dislodging Punjab.⁵¹ If nothing is done, this has the potential to destroy democracy as we know it.

3.2. Capping Expenditure, Funding Political Parties

As elaborated in many places a number of times, my solution to curbing money power is twofold: capping the expenditure of political parties (not only candidates as is the case at present), and state funding of political parties (not elections).⁵² It is important to understand the distinction between state funding of elections and political parties, and why I endorse the former.

Instead of funding candidates, parties can be funded post-election based on their performance. We could, for instance, agree that for every vote obtained, ₹100 be given. Since the number of votes polled cannot be fudged, reimbursement based on the votes polled would be accurate.⁵³ No extortion, bribes or quid pro quo. Private donations will be totally banned. This system has successfully worked in several western democracies.⁵⁴

⁵⁰ <https://scroll.in/latest/925882/bjp-spent-nearly-45-or-rs-27000-crore-of-total-expenditure-for-2019-lok-sabha-polls-report> Accessed June 11, 2019

⁵¹ <https://www.tribuneindia.com/news/comment/gujarat-dislodges-punjab/775997.html> Accessed July 17, 2019

⁵² <https://www.thehindu.com/opinion/op-ed/Should-elections-be-state-funded-writes-yogendra-yadav-Manish-Tewari-S.Y.-Quraishi/article17314365.ece> Accessed June 11, 2019

⁵³ <https://www.thehindu.com/opinion/op-ed/Should-elections-be-state-funded-writes-yogendra-yadav-Manish-Tewari-S.Y.-Quraishi/article17314365.ece> Accessed Aug 3, 2019

⁵⁴ <https://www.orfonline.org/research/towards-public-financing-elections-political-parties-india-lessons-global-experiences/> Accessed July 23, 2019

4. Representing Diversity - Time for Proportional Representation

It is being increasingly observed that the diversity of this country is scarcely represented by a dominant two-party system at the Centre. It is time to increase the diversity and representation in legislatures by adopting some form of a Proportional Representation system. India follows the Westminster Model of Parliamentary system, in which first past the post system is used for electing representatives to the House of the People. A candidate is elected to a state assembly or to national parliament—in an election overseen by a competent authority—if that person receives even one popular vote more than the runner-up. Often, however, it could happen that this winning candidate does not obtain more than 50 percent of the polled votes.

In my book⁵⁵, I had written that FPTP was the best system for its simplicity. But after the 2014 election, I felt compelled to change my position. One party (the Bahujan Samaj Party) even with a vote share of 20% in the most populous state in the country (Uttar Pradesh) got zero seats. Such electoral victories achieved through less than 50% of the popular mandate raise serious doubts about the representative character of the country's democracy.⁵⁶ Had there been proportional representation, voice of such parties can also be heard. In such a diverse country as India, it is only fitting that a national debate is held on the representativeness of Parliament. The PR system has several variants.

One such variant, the PR system by means of single transferable vote, is already followed in India in elections to the Upper Houses, Rajya Sabha and the state legislative councils. We could look at the German model where they have a mixed member proportional system — half PR and half FPTP.⁵⁷ It may make the competitive, no-holds-barred politics of today less bitter as the parties will hope to have their presence in the legislatures according to their vote share instead of being wiped out completely even after getting a sizeable vote share.

Even neighbouring countries like Nepal and Sri Lanka are successfully implementing the mixed member proportional representation systems, and their parliaments are certainly more inclusive.⁵⁸ PR leads to a spirit of consensus building, checks authoritarianism and extremism,

⁵⁵ Quraishi, SY. 2014. An Undocumented Wonder- the Making of the Great Indian Election.

⁵⁶ <https://www.orfonline.org/research/the-shift-to-proportional-representation-is-it-time-for-india/> Accessed Aug 2, 2019

⁵⁷ https://en.wikipedia.org/wiki/Electoral_system_of_Germany Accessed Aug 3, 2019

⁵⁸ https://en.wikipedia.org/wiki/Mixed-member_proportional_representation Accessed Aug 1, 2019

and represents the diversity in society. It is only fitting that the most diverse polity in the world adopts a system which is a departure from the dominant two-party system.

5. Need for Electoral Reforms for Becoming the Greatest Democracy

It is clear the system needs to be protected and upgraded in order to protect it from the vagaries of 21st century technological and procedural disruptions. I have been a consistent advocate of a number of electoral reforms. They are more urgent than ever considering the irregularities in the 2019 election.⁵⁹ Capping expenditure of political parties, gender representation in legislatures, giving EC powers to deregister recalcitrant political parties, proportional representation for Lok Sabha and strengthening the IT Act, 2000 to effectively deal with social media transgressions are some of a long list. It remains to be seen whether the political class shall translate rhetoric into action.

As we inch towards becoming the most populous country in the world by the middle of the next decade, the robustness of democracy will be the prime determinant of progress. It is vital that legislators reform the system for the better, not worse. Prioritization and consensus-based deliberation is key.

Despite the many achievements which have led to India's elections being described as an international 'gold standard', we still have a long way to go. The constitution-makers and the judiciary have paved the way, empowering the ECI to fulfil its massive constitutional mandate, but much remains to be done by way of electoral reforms in order to make the world's largest democracy also the world's greatest.

⁵⁹ <https://www.thehindu.com/opinion/op-ed/its-time-to-take-stock-of-the-electoral-process/article27239174.ece>
Accessed Aug 3, 2019