

Research Foundation for Governance: in India

कार्यम सर्व हिताय

Analysis of Compulsory Voting **in Gujarat**

"Compulsory voting has been introduced in a variety of contexts in the world to address a range of problems, from low turnout in Belgium in 1893 to fighting electoral corruption in Thailand over a century later in 1997."



The Gujarat Local Authorities Laws (Amendment) Bill

- While there are good arguments for and against the bill, at present only some of the details have been worked out.
- All eligible voters in Gujarat must cast their ballot in Municipal, Nagarpallika and Panchayat elections or be subjected to punishment.
- Non-voters would have 30 days to explain their absence to avoid punishment.
- If voters don't like any of the candidates they have the option of a "none of the above" vote.

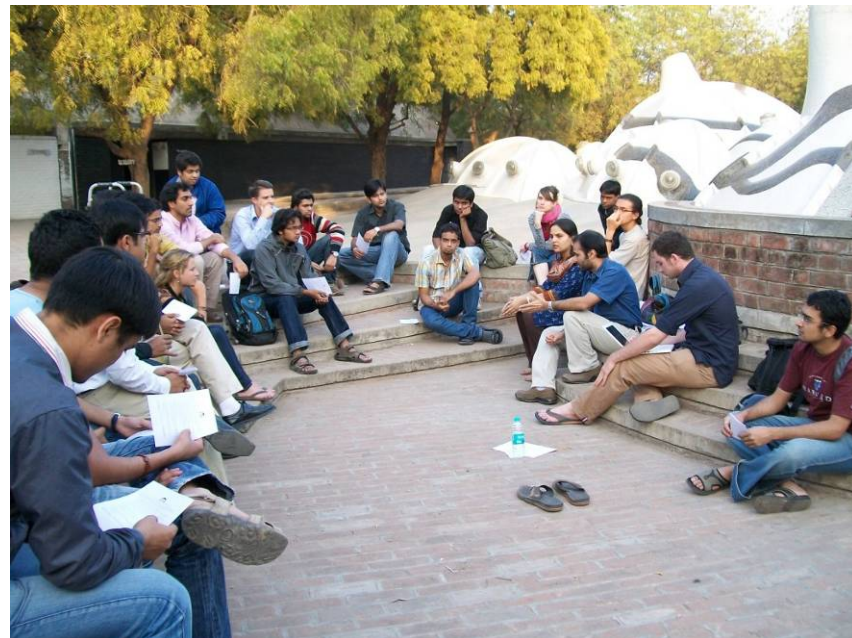


RFGI and Compulsory Voting



Public Debate: Compulsory Voting, Blessing or Curse?

On 14th January 2010, RFGI hosted an informal discussion and information session on the Gujarat Local Authorities Laws (Amendment) Bill of 2009. The debate aimed to inform the public of the pros and cons of compulsory voting and provide a forum for discussion between ordinary citizens

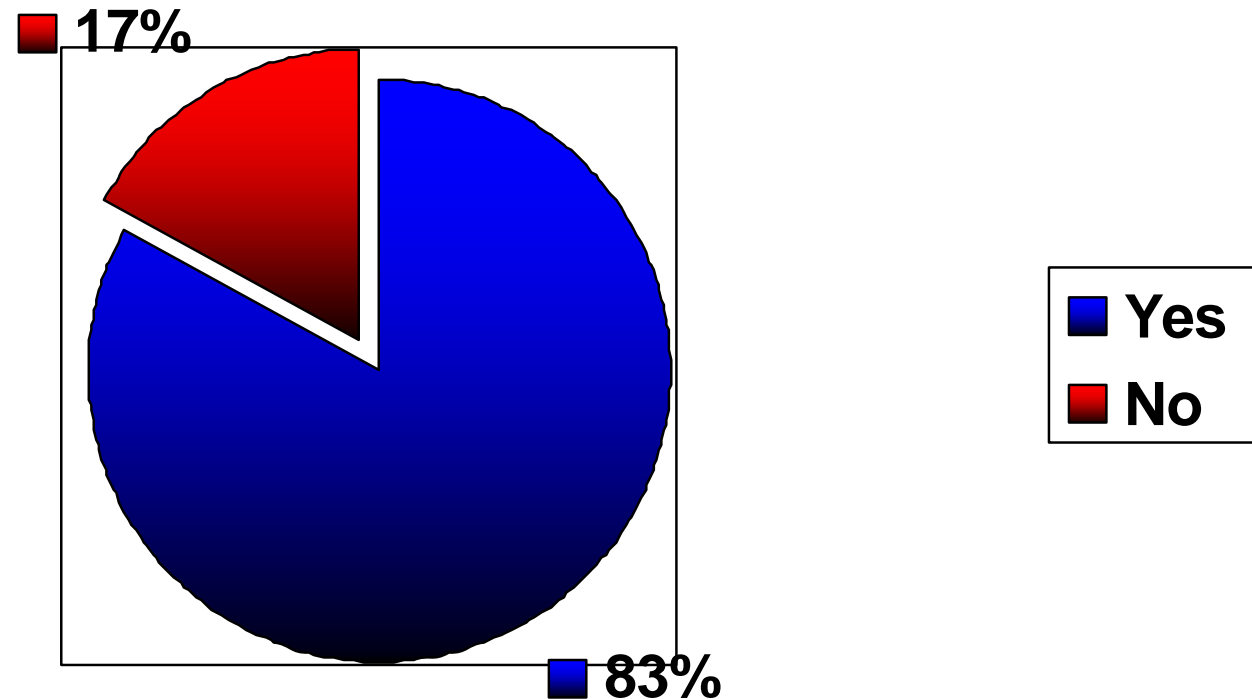


RFGI's Survey on Compulsory Voting

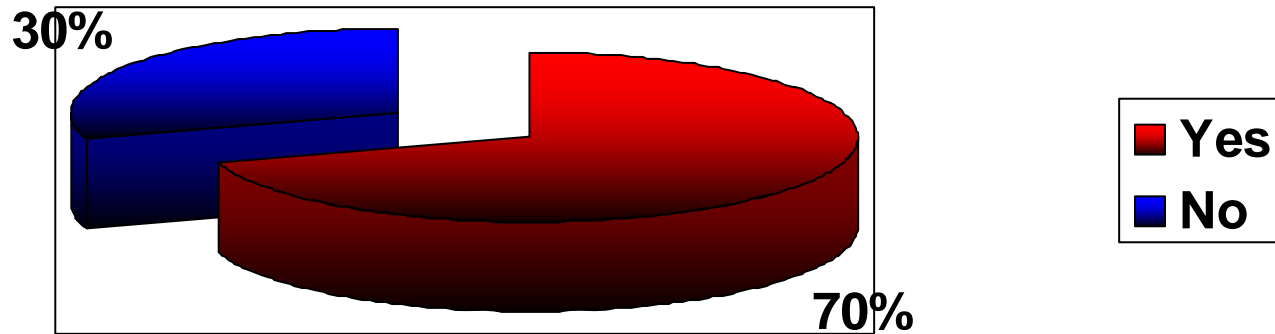
We have also conducted a cross-sectional survey on over 260 subjects covering all educational and socio-economic backgrounds in an attempt to assess what the citizens of Gujarat think about the Compulsory Voting Bill



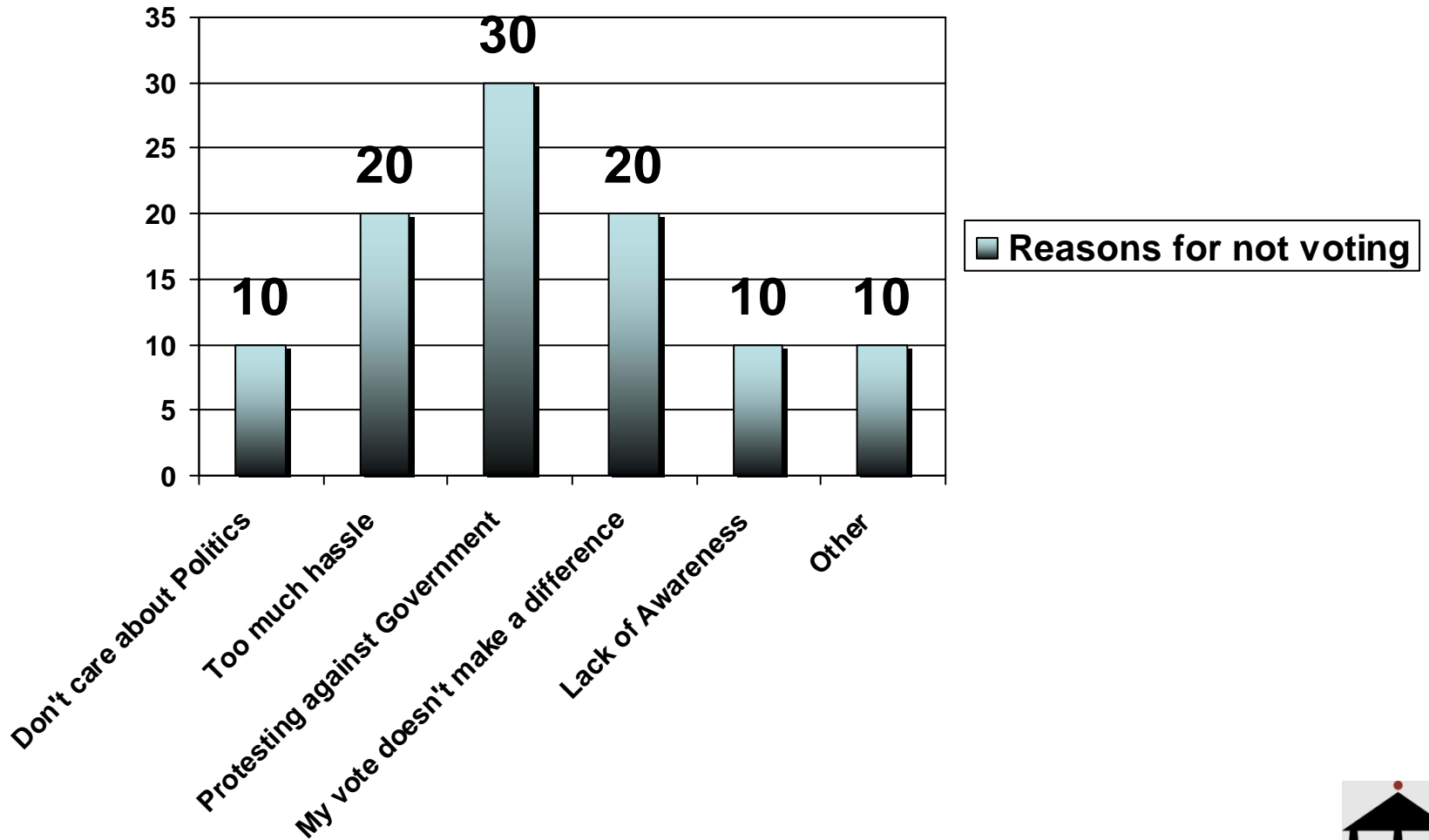
Are you Registered to vote?



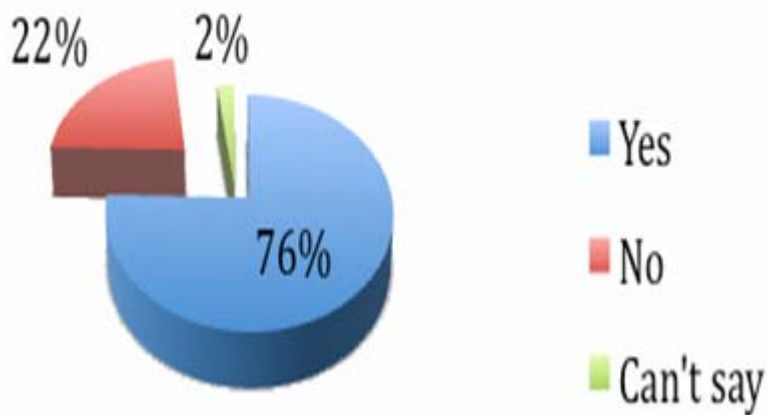
Do you usually vote in the elections?



Why don't you vote?



Do you agree with Compulsory Voting?



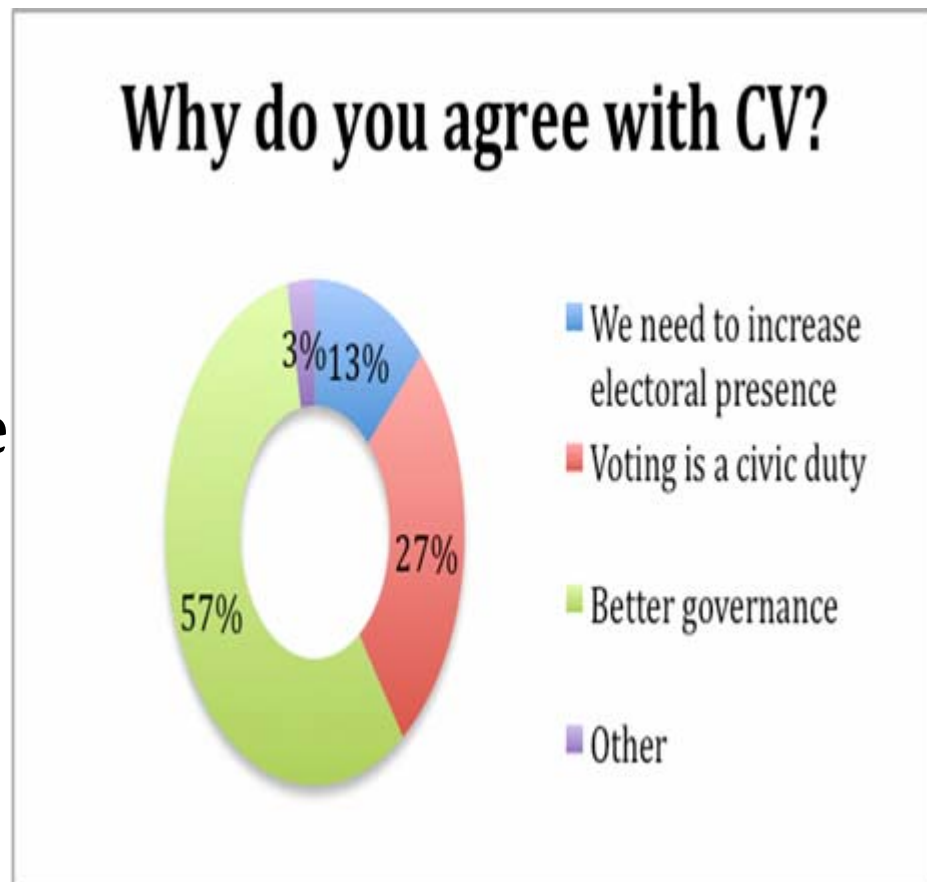
Majority of the participants seemed to agree that voter engagement in local and state elections is a problem. It results in politicians being less accountable to the public (as gaining votes becomes less important), and governments having smaller mandates. Though all seemed to agree that there were clear problems with the public attitude towards voting, questions remained whether these could be solved through compulsory voting.



Arguments for Compulsory Voting



Those in favour of the Bill suggested that citizens remain largely disinterested in local politics. **Compulsory voting will enable people to be more aware about their local bodies.** Compulsory voting will force people to take the time to think about the political process and educate themselves about their choices.



Voter Turnout in Gujarat

The average turnout percentage in Gujarat has decreased from 64.39% in 1995 to 59.77% during the last four state elections (1995, 1998, 2002, 2007) as per the Election Commission of India statistics

<u>1980 to 2007 Legislative Assembly Elections statistics in Gujarat</u>						
	1980	1990	1995	1998	2002	2007
Electors	16,501,328	24,820,379	29,021,184	28,774,443	33,238,196	36,593,090
Voters	7,981,995	12,955,221	18,686,757	17,063,160	20,455,166	21,873,377
Turnout	48.37%	52.20%	64.39%	59.30%	61.54%	59.77%
Polling Stations	21,137	27,939	34,053	35,011	36,687	40,469
No of voters per polling station	781	888	852	822	906	904



Positives of Compulsory Voting

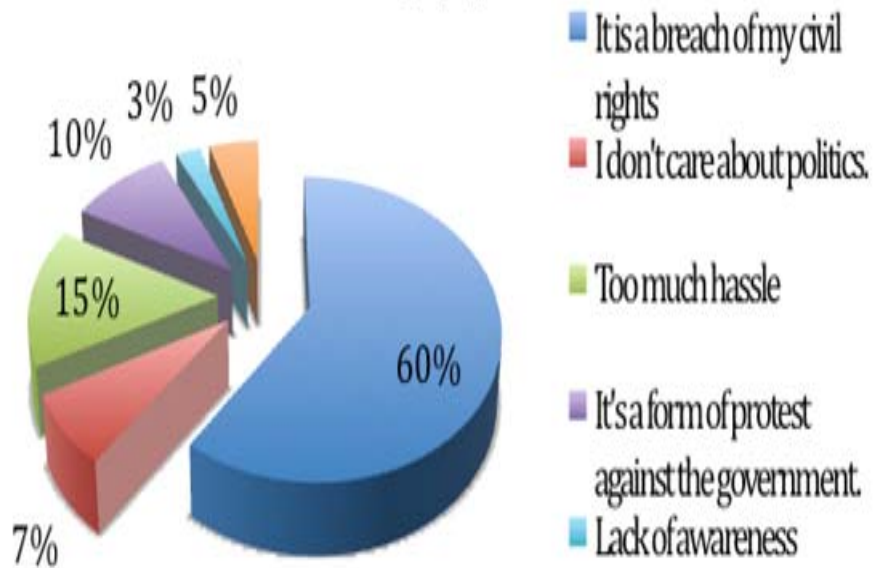
- It will be easier for political parties to campaign on issues, since they will no longer have to spend funds simply trying to encourage people to vote.
- Because the entire population – or at least, a vast majority – are voting, the resulting government would have a stronger mandate.



Arguments against Compulsory Voting



Why don't you agree with CV?



Those against the Bill said they found it difficult to ascertain whether or not compulsory voting will result in better politics or more efficient Government. **Informed voters cannot be created through force/undemocratic means.** People will learn and participate in the process effectively only when they actually want to.



Problems with Implementation

- Many are also skeptical of how this law would be implemented. If the political establishment has a hard time getting their message out to the population today, how can they be sure they can inform the entire population of their new obligation to vote?
- If a million people fail to vote in upcoming elections, does the State Election Commission have the capacity to apply some punishment to each and every one of them?
- There are issues with the registration process and electoral rolls. Many rolls are still filled with errors. If the government can't even sort out who can vote, can they really sort out who must vote?
- The Bill is also silent on 'Samras' (the Government scheme whereby voting with consensus is encouraged at the Panchayat level)



Legal and Constitutional Aspects

- Voting is not a duty as per the 'Fundamental Duties' of the Constitution.
- Forcing a person to vote is against his Fundamental Right of Expression under Article 19 of the Constitution.
- The Bill does not prescribe any penalty for non-voting and instead, delegates the power to the State Government – what exactly is a law without any sanction?
- Supreme Court precedents suggests that only the Legislature and not the State Government can decide the scope of a 'crime'. Bureaucrats cannot have this power in their hands.
- The term 'eligible voter' is not defined - Does that mean an adult who is registered to vote or just any adult residing in the area regardless of whether or not he is registered? If it is the first then in that case what is the basis for punishing only those who are registered and not the others?



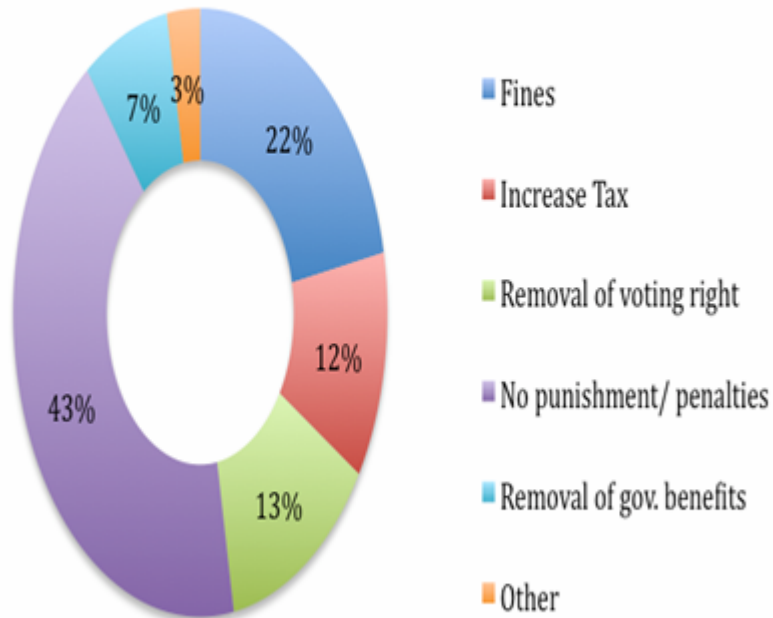
Penalties

- While we have the text of the bill in hand, we have no idea what it will amount to in practice.
- At this point we do not know whether there will be a light punishment, a harsh punishment, or any punishment at all for failing to vote.
- The sanctions chosen by the state government will play a large role in determining whether this law bends towards unnecessary coercion, or remains a mere suggestion.



Penalties

What penalties should there be for non-voters?



- Some argue that requiring citizens to vote in order to access any government service or bureaucracy is fairly extreme, and many consider it far more coercive than is necessary to achieve higher voting turnouts.
- On the other hand, a fine of only a few rupees might be an acceptable amount of coercion comparable to the taxes that citizens are already coerced into paying.



Penalties

- It may be possible that the punishment will be more severe.
- The state assembly could opt for a coercive scheme similar to the one used in **Peru**, where access to any government service is contingent on having voted.
- The poorest in society are often those who depend the most on access to government services like BPL cards, free education or employment through schemes such as NREGA. Failing to vote – or choosing not to vote – could have a severe negative impact on lives of these people.
- Meanwhile, the wealthy and middle classes who can survive without government assistance would be hardly inconvenienced by such a punishment.
- We must ask ourselves if a slightly higher voter turnout is so important as to warrant such severe and potentially unjust methods.



Hiding the larger problem?

Compulsory voting merely hides the problem, rather than solving it. By hiding the problem, it allows Parliament (in this case State Assembly) to ignore more important measures that would do something to tackle the root causes of voter disengagement. (*Electoral Reform Society Report*)



'None of the Above' Option

While the participants welcomed the 'none of the above' option being given to the voters under the Act, many felt that **government should also specify what would be the consequences if 'none of the above' secured more votes than any of the contesting candidates.**



Effect on Citizenship and Democracy

- Perhaps the most important thing about this bill is the precedent it sets for both voting and citizenship.
- Compulsory voting reshapes our view of democracy – no longer is it a right, but a duty to be involved with the political process.
- No longer is it enough to simply be a citizen of India to access the benefits promised by the constitution – you must also take part in elections.



Need for more debate

- For the state government to make a responsible decision there must be informed discussion.
- The population and our elected politicians must carefully weigh the benefits and harms that could result from carrying through with this plan.
- Such decisions should not be made without serious deliberations and public input.
- There is a need for our politicians to actually debate legislation before worrying about forcing citizens to elect them.



Examples from Other Countries



Examples from other countries I

- Currently, compulsory voting is used in 29 countries.
- In **Australia**, voting has been legally mandatory since 1924, where non-voters must either explain their absence or pay a fine.
- In **Peru**, where voting has been compulsory since 1933, citizens must carry proof of their having voted in order to obtain certain social services provided by the state.
- In many more countries, voting is legally required but rarely enforced. These include Paraguay, Thailand, Egypt and Costa Rica, among others.



Examples from other countries II

- In **Brazil**, voting is compulsory for everyone except the illiterates, who can still vote if they apply for a voter registration card which contains state benefits. Once registered, they have to vote in order to keep their card.
- In **Belgium**, non-voters face a moderate fine, and if they fail to vote in at least 4 elections they lose the right to vote for 15 years. Another motivating factor is that non-voters have difficulties in obtaining jobs in the public sector.



Suggestions



Suggestions I

- 1) The Government must seriously pursue a **larger political reforms agenda** with comprehensive re-structuring of relevant facets such as inner-party democracy in political parties, decriminalisation of politics and more accountability from the elected representatives at all levels.
- 2) The Government must give **adequate emphasis to education and awareness campaigns**, or simply to creating better primary education for more people that stressed civic duties.



Suggestions II

- 3) The Bill needs clear guidelines about the **'none of the above' option** as it still remains under question as to what would be the consequences if 'none of the above' option secured more votes than any of the contesting candidates.
- 4) There must be **debates/discussions**, both in public as well as in the Legislative Assembly, on important legislations.



Suggestions III

- 5) Technical issues such as **problems with the electoral rolls** still remain to be solved before compulsory voting can be implemented successfully.
- 6) Rather than punishing non-voters, the **Government could reward those who vote.** Two obvious suggestions are minor tax breaks or financial incentives. This way, it would not appear so coercive to the population and might actually be more effective at getting people out to vote.



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Thank you!

