



कार्यम सर्व हिताय

Research Foundation for Governance : in India



**One person, One vote, One voice,
: Choosing the system of representation**

A Report on Representation in India

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"On the 26th January 1950, we are going to enter into a life of contradictions. In politics we will have equality and in social and economic life we will have inequality. In politics we will be recognizing the principle of one man one vote and one vote one value. In our social and economic life, we shall by reason of our social and economic structure, continue to deny the principle of one man one value. How long shall we continue to live this life of contradictions?"

- Dr. B. R. Ambedkar

A Goliath Feat

Representation forms the cornerstone of any successful democratic establishment. The process of achieving representation, namely elections, should be closely scrutinized and stress tested to determine how best the concerns and preferences of the Indian populace can be represented. Given the overwhelming hurdle of implementing an effective electoral reform in India, a country with a population of more than a billion people, the debate on different voting systems has often been stifled, drawn out, or in some cases ignored. The National Commission to Review the Working of the Constitution¹ (hereinafter 'the Commission'), which was set up in the year 2000 to

determine “how best the Constitution can respond to the changing needs of efficient, smooth and effective system of governance,” recommended in its report that “the Government and the Election Commission of India should examine [the] issue of prescribing a minimum of 50% plus one vote for election in all its aspects, consult various political parties, and other interests that might consider themselves affected by this change and evaluate the acceptability and benefits of this system.” To this end, the Commission recommended a Two Round (TR) system where if no candidate receives an absolute majority of votes after a single round of elections, then those candidates having less than a certain proportion of the votes, or all but the two candidates receiving

the most votes, are eliminated and a second round of voting occurs.

Dr. Subhash C. Kashyap, Member of the Commission and Chairman of the Drafting and Editorial Committee, points out² that such a system resolves the problem of representation and also pushes political rhetoric beyond “sectoral” tones to more “universal” ones. However, the report does not offer substantive comparative analysis as to why the TR system can offer more “universal” representation than the First Past the Post system (FPTP) that is currently employed to elect members into legislative assemblies in India. In the present system, a candidate with the maximum number of votes (i.e. a simple majority of votes) is

declared the 'winner'. This means that if a candidate receives the most votes from a constituency, even if this represents less than 51% of the voters from that area, he or she is elected as the representative of that constituency. This becomes particularly problematic when the percentage of actual votes cast is low, which allows a candidate to be elected as 'the representative' even when a tiny amount of the voter population actually supports him.

This paper seeks to elaborate on the Commission's report by analyzing the comparative benefits of the two voting systems, TR and FPTP. The objective of this paper is not to make a value judgment on which system is better, but rather to inform

the reader about the need for representation, the benefits and detriments associated with each system, and the debates surrounding the type of representation offered to different communities. This is done first by examining the role of representation as the cornerstone of democratic self-governance. Second, the paper analyses the inherent problems associated with the two systems examined by the Commission. Furthermore, the issues that arise when considering democratic representation are analysed with special emphasis on societal cleavages such as religious and cultural divides, and their influence on how people are represented.

The Need for Representation

Not all societies are small enough to make direct democracy possible. Whether a direct democracy is desirable is a separate question. Under the framework of most democratic establishments, the needs and concerns of the voting populace is met by a governing body that is either provided authority by delegation or mandate. Given that a population as diverse as India is bound to have a wide variety of concerns, it is necessary that the diversity of these concerns is reflected within the decision making bodies of the state, namely the legislative bodies. To this end the legislature forms a microcosm of the state, encouraging

debates that mirror discourses occurring within the broader framework of society.

While representation is a principle intrinsic to democracy, it is not to be confused as the only or trumping principle of democracy. As Niraja Gopal Jayal of the Jawaharlal Nehru University accurately points out that the presence of representative institutions does not adequately meet the preconditions of democracy in a polity where citizens are unequal, where some are excluded from political rights or others have more than one vote.³ Equity, political access, and absence of corruption are concepts that are also important for a successful democratic establishment. Nonetheless, the very premise of democratic self-governance,

under the indirect model of democracy, can only be achieved if elections reflect and represent the motivations and concerns of a population.

Often the question of how Indians can be best represented has been conflated with who can best represent these interests. In a society that is as ethnically, linguistically, racially and religiously divided as India is, it is inevitable that political mobilization occurs along these divisive lines. Perhaps it is desirable that such divides are given political space such that social frictions are expressed in the political sphere instead of resulting in social unrest. However as a nascent democracy in the late forties India's struggle to create a reflective legislature

against the backdrop of colonialism meant that caste or religious identities (which people strongly associated with at the time) heavily influenced what sections of society were represented. The debate on representation therefore has revolved around the question of whether representation, in the Indian context, can be more robust if it reflects the various factions within society or if it encourages policy debates across the board. We can see therefore that there are two sides to representation. One is policy based in the sense that a person's interests and opinions are represented irrespective of who it is that is representing them. Another is identity based in the sense that a legislative body should reflect the demographics of the wider

country in the socio-economic background of its MPS.

It should be noted that this question presumes a mutual exclusivity of interests between those common to all Indians and those specific to each community within India. For instance, the end goal of promoting comprehensive human security requires policies that all have the same objective of providing that security but are adapted to meet the distinct yet converging concerns of disparate groups. However, there are circumstances where diverging irreconcilable differences between different communities give rise to the possibility of legislative deadlock where neither side is willing to compromise. To this end, ideally,

the question should therefore be modified to which system of achieving representation best results in a legislative body that balances the interests of different communities while simultaneously avoiding a divisive deadlocked legislature.

Regardless of which voting system results in more proportional representation, there is little benefit to the voter unless representation has the potential to result in policy changes that improve the capabilities and freedoms of the people represented. Whilst representation is valuable in itself, it is also a means to an end. For instance, a representative of the minority Christian community, who faces the problem of being socially isolated as a result of their religion,

does not change societal or political acceptance of the Christian community unless he or she actively campaigns within parliament for these changes. We must not confuse this assertion with the assumption that representation is redundant unless the represented view is passed into law for representation cannot always convert into policy as this is simply not possible in society where diversity is a fact. What is important however is that representation must have the potential to transfer into policy, even if it does not do so on every issue. Representation is an end in itself in a deliberative democracy that values debate since even if a contrary decision is made against my preferences, there is an acceptance of it if I know that my views

were fairly represented and considered in the making of that decision.

The First Past the Post System

Several concerns have been raised about the FPTP system that is currently used in India. Many of these concerns are not necessarily specific to India but nonetheless need to be addressed. First, and perhaps the most obvious problem, is that the system results in numerically disproportional representation. For instance, even though the BJP obtained only 49.12% of the votes in the 2007 Gujarat state elections, they obtained an impressive 64.28% of parliamentary seats⁴. In the 2009 general elections, United Progressive Alliance (UPA)

won 48.25% of parliamentary seats despite receiving only 37.22% of the people's votes⁵. Similarly, the National Democratic Alliance (NDA) got 29.28% of representation in the Lok Sabha despite receiving only 24.63% votes⁶. The causality of this democratic deficit can be traced back to the inequity in the value of each vote depending upon which constituency it is cast in; a problem characteristic of the FPTP system.

Votes cast in a marginal constituency, where two candidates are in close competition to swing the seat for either party, are effectively more valuable than votes cast by the electorate in a 'safe seat'. In a safe seat votes are 'wasted' in two ways. The winning candidate may receive 70,000 votes for

example, whilst the losing candidate receives only 30,000. The nature of having single-seat constituencies means that it is a zero-sum game: only the 70,000 voters who supported the winner receive representation, whilst the 30,000 effectively do not. In this sense the 30,000 votes are wasted. Furthermore, the winning candidate only needs a simple majority; he would still have won if he'd received just 30,001 votes. Therefore the additional 399,999 votes he received above this do not contribute anything towards the goal of representation, and in this sense they are again wasted. This wasting of votes is the phenomenon that directly causes the disparity between the vote share a party receives in the nation as a

whole, and the share of seats they win in the Lok Sabha.

Apart from the theoretical injustice that some votes are more valuable than others, this fact can also tend to cause voter apathy. If a given voter happens to live in a safe seat they know beforehand who will be elected whether they make the effort to vote or not, or whether they support that candidate or not. Why then should they bother to vote if their vote does not contribute to anything? This further decreases the proportional representation in parliament because if a government is elected only on 40% of the total vote share when only 60% of the electorate voted, they effectively have the support of a mere 24% of the total

population. Thus disillusionment with politics can easily result.

Due to the distortion effects described above the FPTP system is also biased in favour of the large political parties that hold the 'safe constituencies' where they expect to win with large margins. The reason for this is two-fold. It is difficult for a small party to consolidate support in one area enough to win a seat. If they have support which is spread out over a wide area they are unlikely to win enough votes in any of the single constituencies in that large area. Secondly, due to the nature of 'vote wasting' a psychological effect is created where people feel they must vote tactically for a large party that does not match their

preferences rather than a smaller party which does, simply because they do not want their vote to be wasted. This psychological problem of tactical voting therefore erects yet another hurdle for small parties to overcome in addition to the consideration of the geographical spread of their support.

However, it is important that we give consideration to the advantages that the FPTP system presents. Despite the distorting effects that single-member constituencies produce, the fact that each constituency has local representation creates a strong bond between politician and electorate. In multi-member constituencies this is not the case as the area being

represented is larger and the electoral base of each MP is less directly obvious. Furthermore FPTP, through the bias against smaller parties, erects a natural hurdle against the growth of extremism. Proportional representation systems are much more likely to experience the entrance of extreme political parties, which is why countries such as Germany have introduced thresholds in their electoral systems, an unnecessary measure in the case of FPTP ⁷.

The Two Round System

Whilst many drawbacks to the FPTP system have been highlighted, there are similar problems that have to be acknowledged with the TR system. In fact, the TR system does

little to correct any of the problems mentioned above.

To suggest that the TR system results in greater political representation rests on a narrow interpretation of what representation means. It seems to rely on the notion that voting for a candidate who is not necessarily your first choice still results in the representation of a voter's interest. For instance, if a voter is forced to choose between the BJP and the Congress because the remaining political parties do not make the cut for the second round of elections, even if he or she extends his or her mandate to one of the two parties it does not result in the accurate representation of his or her interests within the political process as there

may have been other parties that would have more closely followed that voter's preference. In this sense the voter is faced with exactly the same scenario as in a safe constituency under FPTP. In both cases the voter is forced to vote for a larger party that does not match his preferences well, whether this is for tactical voting reasons or for the reason of it being a run-off election it makes little difference to the choice the voter is faced with.

Although it is argued that the TR system may generate less political disillusionment this is based on faulty logic. Just as many (if not more) votes would be wasted in total with the TR system because all the votes for parties that don't pass the first round are lost

as well as those for the losing candidate in the second round. Using the essence of representation espoused by the Commission's report, it is necessary to recognize that the TR system is no more 'representative' than the FPTP system currently employed. Voters supporting the losing candidate in the run-off elections remain unrepresented within legislative bodies. This is because both the FPTP system and the TR system utilise elections as a race between candidates rather than a reflection of the variation in societal interests. Both systems are zero-sum games where only one candidate wins in each constituency, and because of this none of the problems with FPTP are corrected by TR. If the objective of representation is to mirror the main

characteristics of a population in the legislature, neither system is truly representative and larger multi-seat constituencies would have to be created instead.

Furthermore, there are clear logistical hurdles that are present in a TR system. The cost of conducting a single round of general elections in India is estimated to be a whopping Rs.10,000 crore (US\$2.1 billion)⁸. While the cost of the second round could be slightly reduced if it is held immediately after the first round, it would still be an enormous burden on public sector expenditure. Inevitably, this would need to be considered when analyzing marginal benefits between various electoral systems.

What is more, the public may very well question why they must vote twice when they have clearly expressed their opinions in the first round. The fact that all but the first two parties pass into the second round will affect the way people vote in the first round, and whether people vote at all if they feel like it is a foregone conclusion who will pass through and who will not. Voter turnout, especially for the first election, may just be as big a problem as before.

Representing societal cleavages

Despite Duvergers law, which claims that the FPTP system tends to result in a two-party system because of its bias against smaller parties, it can be argued that the FPTP system actually encourages diversity

within political parties. The underlying principle is that when voting choices become binary, political parties have an incentive to put forth candidates from minority communities in order to garner support from minority groups. For instance, in a constituency where voters tend to choose based on caste-identities, such as certain caste-bound districts in the state of Tamil Nadu, the DMK and ADMK (Tamil Nadu's two largest political parties) are likely to introduce a candidate from the same caste in order to garner support from the voters. This is especially true of swing constituencies where small differences, such as the caste of the candidates standing for elections, can mean the win or loss for the political party.

However in the case of India, and most other FPTP countries such as the UK⁹, there are still significant anomalies in terms of diversity within political parties. For instance, as of 2009, despite making up 13.4% of the population, Muslim MPs make up only approximately 6% of the Lok Sabha¹⁰. This is because the above argument presumes that minority groups are geographically delineated, which is clearly is not always the case. As with smaller parties, often minorities are not concentrated in a particular area but are dispersed amongst several constituencies. This means that they may not command a large enough percentage of voters in any constituency in order to make it worthwhile for the political party to nominate a candidate of that

particular minority. Furthermore, because only one candidate can win in each constituency the party only has one chance to get their nomination right; that is they can only nominate one person from their party for each constituency. Thus whoever they do nominate must appeal to the majority in the constituency in order to stand any chance of winning the seat. Often this means that minorities are not chosen as much as they would be in a mutli-seat constituency where more than one candidate from each party can be nominated and elected.

At this juncture, we must question again whether the ideal of 'representation' of particular social groups is, by itself,

overrated. Representation has often not translated into substantive action, especially for constituencies with minority groups that require targeted policies of development. For those communities that are protected via the use of quotas in the legislature, such as Dalits, we see a lack of participation in parliamentary proceedings and an overwhelming tendency to focus on parliamentary procedural concerns rather than substantive concerns for the constituencies they represent. This can be attributed to two main reasons. First, the presence of the Anti-Defection Law means that minority concerns cannot be addressed unless it is a party stance. A parliamentarian cannot vote across party lines in a bill and requires the blind obedience of the

parliamentarians to party dictum. Second, these candidates tend to be cherry-picked subservient agents who blindly obey party elders so as to ensure their continued inclusion within party lines. Ideally the check and balance of elections would prevent such complacency. However, given that this phenomenon tends to occur across most political parties, voters rarely have a real alternative. Furthermore, the idea that only a member of the same community can represent that community reinforces the cleavages within society. For instance, the idea that a Brahmin can best represent a group of Brahmins is not only factually incorrect but also logically flawed. One need not be a member of a particular community

in order to identify with and campaign for the problems faced by that community.

This introduces a new dimension to the distinction made previously concerning the two sides of representation: policy-based and identity-based representation. Both forms are important but it is clear that policy representation goes further than identity representation in the sense that effective policy representation can benefit a community much more directly than identity-based representation. Voters need to recognise this and vote first based on policy, and only then on identity. By no means is there always a trade-off between the two. Especially when discrimination against a particular social group is prevalent

in the political system, by electing a member from that particular community (i.e. based on their identity) one is also representing the policy view that such discrimination should not exist.

Conclusion

There are three main points that need to be highlighted. First, representation is an important and integral aspect of democracy. It is the way in which the voting citizenry can express their concerns within decision-making bodies of the state. However, representation should not be seen as the only sine qua non of a democratic institution. It forms one of the foundations that are

necessary for successful democratic self-governance.

Second, each system of representation has certain shortcomings. While there is no objective quantifier as to which system is better, every citizenry should scrutinise the different systems available to him or her, and judge which system they prefer. In fact, there is no system that is universally accepted to be 'correct'. Some of the oldest democracies, such as that in the United Kingdom, continue till today to constantly debate and reform electoral systems¹¹. Only with informed citizens and active opinions can democracy try to best reflect the needs of the citizenry. However the Indian government must seriously consider the

costs of introducing a second round of voting when such a second round would not necessarily fix any of the problems prevalent in the FPTP system.

Third, citizens need to be aware of the debates that surround representation. While this paper does not aim to provide a comprehensive list of these issues, we have tried to highlight the major problems that hinder true representation. Representation should be viewed both as a tool to better policy changes as well as an objective in itself. Nevertheless, no matter how many quotas we make depending upon the identities we espouse and value, it will not make a difference if representatives remain

mute and citizens continue to quibble in
silence.

About RFGI

Research Foundation for Governance in India (RFGI) is an Ahmedabad-based think-tank that aims to research, promote, and implement various reforms to improve the legal and political process in Gujarat and across India. The organization conducts research on key issues in law and governance and hosts public events in order to raise awareness of legal and political issues, particularly among the youth who are often disengaged from the democratic process. RFGI also acts as a consultant in the implementation and development of Government reforms. The Foundation is a non-party, neutral and independent Foundation and does not support or endorse any political candidate/party or extreme political ideology.

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¹ The final report of the commission can be accessed at:
<http://lawmin.nic.in/ncrwc/finalreport.htm>

² Page number 92 of the Final Report of NCRWC (ibid)

³ See Jayal, N.G. 2011. "Representing India: Ethnic Diversity and the Governance of Public Institutions." Hampshire: Macmillan Publishers.

⁴ Detailed analysis on the results of Gujarat's Assembly Elections of 2007 is available at
http://eci.nic.in/eci_main/electionanalysis/AE/S06/analysis_right1.htm [Accessed 13th March 2011]

⁵ Detailed statistics for the results of India's General Elections in 2009 is available at
http://eci.nic.in/eci_main/archiveofge2009/statisticalreport.asp Published by the Election Commission of India [Accessed 13th March 2011]

⁶ Ibid.

⁷ See the German election website
<http://www.election.de>

⁸ See "Lok Sabha polls to cost more than US Presidential polls" The Times of India, 2009. Available at: http://articles.timesofindia.indiatimes.com/2009-03-01/india/28003656_1_presidential-poll-lok-sabha-polls-parties. Accessed on: 10th March, 2011.

⁹ See the following report on page 5 ,
http://www.electoralcommission.org.uk/_data/assets/pdf_file/0006/102696/PVSC-Bill-QA-Report.pdf

¹⁰ See Rediff Elections, 2009. "Number of Muslim MPs in Lok Sabha drops." Available at:
<http://election.rediff.com/report/2009/may/20/lok-sabhapoll-number-of-muslim-mps-falling.htm>. Accessed on 10th March, 2011.

¹¹ See "Q&A Alternative Vote Referendum" BBC News. Available at: <http://www.bbc.co.uk/news/uk-politics-11243595>. Accessed on: 10th March, 2011.