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**Civil Society, Indian Elections and Democracy Today**

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## Civil Society, Indian Elections and Democracy Today

*In true democracy every man and women is taught to think for himself or herself.*

*- Mahatma Gandhi*

### **Abstract**

Civil society in Independent India has perhaps never been as active as it is today, except in the years before and during the emergency. We explore the role it has played in strengthening and deepening democracy. We focus largely on the work done on introducing transparency, and on raising voter awareness. As a result of this work, a lot of public data is available on the extent of crime and money in elections and politics. We analyze this and point out some implications for democracy and good governance. A brief outline of developments since Independence shows that the number of parties has grown considerably along with crime and money. As the number of parties, it became possible to win elections with a lower vote share, making it easy for big money to influence or buy a smaller fraction of votes. Meanwhile as population grew, an elected MP now represents over 15 lakh voters on average, and an MLA over 2 lakh. This is the largest number by far anywhere in the world.

The data on candidates and elected representatives' criminal and financial record is analyzed in this context. It shows that the chances of winning increase considerably for candidates with more wealth. Unfortunately it also shows that those with serious criminal cases pending against them also have a higher chance of winning. The average wealth of over 62,800 candidates analyzed is Rs.1.37 crores, which goes up to Rs. 2.03 crores for third place candidates, Rs.2.47 crores for runners up, Rs.3.8 crores for winners, Rs.4.27 crores for winners with a criminal record, and Rs.4.38 crores for winners with serious criminal cases. Meanwhile, data from India's largest ever citizen survey of over 262,000 people on various aspects of governance show that people are unhappy with Government.

There are gaps in the roles civil society has played so far, and some strategic choices it needs to make. We discuss the way forward in this context. If this is done well, change is possible.

**Keywords:** Democracy, Civil society, Indian Elections, Government

## **Introduction and Context**

Civil society has never been as active as it is today, except perhaps in the early to mid-1970s before and during the emergency. The public perception is that the Governments are not delivering results. Added to that, we have rapidly rising aspirations of the people thanks to education, the role of the media, mobile phones in almost every home, access to TV, and the digital media. Added to that, the massive and unprecedented seasonal rural-urban migration and rapid urbanization has contributed to citizens being far more aware even in remote areas. Economic factors like rising prices, jobless growth and rising inequality create a popular base for the work of civil society.

There is a range of activities that civil society is involved in. However, we focus on the recent work on introducing transparency and accountability in elections, democracy and governance. It is important to recognize that Constitutional Institutions like the Election Commission (EC), the Supreme Court, the Central Information Commission, the bureaucracy, and the media contribute a lot to this work. In some cases Parliament and political parties have also played a role. Though the role of civil society has been significant, it needs to work with these existing democratic Institutions.

## **Enhanced transparency and accountability**

Civil Society has been very active in knocking at the doors of the Supreme Court and various High Courts. A dozen judgments with far reaching consequences have been delivered. One set of petitions enhance transparency in elections and political parties. These include the Association for Democratic Reforms (ADR) judgments enforcing disclosure of candidates' financial, educational and criminal background [1]. This judgment was again upheld after the Court struck down the Representation of People (Amendment) Act 2002 passed by Parliament, which sought to overturn the ADR Judgment [2]. The trigger for these petitions was the media expose of corruption in high places. These proved to be far reaching Judgments as candidate information was collected, analyzed and disseminated by civil society networks around India, most notably the National Election Watch (NEW) network of over 1500 organizations. ADR has over 70,000 records of all candidates who contested National or State Assembly elections since 2004. Most of the later Judgments perhaps came out of these two judgments as civil society organizations got involved in seeing candidate data and monitoring elections. The Central Information Commission (CIC) declared political parties as public authorities under the Right to Information (RTI) Act [3]. This strengthened an earlier ruling of the CIC that Income Tax Returns of Political Parties would become available [4]. This has led to enhanced scrutiny of political party finances, including a recent EC initiative asking the Central Board of Direct Taxes (CBDT) to cancel tax exemptions to 10 parties that did not file their tax returns. Media has also raised public awareness on the fact that well over 75% of donations to political parties are from 'unknown' sources. The parties use a loophole in the Law permitting them not to list the source a donation

that is less than Rs.20,000 (at current exchange rates, about \$3350). In other democracies, each and every rupee or dollar received has to be accounted for, and is open to public scrutiny.

Another set of judgment relate to reducing criminalization of elections and politics. The Court has ordered that trials of legislators facing criminal cases should be completed with one year [5], and convicted MPs and MLAs immediately disqualified [6]. In 2001, the Court ruled that conviction in a lower Court was sufficient grounds for disqualifying a candidate from contesting in the next election unless a higher Court had specifically overturned the judgment [7]. Mere stay on sentence and a pending appeal was not sufficient. These are recent judgments and the consequences potentially far reaching. There are around 1350 sitting legislators in Parliament and the State Assemblies who face trials. If some are convicted, it would lead to large scale change, and perhaps the fall of a few State Governments. The Court barred those in jail from contesting [8]. This was later reversed by Parliament by changing the law, though the Court is now hearing a review petition.

A third set of judgments relate to the financing of elections and parties. The Supreme Court directed the Election Commission to take legal action against the BJP and INC for accepting foreign donation [9], which is illegal under current law. Unfortunately, there is no prescribed penalty. It empowered the EC to take action in cases of filing of false election expenses [10]. The Judgment was triggered off by a petition saying that a former Chief Minister had paid off the media to publish favorable stories, popularly called ‘paid news.’ It is well known that this phenomenon is rampant, and the EC and civil society have tried to monitor it.

A fourth set of Judgments relate to filing or declaring false information. The Court has empowered the EC to take action in cases where false information on assets and criminal records is filed by candidates with their nomination papers [11], and empowered returning officers to reject nomination papers of candidates with incomplete information on assets, liabilities, and criminal cases if any [12]. The Court has directed the EC to bring the issue of election manifestos and ‘freebies’ under the Code of Conduct [13]. This was in response to a petition about political parties promising all kinds of things to voters from free food to electricity, cycles, laptops and so on, all at the cost of the public exchequer. The new Chief Minister of the new residual state of Andhra Pradesh, already facing huge financial deficits and lesser tax revenue collections, waived off all loans of farmers within a fortnight of taking oath. Earlier the Central Government and the Chief Minister of Tamil Nadu had also done that. Another judgment says that the voter can reject all candidates using an additional “None of the above (NOTA)” option on the Electronic Voting Machines (EVMs) [14].

In short, civil society initiatives have led to greater transparency, obtained judgments to check the alarming rise in legislators facing criminal cases ensured greater transparency and accountability in political party finances, and penalties for filing false information. Voters can

now reject all candidates, and there is an attempt to check misuse of public funds during campaigns. While these are all steps forward, they are simply not enough as well shall see a little later.

### **Resistance from the Establishment**

Each judgment and ruling was resisted by the Government and political parties. They opposed the petitions in the Court, and if they lost in the High Court, filed appeals in the Supreme Court. If that did not work, they brought in new legislation to overturn the judgment. The first High Court Judgment on candidate disclosure was challenged in the Supreme Court by the Union of India, and when that failed, the Representation of People (RP) Act was amended. It was only when the Amendment was struck down as unconstitutional that formal resistance ceased. The Judgment to bar those in jail from contesting was reversed through a change in the Law. The fear is that political rivals can put each other in jail to prevent someone from contesting elections. Tacitly they accept the fact that politicians misuse the law and order machinery. Perhaps distinguishing between those in police custody and those in judicial custody may provide an answer. They also sought to overturn the judgment disqualifying convicted MPs and MLAs when the Cabinet passed an Ordinance. Opposition from the head of the then ruling alliance stalled it and it was not sent to the President for his signature.

This means that the system will not reform itself without public pressure. The Lok Pal Bill is another instance where tremendous public pressure was sought to be deflected and ignored. Just before the 2014 elections a diluted version was passed in the hope of electoral gains.

### **Some proactive steps**

The Election Commission has taken steps, some of them independent of civil society prodding. They have started tackling the misuse of money in elections. Greater transparency in spending has been introduced. A system of flying squads has been introduced to seize black money during elections. This was again fiercely resisted by the political establishment when they filed a petition in the Gujarat High Court. The EC conducted a survey which showed that over 50% of people believe that money was the basis of corruption in public life. They carried out a much more intense voter awareness campaign, and cleaned up the voter rolls to some extent. Voting percentages across the country went up. They also initiated a campaign using celebrities exhorting voters not to sell their vote. Parliament removed an anomaly which allowed someone serving a life sentence to contest elections. The Law was amended to extend the period to 6 years after completion of the sentence, and not 6 years from the date of conviction.

### **A brief analysis of trends since Independence**

After Independence, some of the first set of leaders emerged from the rural and urban elite. They were replaced by the rising aspirations of the Backward Castes who were numerically larger, and

then by the Dalits. As the one party rule of the Congress was dismantled, there was greater competition for votes, and musclemen were often hired to enable candidates to intimidate voters, capture voting booths and stuff ballot boxes. There was violence during elections. A perceptive politician of the 1990s observed that musclemen realized that instead of working for a candidate, they were better off becoming candidates themselves. Such events were not unique to India and took place elsewhere. There are reports of stuffed ballot boxes and mafia involvement in Presidential elections in the US in the early 1960s<sup>1</sup>. In India, we also witnessed the ‘aaya ram, gaya ram’ phenomena when MPs and MLAs changed parties, and brought down Governments as ruling parties and coalitions lost their majority. This was traced to the use of money and other incentives to lure them from one party to another. The Government did try to stem this by the Anti-Defection Law. However, experience has shown that this was not a sufficient deterrent.

Along the way, the number of political parties grew and competition grew much faster. In the recent Lok Sabha 2014 elections, over 475 political parties contested for 543 seats, up from 392 in 2009. In 1950 there were 54 parties. In most so called developed countries, the number is at most half a dozen. Over 3100 Independents also contested in 2014 – that is nearly 6 per constituency on average. Of 475 parties, only 36 parties won some seat, 24 got 5 seats or less, and only 3 Independents won. There were nearly 15 candidates per Lok Sabha seat, up from 14 in 2009. There are several hundred other parties that do not contest the Lok Sabha elections. In all there were six National parties, about 57 State parties, and over 1600 unrecognized political parties as per the EC data.

One major reason for the proliferation of political parties is that they have not lived up to the people’s expectations. This provides space for new ones to emerge. Another reason perhaps is their misuse as tax shelters. But how do 475 parties compete for 543 Lok Sabha seats? Such fierce competition leads to much greater uncertainty for candidates and parties. We see high voltage, intense campaigns attacking rivals with in strong language, shrill speeches, fanning caste, religious and regional identities, pitting one group of citizens against another, and creating real and fictitious ‘others’ or enemies. Money has become an important factor in campaigns.

Wealth is now concentrated, and income inequality is very high. The declared wealth of some ultra-high-net worth individuals (UHNI) is several times the combined declared wealth of all the politicians in Parliament put together. At the same time, inequality rose and India has the largest number of people below the poverty line. Exposure to consumer goods and lifestyles of the well to do has raised working class aspirations, and inequality has become more glaring. Voting percentages among the working class are much higher than those for the middle and upper classes.

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<sup>1</sup> ChicagoTribune, April 24, 2005 “The Myth of 1960”

The margins of victory are often small. In the previous 5 Lok Sabha elections of 1998, 1999, 2004, 2009 and 2014, on average 32 seats were won with a margin of less than 1%, 69 with less than 2% and 101 with less than 3%. With hundreds of parties in the fray, over 10 candidates per constituency, and coalition Governments, an astute candidate today has to manage a small fraction of voters to win elections. (Though we now have single party rule in 2014, this may or may not change the two decade long trend). There is big money available to finance such elections. In a repeat of the muscle man turned politician of the 1980s, we now see the moneyed person turned politician today. A senior politician party said that 92% of the applications for tickets were from builders and real estate businessmen in one southern city. The leader of the rival party agreed.

Meanwhile the quality of representation in the Lok Sabha and State Assemblies has changed. In the early years after Independence, the ruling party obtained between 45% and 47% of votes in the years 1951 to 1962. In the recent 2014 elections where a single party came to power for the first time in 30 years, it was 31%. In the intervening years of 1989 to 2009, it was much less as we had coalition Governments. The average winner obtained between 45.6% and 47.7% of the votes cast in the last 5 general elections between 1998 and 2014. In 1951 it was 50.9%. If we look at the percent of votes that MPs in the ruling party got out of the total votes cast in 2014, it is about 25.2%, up from 19% in the 2009 ruling coalition<sup>2</sup>. In 1951 it was 28.9%. In 1951 an MP on average represented 354,000 voters, while today it is 1.53 million – result of the increase in population. So on all counts – total vote share of the ruling alliance, vote share of the MPs, vote share of the ruling alliance MPs, and number of voters an average MP represents, the quality of representation has declined. But the MPs in Parliament control the Government, large budgets, and new legislation. The revenue expenditure in the early 1950s was between Rs.400 and Rs.500 crores a year. In 2014 the revenue expenditure budget is over Rs.17.63 lakh crores – a increase of over 3900 times. Even at 10% growth, it should have gone up by about 500 times.

Criminal records of candidates do not seem to play any role on election outcomes. An analysis of over 60,000 records of candidates and winners since 2004 shows that while only 12% of ‘clean’ candidates without any taint win, around 23% of tainted candidates win, and a similar 23% of seriously tainted candidates win. Either voters are not aware of these records, or for those who vote based on caste or religious affiliation, the question seems to be “when your leader commits such a crime, you all say and do nothing. Why do you blame my leader?”

### **Overview of situation from 2004 to date**

The Supreme Court requires candidates to disclose cases where charges had been framed<sup>3</sup>. Publicly available data from the EC and from databases [26] was used in the following analysis.

#### *Criminalisation of Politics*

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<sup>2</sup> The parties got more votes, but here the losing candidates votes are not being counted

<sup>3</sup> A charge is framed by a court, typically a Judicial Magistrate First Class (JMFC), on the basis of a charge sheet filed by the Police after investigation. Thus FIR's against someone would not constitute a ‘case’ as defined in the Supreme Court Judgment.

**a) Candidates.** Data of over 62,800 candidates filed with the Election Commission show that 11,030 (18%) had 27,027 pending criminal cases against them while 5,253 (8%) candidates had 13,984 serious criminal charges including murder, rape, corruption, extortion, dacoity etc. These include were 1229 cases of murder, 2632 cases of attempt to murder, and 496 instances of IPC sections on other cases related to murder (culpable homicide, abetment to suicide etc.). An average of 9% of all candidates fielded by political parties had serious<sup>4</sup> criminal cases. Without exception all parties had such candidates, varying from 4% to 17%. If we look at candidates with some criminal case, including so called ‘trivial’ cases, the average shoots up to 18%.

**b) Winners.** The proportion of winners with criminal cases is 28.4% while only 18% of candidates had such records. Similarly, 13.5% winners had serious criminal charges compared to 9% of candidates.

In every type of criminal case, the percent amongst winners is much more. Civil society and the Election Commission have therefore asked for candidates with serious criminal cases to be barred from contesting elections. The Courts have also been inclined to take this view although they are not empowered to enforce this.

*‘Winnability’ and Serious Crime*

A large percentage of candidates with serious criminal charges actually win the elections. While only 12% of candidates with a ‘clean’ record win on average, 23% of candidates with some kind of criminal record win, and more alarmingly, 23% of all those with serious criminal charges win. Nearly every party shows that a greater percentage of those with a serious criminal record win compared to those without any record. This partly explains the strong tendency of political parties to continue fielding people with badly tainted records.

**Relative chances of winning for clean and tainted candidates**

(All State Assembly, Lok Sabha, Rajya Sabha elections from 2004 to September 2013)

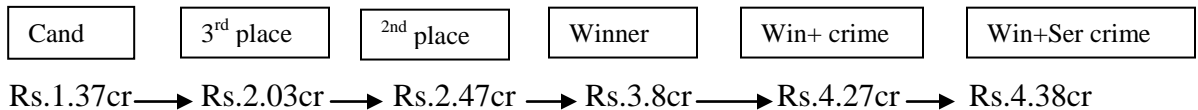
No. who Contested	No. who Won	% of those with clean records who won	% of those with charges framed who won	% of those with serious charges who won
62847	8882	12%	23%	23%

<sup>4</sup> serious criminal cases are offenses that: 1. Have a punishment is of 5 years or more, 2. Are non-bailable, 3. Pertain to elections, e.g., bribing voters, 4. cause loss to the exchequer, 5. relate to murder, kidnap, rape 6. are mentioned in Representation of the People Act (Section 8), 7. Come under the Prevention of Corruption Act, 8. Are classified as crimes against women.



## Money power and Crime in elections

The average assets of candidates was Rs.1.37 crores, third place candidates Rs.2.03 crores, runners up Rs.2.47 crores, and winners Rs.3.8 crores. This clearly shows that wealthier candidates win more votes and elections. There are exceptions to this rule, but the broad trend over 62800+ candidates over the last 10 years is very clear. The interaction between crime and money is even more alarming. The average assets of winners with some crime record was Rs.4.27 crores, and of those with serious crime records was Rs. 4.38 crores.



The average assets of elected MPs have gone up significantly, far more than that of candidates. The growth in assets of those who won with criminal records is even higher:

### Growth in Assets

Growth in Assets: Candidates, Winners, Tainted Winners				
	Growth in Avg Assets of All Contestants	Growth in Avg. Assets of Winners	Growth in Avg. Assets - Crim+Win	Growth in Avg. Asset - Ser.Crim+Win
<b>Total</b>	133.4%	206.3%	282.9%	275.3%

Figures show assets growth of candidates and winners after 2008/09 compared to those before that.

## The Lok Sabha 2014 Elections and Current Scenario

This was a watershed election with the ruling party getting over 50% of the seats (282 out of 543) for the first time in 30 years, ending a long era of coalition politics. The BJP's vote percentage rose by 118.9% from 78.4 million in 2009 to 171.7 million in 2014. The INC's vote percentage went down by 10.2% from 119.1 million to 106.9 million.

However, in terms of crime and money the data continue to be alarming. The percent of MPs with a criminal record is 34% in 2014, up from 30% in 2009, and for those with serious criminal records it is 21%, up from 15%. About 5% of candidates with clean records won, 13% of those with a criminal record won and 12.5% of those with a serious criminal record won. It shows that on average, the Parliament is slightly better than the State Assemblies. But nevertheless it is a matter of concern.

As wealth increases from less than a crore to over Rs.50 crores, the chances of winning increase from 1.7% to 28.6% for clean candidates, and from 5.9% to over 40% for those with a serious

criminal record. For the same wealth bracket, say between Rs.20 and Rs.50 crores, the chances of winning goes up from 30.1% for clean candidates to over 50% for those with serious criminal cases.

Wealth and chances of winning			
Wealth - Rs.Crores	Cand	Winners	% won
< 1 cr	5955	99	1.7%
1-5cr	1440	241	16.7%
5-10cr	319	70	21.9%
10-20cr	191	55	28.8%
20-50cr	146	44	30.1%
>50cr	112	32	28.6%
Total	8163	541	6.6%

Serious Crime, Wealth and chances of winning			
Wealth+ serious crime	Cand	Winners	% won
< 1 cr	492	29	5.9%
1-5cr	221	78	35.3%
5-10cr	69	33	47.8%
10-20cr	51	20	39.2%
20-50cr	29	15	51.7%
>50cr	27	11	40.7%
Total	889	186	20.9%

The following graphic summarizes the information.

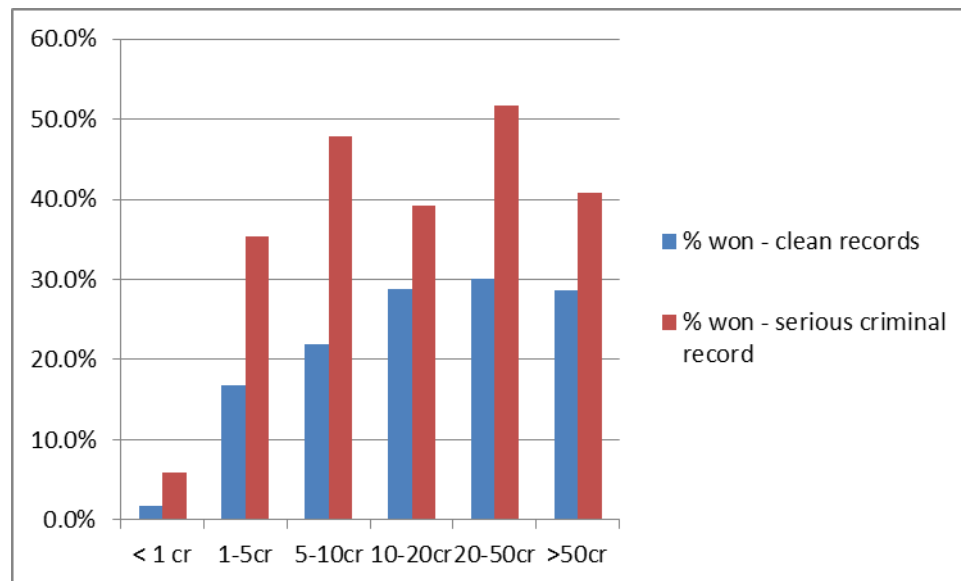
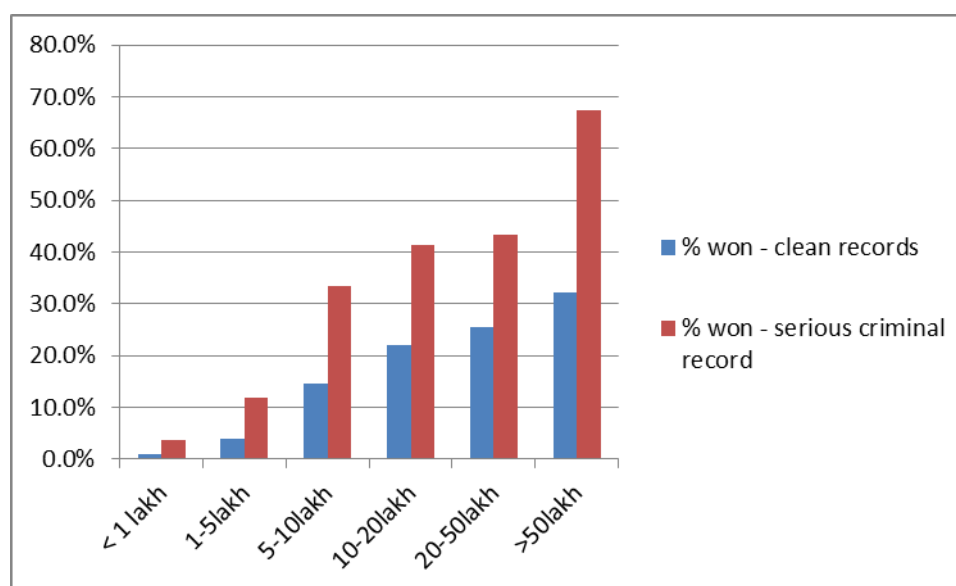


Figure 1: Wealth, Crime and Winning Elections

For the first time, data on income of the candidates and winners were available. It also shows the same trend. As we move from an annual income that less than Rs.1 lakh to over Rs.50 lakhs, the chances of winning increase from 1.0% to 32.2% for clean candidates, and from 3.7% to 67.5% for those with a serious criminal record. For the same Income bracket of greater than Rs.50 lakhs, the chances of winning goes up from 32.2% for clean candidates to 67.5% for those with serious criminal cases.

Income and chances of winning			
Annual Income-Rs. Lakhs-	Cand	Winners	% won
< 1 lakh	4503	44	1.0%
1-5lakh	1566	64	4.1%
5-10lakh	885	129	14.6%
10-20lakh	616	136	22.1%
20-50lakh	351	90	25.6%
>50lakh	242	78	32.2%
Total	8163	541	6.6%

Serious Crime, Income and chances of winning			
Annual Income -Rs. Lakhs-	Cand	Winners	% won
< 1 lakh	352	13	3.7%
1-5lakh	169	20	11.8%
5-10lakh	141	47	33.3%
10-20lakh	111	46	41.4%
20-50lakh	76	33	43.4%
>50lakh	40	27	67.5%
Total	889	186	20.9%



**Figure 2: Annual Income, Crime and Winning Elections**

Meanwhile, the average assets of elected MPs have gone up from Rs.1.86 crores in 2004 to Rs.5.33 crores in 2009 to Rs.14.7 crores in 2014. This is an increase of 187% between 2004 and 2009 and 166% between 2009 and 2014, and a per year increase of Rs.1.23 crores over the ten years.

There were about 4807 sitting MPs and MLAs as of August 2013. A total of 1460 (30%) sitting MPs and MLAs had criminal cases against them, and 688 (14%) had serious cases. For the first time, Parliament has a higher percentage than the average of State Assemblies with 34% MPs facing criminal charges, and 21% facing serious criminal charges.

Money seems to help in winning elections, and having a crime record seems to further increase the chance of being elected. The underlying reasons for this trend need to be understood with

further research. The issue of crime in elections has been debated at length in the media. Anyone with such charges, even if they are false, would not be appointed to any non-political position, whether in the Government or the private sector. Perhaps the recent Supreme Court Judgments disqualifying convicted MPs and MLAs, and asking for speedy trials will help arrest this problem.

### **Campaign Finances**

A former Chief Election Commissioner of India said while in office that about Rs.10,000 crores of black money was spent in the 2012 UP Assembly elections<sup>5</sup>. At Rs.25 crores in each constituency, and over 4000 Assembly seats all over India, this amounts to Rs.100,000 crores. If we take the Lok Sabha elections with 543 seats this adds up to another Rs.12,500 crores or a total of Rs.125,000 crores. Estimates of the 2014 campaign expenses by the ruling party are between Rs.4000 and Rs.10,000 crores. Local elections including Municipal, District, Block and Panchayat, easily double the figure of over Rs.100,000 crores as there are lakhs of contested seats. However, many of the Panchayat elections are never held. Estimates vary from a total of Rs.150,000 crores to Rs.250,000 crores for all elections put together. This occurs once in 5 years and is adjusted for inflation as well.

It should be noted that the estimate by the former Chief Election Commissioner shows clearly that candidates exceed the legal limit on election expenses several times over. If we go by the recent declaration of a politician who said he spent over Rs. 8 crores, it is 20 times the limit of Rs.40 lakhs per Assembly constituency. At the same time, an analysis of the election expenses filed by candidates with the Election Commission for the 2009 elections shows that the average spend was Rs.4.3 lakhs. Clearly there is under reporting of the election expenses. There is a provision in the RP Act that empowers the Election Commission to countermand an election for false declaration of electoral expenses.

This raises several questions about the nature of elections and democracy. First, we need a much greater level playing field. This is clearly not the case where persons with greater wealth win elections. Second, persons with crime records who win have even greater wealth than those who win without any crime record.

Former Chief Election Commissioner, N Gopalswami says, "Politicians treat this expenditure as an investment, which will generate returns later."<sup>6</sup> If this is indeed the case, such people pose a threat to good governance since tax payers' money and the Government budgets are in their control either directly or indirectly. In any case they wield a great influence on how the Government functions.

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<sup>5</sup> New Indian Express, Jan 10, 2012: Reforms must to rid polls of black money; IBN Live Jan10, 2012: Cash haul in UP, Punjab: black money running Assembly polls?; Times of India March 29, 2011: EC's mission- track Rs.10,000 crore in 2 weeks.

<sup>6</sup> Quoted in Business Today, April 24, 2014, "Ceiling on legitimate election expenditure is too low"

## **Actions taken and some implications**

The Election Commission of India (EC) has disqualified as many as 1921 candidates from contesting the 2014 Lok Sabha elections. These candidates from all over the country had not submitted their election expenditure results in the previous election that they had contested in, whether in the State assembly or Lok Sabha elections.

Governance clearly suffers as money and muscle power continue to play a big role. This is reflected in a large survey done in January and February 2014 in about 525 constituencies with over 262,000 respondents. This is perhaps the largest ever survey done by civil society. Across the board, the performance of the Government on various governance parameters was low, between “Bad” and “Average”. The top 10 priorities for voters was employment, basic essential services (drinking water, education, health, electricity), basic infrastructure (roads, public transport), lower food prices/subsidized Public Distribution System (PDS), law and order and women’s security. If we look at the top 10 priorities, the figures are summarized below.

<b>Voter rating of performance on Governance</b>				
	<b>Expectation on 30 governance parameters</b>	<b>Performance on 30 governance parameters</b>	<b>Top 10 priority expectation</b>	<b>Top 10 priority performance</b>
Score on 10 point scale	7.53	5.74	7.74	5.87
Interpretation	Medium to High	Bad to Average	Medium to High	Bad to Average

While criminalization of politics and corruption is not a high priority, the link between that and bad governance needs to be established in the voters’ mind. Be that as it may, voters are clearly not happy with the quality of governance across India.

The problem of misuse of funds in elections in many ways goes to the heart of the matter. Elections are high risk, high investment ventures for the average candidate. Winners get a chance to recover their investments from public funds, adversely affecting the quality of services Government provides.

## **The Way Forward**

Franklin Delano Roosevelt, the longest serving US president, says “Democracy cannot succeed unless those who express their choice are prepared to choose wisely. The real safeguard of democracy, therefore, is education.” This echoes Gandhi’s statement on the need to educate voters. This is a demand side solution, and the onus for this lies squarely with civil society. It

cannot and will not be done by the Government, political parties, religious institutions, media or business houses. The Election Commission does do this, but here we are referring to a deeper education that enables voters to see the whole election and governance process in totality. Perhaps the digital media which is far more democratic and decentralized will play a role in the coming years.

At the same time supply side solutions are also required. If the rules of the game give greater incentive to misuse of money and power in elections, with no penalties, rising public awareness will in the long run lead to greater strife between the people and the Government. In the recent past several Commissions have been set up to examine the issue of electoral and political reforms. Another Law Commission has been recently appointed. On the legal front, there is a long list of suggested remedies by the various Commissions. There is no dearth of well thought out advice on issues of election expenses, criminalization, voter registration, and conduct of elections. The will to implement them is not there as yet. Here again civil society can play a catalytic role by carefully studying these recommendations and highlighting them to build public opinion. This is however a long and slow process, unless some crisis can trigger off change. But even for that the ground needs to be prepared.

### **A bottom up approach**

For the people, the real issue is not the level of criminalization of politics and the misuse of money power in elections. It is to have a Government that delivers results on issues that are important. A report from Princeton and Northwestern Universities “suggests that (the) US political system serves special interest organisations, instead of voters.”<sup>7</sup> A series of Gallup poll surveys show that the American people’s trust in the Government is very low, with only 19% saying they trust the Government a great deal or a fair amount in 2010.<sup>8</sup> Though such reports are not available in India as yet, the survey of over 262,200 people mentioned earlier shows high levels of dissatisfaction with Government. A worldwide survey shows that trust in Government among ‘informed publics’ was low: U.S. (37 percent), France (32 percent) and Hong Kong (45 percent). “Populist sentiment is evident in the fact that among the general population trust in government is below 50 percent in 22 of the 27 countries surveyed, with strikingly low levels in Western Europe, particularly in Spain (14 percent), Italy (18 percent) and France (20 percent).”<sup>9</sup> In India trust is higher at 53%, but trust in business (75%) and NGOs (71%) is even higher. The key difference perhaps is the phrase “informed publics” used in the survey, with better educated and informed populations showing greater dissatisfaction.

Coming back to the situation in Indian elections and democracy, there have broadly been two sides to civil society’s initiatives. One side is led by intellectuals, retired civil servants,

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<sup>7</sup> The Telegraph, April 16, 2014 “The US is an oligarchy, study concludes”

<sup>8</sup> <http://www.gallup.com/poll/5392/trust-government.aspx>

<sup>9</sup> <http://www.edelman.com/news/trust-in-government-plunges-to-historic-low/>

academics and a few judges. Much valuable work has been done, and their focus is on supply side solutions, i.e., legal and administrative changes to address the problems. The people at large may or may not be concerned or aware about these issues and their importance. The other side is led by grass root activists, many of whom are leaders and intellectuals in their own right. They focus on people's issues, particularly those of the poor and marginalized. Since elections are not fought on these issues, this may or may not impact elections and voting.

However, the political system responds when voter behaviour changes. Civil society has not worked on raising voter awareness, and this is perhaps one of the most important gaps it can fill. People have lately voted out Governments that did not perform and re-elected those that did. However, the misuse of funds in elections, the criminalization of politics, the way elections are funded by big money, and whether Government spending reflects "special interest organisations", are issues on which much greater public awareness is needed. Once they learn to think about these issues, and about those who spend huge fortunes in campaigns, and are involved in serious crime, change will come. Well educated voters already do that, but their numbers are small and voting percentages among them smaller.

Perhaps the major structural or supply side solution needed here is to have more democratic and transparent political parties. If we have opaque, autocratic political parties, we will not get transparent, democratic governments – a *sine qua non* for good governance in the 21<sup>st</sup> century. Public pressure to pass suitable legislation on these reforms is required.

### **Some strategic choices for civil society**

Civil society needs a clear goal or vision. What type of democracy does it want to build? Is this vision coming from a group of well informed and well intentioned individuals and organizations? Or does it truly and continuously reflect the needs and aspirations of the people? As the ADR survey shows, people are more concerned about day to day life issues, than in building an 'ideal' democracy.

An iterative process where civil society listens to what people want, and in turn 'educates' them may be one alternative. Public anger can be quickly mobilized every time there is a crisis or scam. It also dies down quickly and often nothing remains of the work done. Building a positive vision is slow and time consuming, but could prove to be far more stable and enduring. Thomas Jefferson echoed Gandhi and Roosevelt when he said "I know of no safe depository of the ultimate powers of the society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but inform their discretion."

While business and political interests are converging, citizen interests are not really being addressed. However policy making is in the hands of politicians, bureaucrats and increasingly,

business interests. People's issues are being ignored, and they are important only for getting votes. In this evolving situation, what role does civil society play? It has questioned the whole paradigm in which the Government functions. It has attacked crony capitalism, and opposed mega projects that affected the lives and livelihoods of the poor. It is only those who are adversely affected by such projects who really oppose them. For the vast majority, such protests are increasingly being seen by the intellectuals, media and sometimes even the poor, as 'anti-development'. One reason is that there is no alternative vision being articulated by civil society. Civil society also needs to engage with powerful interests – and today it is the political and business sector – if they want change. Even Gandhi negotiated with the British.

All this goes beyond the issue of electoral and political reform. But even in this domain, voter awareness needs to focus on establishing the link in voters' minds between the current way elections are fought, and the bad governance we get as a result. One low hanging fruit is to get voters to reject candidates who spend huge amounts of money and those who have serious criminal records. Voters need to understand the implications of electing such people which includes corruption to recover electoral investments, sale of public and natural resources, and a shift in policy and budget allocations towards the interests of those who fund elections. People's interests are of lower priority. This vote education needs to be based on verifiable facts, rather than ideology and opinion. Such a voter awareness campaign is difficult to do, and requires a lot of resources. It will also be long drawn out and needs to be a continuous process over decades. There will be counter campaigns giving diametrically opposite analyses and prescriptions.

Do we need such a civil society? Or should all concerned people participate actively in politics? Perhaps a healthy society needs both – those who participate and those who monitor from the side lines and educate voters.

### **Summary and Conclusions**

Data show that the quality of candidates, elected representatives leaves much to be desired. The role of big money and crime is vitiating elections and democracy. Though Governments change, the profile of elected representatives does not change. Data also show that people at large are not happy with the Governments' performance. Once elected, Governments don't always address the issues faced by ordinary people. Even when they do, they are not able to deliver results. Thus in the 21<sup>st</sup> century, issues like drinking water and other basic essential services continue to be on the top priority list of the people. Employment like in other so called advanced countries is the top priority but we have had jobless growth since economic liberalization.

Recent developments over the last couple of decades or more give cause for both hope and despair depending on what one looks at. Civil society has a vital role to play in this situation. However, it speaks with multiple voices and is not well coordinated. If these multiple voices truly reflect the people's interests there is a need for dialogue to evolve a consensus. If they are



merely the voices of the leaders of civil society, we need to replace them with people's voices. Working together for the common cause of building a healthy democracy can achieve a lot.

India's genius has been toleration, accommodation and the principle of unity in diversity. Thus far this has manifested in religion, culture and language. If this is extended to modern Institutions of democracy, elections, politics and economics, much can be done. An *Indian* way of doing this is perhaps required, along the lines of Gandhi, avoiding not merely physical violence, but also mental and psychological violence in language, rhetoric and the way we deal with rival ideologies. Gandhi finessed various conflicts using Truth and Ahimsa. Today we have an opportunity to do the same using the aspirations of the vast majority of Indians as the common meeting point of civil society action. While there are several critiques, a positive, constructive, alternate vision of society, elections and democracy is still missing. However, the situation may be ripe for change. Some helpful factors include democratic, decentralized means of communication through the mobile and the Internet, greater awareness, and rising aspirations of the people. Shakespeare said "There is a tide in the affairs of men, which, taken at the flood, leads on to fortune." Time will tell which whether this will happen.

*A country does not mean (only) the land, it means the people.*

- Gurujada Apparao, translated from Telugu

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