When A Billion People Vote: Managing India's Democracy

TRANSCRIPT SUMMARY

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- Mr. N. Gopalaswami, *Former Chief Election Commissioner of India*
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This summary features transcribed excerpts from the event. It has been lightly edited for clarity and length.

A video of the event is available: https://www.hudson.org/events/1887-when-a-billion-people-vote-managing-india-s-democracy112020

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Dr. Aparna Pande:

At a time when the world over, democracies and democratic norms are facing both domestic and international challenges, India has long remained unique: a post-colonial country, that remained a democracy with strong political institutions, civilian supremacy over its military, and an overall vibrant economy and society. Starting from 1952 when independent India held its first elections with 176 million eligible voters, the country has built an impressive electoral machinery that helps conduct elections at local, state, and federal levels. In the 2019 parliamentary elections there were 900 million registered voters, 1 million polling stations, 10 million electoral officials, and over 8000 candidates. How has India managed to do this, and what are some of the lessons it has learned over the years?

India has held free and fair elections for 7 decades and established electoral institutions; one of the countries where to date no political party or other entity has challenged the verdict of the election; in other parts of Asia, coups have taken in despite of results.

Mr. N. Gopalaswami:

Part of it is because of the historical legacy, there are mentions in ancient literature of small governing municipalities. India has long been governed internally in groups or villages themselves; central authority was not running the show. Historically, also there is specific mention around the 9th or 10th century in inscriptions on the temple near Kanchipuram called Uttara Mayaro. It talks about having people selected with qualifications and educational capabilities. Very strongly mentioned having no criminal record and paying all taxes in the chola dynasty period. Wasn't an isolated practice but seemed a general practice.

In the British period, things became centralized through central officials. One factor that led to the proud moment of today, is the men and women who led the freedom struggle. As early as 1928, there was a report from Motilal Nehru, that we would go for a democratic setup, for a franchise for all. The adult literacy in 1947, was 15%, female was literacy was 7%. Despite this, tremendous faith was placed on the common man and woman which continued for the next 15 or 20 years. Jawaharlal Nehru maintained a committed democrat. With his popularity and unquestioned power as PM, he could've possibly been a dictator, but it was against the grain of his thinking. He was supported people such as Sardar Patel, Rajagopalachari, Sarvepalli Radhakrishnan, Rajendra Prasad and many others who took part in the freedom struggle and were committed towards democracy, and this leadership continued in the formative years of the republic. And therefore, foundation was laid.

Certain deterioration did take place as it happens in the course of things, but India was lucky, that in 1990, it had the T.N Seshan as Election commissioner, who brought back some of the shame which was lost going back to provisions of the constitution becoming an independent body. Article 324 and 329 talk about the election commission; the election commissioner was given the status of a supreme court judge and could not be removed except through a resolution passed by parliament for his impeachment. Institution of election commission was very strongly laid and carried on. Overtime, the election commission wasn't performing its duties until 1990's when there was a deterioration of politicians.

T.N Seshan in 1990 transformed the whole scenario, but never did anything which was outside the provision of the law, nevertheless the law gave him a lot of powers; article 324 talks about the election commission being the last word in conducting elections, therefore the plenary powers were with the

election commissioner. The SC supported the election commissioner very strongly so that he could carry on his job without being interrupted by the courts.

The self-provision in article 329 talks about the courts not interfering during the course of an election, therefore from the moment the election is called to the time the results are declared, the courts cannot interfere; so anyone going to ask for interim stay cannot be granted, and even if the high court accidently grants it, the supreme court immediately removes that stay and allows the election commission to complete; there have been instances when the election commission has made a mistake but the supreme court still said "no we will not interfere until the action is over", and later they did interfere and fulfill their duties.

Seshan used his powers and brought in important changes such as introducing the system of observers being brought in to observe the elections, every staff member is under the control of the election commission during the election. He brought in the electoral photo identity card to avoid bogus voting, supreme court strongly supported it, to ensure that the voter is properly identified. He also made efforts to prevent hijacking of the election booths, he used provision many previous Election Commissioners did not; if he found anything was wrong, he resorted to threatening to cancel the elections which would scare parties. After Seshan, the people came to realize that there is an election commission with immense powers therefore the election commissions own activities were being seen by the public, they were more aware, this was a curve on the politicians. Also, something unique to India, which is the model code of conduct. this is a document of dos and don'ts applied to parties and more so the party in power to prevent the misuse its power to its advantage. This document was brought together by political parties themselves in 1960s.

Once elections are called off, the government or political party in office cannot announce special concessions to the voters, cannot use government facilities like guesthouses for its own parties and have to stand in que like all other parties; this was a complete relook at how elections were organized, thanks to Seshan. Thereafter, political parties have been largely restrained. EVM were brought in because of Indira Gandhi. Many advisors to Indira Gandhi did not want the EVM, but it was approved by the parliament. Voter verifiable paper trail has been added to the EVM. The system today that is functioning is thanks to the people who have had sense of right and wrong. They have been so accustomed to democracy that when democracy was missing from the scene, they came to vote in huge numbers in 1977. Since then no one wants to postpone or cancel elections. People now have expectations from government and representatives. If you ask people if they have a grievance, where would they go first, they will answer their "local representatives", as they believe strongly in their elected representatives, and would rarely say they would go to local authorities.

Dr. Aparna Pande:

How has India managed to involve these millions of voters in a large ethnically diverse population and terrain?

Dr. Sandeep Shastri:

Success of Indian elections is a by-product of the fact that election is a festival in India. The Indian voter encounters an election every year. It could be a national, state or local election. Like these festivals, it comes after one an another and is a celebration of democracy. The centrality of the process is crucial.

When the constitution makers took the decision to give every adult a right to vote, the president of constituent assembly and India, Rajendra Prasad, called it "an article of faith" in the Indian voter. Because many believe that with high level of illiteracy, poverty, "will this voter be able to deliver democracy or derail democracy?". This article has lived up judging from the high voter turnout. Late 60% is considered average, and 70 to 80% is considered good in India.

The success of Indian democracy has to be seen its sheer numbers. Last elections there were 900 million voters, 4 million electronic voting machines, and 2 million police personnel helping conduct the elections. When asked by a journalist in a foreign country why election commissioner is such a big deal in India, Seshan replied "what is the population of your country? The largest constituency of my Lok Sabha has more people than your country". India has 543 constituent assemblies. Many don't understand the enormity of the process in India.

Very critical to the success is the role of the state missionary. The Indian electoral culture is not the voter going to the process, but the process going to the voter. Government comes to your doorstep to get your vote. This is a continuous process. When the election is on, it is about targeting the election, when it is not on, it is about upgrading and revising the election process. The process never stops. The efficiency with which it has gone on is the strength of the election

The success is because of the uniformity of electoral norms we have followed across the country. Be it the state level or national level, there is no difference across states on the procedure. The constituent assembly took a good decision by making all national and local decisions handled by a single body, the election commission of India. He has the responsibility of all state and national level and therefore can bring a process of uniformity across states and across the country, No challenge of one process being followed in one state and another in another state

The constitution clearly talks about the election commissions mandate to conduct a free and fair election. They have taken this extremely seriously. A reference was made to the code of conduct which they strictly put into place, and reference was made to Seshan's roles in putting to practise and public visibility certain processes which were already there but weren't as visible.

We are living in an age of instant craze, everything has to be done instantly; the election commission does not believe that, nothing has to be done instantly, what matters is the purity, honesty, and efficiency of the election. The 2019 elections spread across an entire nation for 5 weeks, from the 11t of April to the 17th of May. So, it was in 7 phases spread across an entire month. But more importantly, spreading it over 7 phases allowed us to protect and ensure the sanctity of the process, and ensured that every voter who wanted to go out and vote could. It created a psychologically space safe to go out and vote.

The fact that the language of the state is the language that is used in the electoral process, which is mandatory, for the Indian voter, the process is taking place n his or her own language and makes it possible on so many levels that they can comprehend and feel comfortable.

Series of surveys that we have done, where we have asked common people on to how much they trust government institutions, we normally ask for 13-14 different institutions, and almost always, the election commission is in the top 3. It is seen as the most proper, effective and fair institution.

Dr. Aparna Pande:

How do you as someone from the outside see India's electoral accomplishments, and what stands out to you?

Daniel Twining:

India's elections are endlessly interesting, far more interesting than America's. It is the supremacy of civilians in the Indian system, that so many countries and not only South Asian countries succumb to praetorian politics. This never happened in India. The centrality of civilian rule and Indian civil service as guardians of India's democratic institutions is striking for a non-Indian. India's federal structure (the United States of course has a federal structure, but we are running our elections on a county and bottom up level with 3000), while India is much more centralized through the election commission. How India's federal structure creates this rolling process of elections, and how state level elections interact with politics at the center is very interesting. Identity politics can be very harmful in a democracy, but I would argue historically, India is a positive example of how caste based, regional based politics have been very inclusive in bringing what are marginal communities in the process. The poorer you are, the more likely you are to vote, this is exact opposite of other countries, partly because political parties have been very effective in mobilizing voters around caste and identity issues. "India doesn't project democracy to the world, we are focused on projecting our own, it's you Americans who do missionary work". We know India has been a leader in sharing best practices, in sharing its electoral practices through the India International Institute of Democracy from Afghanistan, to Burma, to Africa and elsewhere on electoral best practices, election management, civil education, and how government should communicate around citizens to encourage full participation.

Dr. Aparna Pande:

If you could talk about the technical assistance that India provides to other countries, and considering we live in this age when India does not seek to export democracy, how can India see this. How does India help those who seek technical assistance from India?

Mr. N. Gopalaswami:

We do not recommend our EVM. For the simple reason that we demonstrate it, and if countries like it, they order it, we will never order for you. To ensure that no one complains about election meddling because of our EVM's.

For the last 10 years, the IIDM that has come into force has been training courses for various countries who are willing to join. We do help, if anybody is looking at the legal aspect, by providing some legal advice. To give them a broad understanding, but they have to do it on reference to their own system and context. We have the commonwealth group, and the SAARC group of electoral commissioners, who come together once a year and discuss various issues. If in any of the SAARC countries, there is an election, observers from each of the SAARC countries are invited to go around and look at the election procedure and give their report.

Most of the assistance is training the field level workers, and training middle level officials, in some cases certain amount of financial assistance is given for purchase of equipment etc., never to any political party but to the election commission itself if they require.

Dr. Aparna Pande:

Can you talk a little about challenges the election commission has faced in the past few years and will face in the years ahead?

Dr. Sandeep Shastri:

How did citizens perceive the electoral process in Lok Sabha 2019? When we asked whether your constituency experienced any rigging or intimidation (anything against the legal process); response was interesting as more than 1/3 of respondents said that mal practices of any sort have decreased over the years. Around 1/5 (20%) said it has been the same, nothing more nothing less. Around 1/6 (16%) said we have never had problems with the election process. And another 1/6th (15%) that the challenges have actually increased. So, most voters, 8 out of 10, either there have not had problems, or the quantum of challenges have decreased. Younger voters below 35 are more likely to say they have never experienced electoral malpractice. Older voters are more likely to say they have experienced problems. So, this gives a snapshot of how common citizens in India actually view the electoral process.

There are a lot of citizens and intellectuals who believe that independence and autonomy and functioning without pressures perceived or actual from the establishment could actually reduce, There has been criticism in the past few years of it not being in terms of its projection, as independent and as vibrant as it was in the past. This has to be addressed in terms of its image and what is happening on the ground. The election commission has been extremely effective in dealing with the visible challenges of the election specifically. Some would argue these invisible challenges, those that cannot be seen, the election commission has not been able to deal with. The totality of the election process is about both visible challenges and invisible challenges. And those who want a pure electoral process, would look at that dimension also.

There are two aspects that gain importance; 1) The debate in India on electoral funding, 2) Expenditures in elections. We are extremely good in monitoring visible expenditures. There are limits on how much each candidate can spend, but a lot of us believe what is invisible is actually gigantic in proportion. This is something we have been unable to control. There is this created impression that unless you have money, you cannot be a serious candidate in elections, and given the large numbers of voters you need to appeal to, in order to get visibility you require funding and finances.

A lot of people have spoken about state funding elections; it's a good idea, but not too sure if it will solve the problem because state funding will hide other non-visible expenditures, because as long as the source is there, the funding will continue. In spite of the efforts of the election commission we have not been able to ensure internal democracy in our political parties, the fact that political parties are top down in terms of planning and decision making, this creates challenges of democratic participation where candidates are chosen from above and not from below. This is a challenge of our democratic process.

Last challenge I would like to emphasize which I also see as an opportunity. The Indian civil service has proved to be extremely independent especially during elections when they come under the monitoring of the election commission so there is no under pressure on officers from political parties or the government.

Dr. Aparna Pande:

Challenges have been mentioned which are technology. Technology creates its own challenges, there are IRI monitors over 100 countries around the world. You have seen the positive and negative roles that technology can play. What do you think India should keep an eye on and be concerned about with respect to technology on elections?

Daniel Twining:

Issue of Technology and democracy is not only something that concerns India or America but affects us all as open societies. These tech tools are very powerful and something like India's EVM are extremely difficult to hack, they have improved electoral integrity and security and transparency. These tech tools are so decisive in terms of accountability and transparency.

Yet we have seen in the social media domain that tech can also amplify extremist voices and have pernicious effects on democratic practice, and fundamentally weaken civic trust which is essential to democratic practice. Some of social media conversations have the effect of mobilizing citizens against each other. These platforms create vectors for malign foreign actors to come in and attempt to influence our citizens, not necessarily to swing an election but radicalize citizens against each other and spread fake new.

We are grappling what this means for the culture of civic trust that must be part of democracy for the integrity of democratic institutions at a time when citizens can be so polarized. At the end of the day, technology does not lead us into a Chinese style surveillance state where government exerts total control. It is not in human nature to want to be controlled that way. At the end of the day, many more people would live in a country like India where they are free to choose and express themselves, free to associate politically. Technology should enhance pluralism and the next phase is for us "small d" democrats to try to make technology work better for democracy.

Dr. Aparna Pande:

How do you see technology and its impact?

Mr. N. Gopalaswami:

Problems that persist; political party funding, expenditure levels in elections. In terms of the first problem, i.e. the funding, the election commission is not in position to amend the law, it is the government in office which amends the law. There is much the election commission receives but cannot do much about. The election commission did comment om the affidavit that the current government brought in, saying that it lacks transparency. Many political parties don't believe that transparencies can be to their advantage. Commission can and be expected to do but was unable to fix Expenditure Monitoring. There is tremendous monitoring behind every candidate, there is a recording of every expenditure, expenditure has to be submitted every 3 days, yet there are still problems. This is granted to human ingenuity which can overcome official surveillance in every way.

Since 2014, electronic messaging has gone up, it has the potential to disrupt. The commission has created mechanisms against it, and they have been in discussion with service providers such as Facebook amongst others to raise flags immediately. The technological arrangements that commission has made in terms of monitoring the election is immense. Every polling booth can be monitored from

the central office in Delhi. It is possible to update and record on a minute to minute basis thanks to technology. One of the issues that is of concern is the migrant labor; how to enable them to vote. I am told that they have been talking about using block chain technology, if it can work. But it can take a decade for this to happen. Just like EVM which was conceptualized in 1977, and law was passed for it in 1990. It had to convince the parliamentarians. By the time it happened, it was over a decade. Technologically it may be a solution, but if it will be politically accepted.

It is the political party's willingness to undertake required amendments to the law. Political parties are reluctant to make changes; there have been only 4 main changes since 1970; including EVM and reducing voting age from 21 to 18. These changes have taken place thanks to pronouncements by the supreme court. The unseating of a person who is charged in a case instantly is something that the supreme court also decided. The commission has to be far more effective. It has to be aware of misinformation present that can create social tensions and take action.

Dr. Sandeep Shastri:

The strength of the Indian election system has been sustained because of a range of judicial pronouncements of judiciary supporting the election commission; for example, the affidavits that candidates have to file thanks to the Supreme Court. When we talk of EVM's, there are cases of the losing party complaining about losing; we have to make distinction on the manipulation and malfunctioning of the EVM. Manipulation of the EVM is almost impossible to happen. Malfunctioning can happen anywhere and that has to be dealt with. EVM to a large extent have strengthened the sanctity of our election.

Technology has been effective, but we must remind ourselves that technology is only a tool to ensure a free and fair election. Sometimes in our overzealous excitement, technology becomes an end rather than a tool. We must ask if implementing technology results in freer and fairer election. We in India are increasingly grappling with the fact that social media is playing an important role. With the average age being 29, the younger generation is very important. The need to regulate social media is important and will be closely watched to ensure that social media doesn't derail the fairness of the election process.