

First-Past-the-Post in India: The need for an alternative system of Electoral Winner Determination

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Abstract

First-Past-the-Post has remained India's practiced method of Electoral Winner Determination since the first General Election in 1951-'52. The operational simplicity of *First-Past-the-Post* rendered it most suitable to the socio-political exigencies prevalent at the inception of the Indian Republic - consequently, the many shortcomings of *First-Past-the-Post* could be temporarily overlooked in lieu of its value in that context. However, times have changed and India has evolved. Contemporary India has gained in political maturity, administrative capability, and resource availability, and is hence well prepared to adopt and adapt to a more effective system of Electoral Winner Determination than *First-Past-the-Post*. It is imperative, therefore, that India should immediately prioritize a serious exploration of alternatives to *First-Past-the-Post* as a system of Electoral Winner Determination.

Keywords: Electoral Reforms, Electoral Winner Determination, *First-Past-the-Post*

Indian political actors, both state and non-state, have conventionally posited the Lok Sabha as the symbol of a democratic India and representative government. This credibility that the House of People enjoys appears to stem from the common perception that it has been thoughtfully designed to serve as the apex institution that represents popular mandate and interest – i.e. (a) its members are chosen by the practice of free and fair elections (b) conducted through secret ballot and (c) universal adult suffrage.[1]

The claim of a representative Lok Sabha, however, fails to hold ground on close academic inspection. Election statistics from successive general elections[2] indicate that (a) the representation that each political party enjoys in the House is not necessarily in proportion to the ground mandate of the people i.e. the system permits incongruence between the vote share and seat share claimed by each political party; (b) which results in the following forms of non-representation by precluding Inclusive democracy and encouraging Majoritarianism: (i) the ruling party claims either fewer or more seats than it has been justifiably mandated, in both cases wielding greater governing authority than is its due - the corollary to this being that non-ruling parties wield lesser influence over governance processes than is their due; and (ii) parties that have secured a percentage of votes may nevertheless fail to secure any percentage of seats (i.e. even one seat) in the Lok Sabha, thereby rendering them unable to represent their constituencies – the corollary to this being that some constituencies remain unrepresented in the House of People and hence do not find voice in the governance process.

In the light of the fact that the Constitution of India[3] advocates Inclusive democracy over Majoritarian democracy, the scope for non-representation that the Lok Sabha permits is inconsonant with the Basic Structure of the Constitution.[4]

Interestingly, this undemocratic situation – of an unrepresentative House of People - arises not from an institutional flaw in the Lok Sabha per se, but from the supporting processes that determine its member composition. Of the Constitutionally mandated 552 member representatives apportioned to the Lok Sabha, 550 candidates are required to be determined through elections whose winners are decided through *First-Past-the-Post*. [5] The *First-Past-the-Post* system, also known as Single Member Simple Plurality System, Relative Majority System, or Simple Majority System, is

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a form of Electoral Winner Determination whose crux is its simplicity: under this system, in order to win an election a candidate is required to secure the largest number of votes and not necessarily the majority of votes polled.[6] This permits scope for non-representation in two ways: (1) a candidate who secures under fifty percent of the votes can win the election and represent hundred percent of a constituency of which over fifty percent of constituents have voted against her/him, and (2) a candidate who has secured a percentage of votes less than the maximum is not mandated a proportionate influence, or any influence, over decisions that affect the constituency.

The Law Commission of India expresses a similar unfavorable evaluation of the *First-Past-the-Post* system in its 170th Report on Reform of the Electoral Laws[7], and even argues for the adoption of a modified system -in this, the Law Commission of India draws from a Working Paper that it had prepared that, among other legal provisions, considered appropriate amendments to the Representation of Peoples Act, 1951. The Working Paper, which used the Dinesh Goswami Bill on Electoral Reforms as its starting point, expressed concern over the inadequacy of *First-Past-the-Post* towards enabling a foolproof Electoral System. The Working Paper noted the shortcomings of *First-Past-the-Post* to include (a) vote-bank fracturing resulting in a government elected by a minority mandate, and the consequent phenomenon of “wasted votes” cast by the majority in favor of the other non-winning political parties and independents, and (b) the absence of commensurability between the total votes cast by the electorate and the total seats won by the political parties, which yields a poor picture of voter preferences and strengthens the influence of the “swing” vote. As such, the Law Commission of India has recognized that the use of *First-Past-the-Post* system for General Elections to the Lok Sabha is a flawed choice.

This vote of no-confidence against *First-Past-the-Post* by the Law Commission of India – i.e. an institution that exercises great influence over the Indian electoral system - raises academic curiosity over the reasons for the Constituent Assembly of India’s electoral choice. Was *First-Past-the-Post* adopted by the Constituent Assembly (a) as a legacy of British systems practiced in India and (b) because the rudimentary simplicity of the FPTP system proved convenient to operationalize in the face of the daunting complexities of establishing a mammoth democratic electoral system for Independent India and (c) not following the acceptance of a well-debated rationale in favor of the system’s merits? Was temporal expediency the only determinant in the Constituent Assembly’s choice of a *First-Past-the-Post* system? And if yes, then under contemporary socio-political contexts, has the *First-Past-the-Post* system, which was an exigency at Independence, now run its course, served its purpose, and been rendered obsolete and demanding amendment?

A study of the Constituent Assembly Debates[8] clarifies

that the assembly did not blindly accept *First-Past-the-Post* as a hangover of British legacy. The body that founded the Constitution of India debated the merits and demerits of *First-Past-the-Post* and as well as that of alternative systems, and through a process of elimination (rather than selection) it concluded that India must adopt this system for General Elections to the Lok Sabha. Mainly, *First-Past-the-Post* was chosen over proposed complicated alternative systems such as the list system, the transferable vote, and preferential voting because the former was interpreted as more practicable than the latter in the situation that prevailed in the country at that time – a nation of mostly illiterate first-time voters who were yet to be acquainted with the structures and processes of democracy, and were yet to imbibe the reasoning nature of the democratic spirit. *First-Past-the-Post* was chosen over proposed long-drawn alternative systems such as two-round or multi-round runoff voting because the latter would require an unfeasibly greater investment of financial and administrative resources than the former. *First-Past-the-Post* was chosen for the Lok Sabha over Proportional Representation which was chosen for the Rajya Sabha because at the time the assembly felt that *First-Past-the-Post* is less likely to cause a fractured vote and coalition government than Proportional Representation is, and hence the former is more suitable to the stable working of a Parliamentary Democracy than the latter.

Hence, the views of the Constituent Assembly[9] appear to be concurrent with the commonly mooted advantages of the *First-Past-the-Post* system: (a) simplicity, (b) stability and (c) constituency representation.[10] In India, however, it may be argued that these advantages have not quite been borne out. No doubt our *First-Past-the-Post* system renders the act of casting one’s vote simple; however, any convenience that this may provide is undone by the consequent complexity in government formation that results from the fragmented mandate that our *First-Past-the-Post* system delivers. *First-Past-the-Post* is likely to deliver a majoritarian government only in largely two-party systems such as the United Kingdom, rather than in multi-party systems such as India (the bi-polar coalitions notwithstanding). Successive coalition governments - and their dynamics that are shaped more by self-serving party gains than by National Interest - have kept us searching for the political stability that *First-Past-the-Post* is believed to accord.

Consequently,[11] the only real advantage that single member plurality through *First-Past-the-Post* has brought to the Indian electoral system is to make constituency representatives clearly identifiable and thereby accountable to the constituency electorate for constituency development. However, even here we find that single member plurality through *First-Past-the-Post* results in a significant flaw in the selection of the constituency representative: *First-Past-the-Post* only requires that the winner gain one vote more than that of each other candidate, and not one vote

more than that of all the other candidates put together. This often results in an electoral outcome wherein the constituency representative enjoys below-majority support of the electorate, placing her/his 'representative' nature in question. Hence arises the need to adopt a system that can provide consistent simplicity in the process of election as well as government formation, political stability through majoritarian government, the election of constituency representatives through majority mandate, while nevertheless vouchsafing Inclusive democracy as a core principle of representation in the Lok Sabha.

There appears to be no argument to hold India back from amending our system of Electoral Winner Determination to accommodate the above concerns: (a) India's constitutional and legal structures permit the substitution and/or supplementing of *First-Past-the-Post* with a more effective system of Electoral Winner Determination, (b) the institutions that carry the authority to sanction and execute this change, particularly the Law Commission of India, have recognized the need and expressed their willingness to substitute and/or supplement the *First-Past-the-Post* system, have undertaken exercises to identify an Electoral Winner Determination system of greater efficacy which is nevertheless feasible in the Indian socio-political context, and have even identified and recommended for the government's consideration specific alternative systems,[12](c) after over six decades of experience with complex electoral politics, India's citizens today have evolved in political maturity since the time of the inception of the Republic. The Constituent Assembly of India's[13] concern at the time of the debates – that India is a nation of mostly illiterate first-time voters who were yet to be acquainted with the structures and processes of democracy, and were yet to imbibe the reasoning nature of the democratic spirit – no longer holds true. Consequently, India's citizens are now ready for a more complicated and nuanced system than *First-Past-the-Post*, and (d) India today is not starved of resources in the manner that she was at the time of Independence. India today possesses the financial and administrative resources required to execute the substitution and/or supplementing of *First-Past-the-Post* with a more effective system of Electoral Winner Determination.

The fault of an unrepresentative Lok Sabha lies not in our method of conduct of elections, but in our method of determining the electoral winner. The employment of reformed electoral means – of free and fair elections, secret ballot, and universal adult suffrage – is inadequate to achieve our electoral end – of electing a representative Parliament. Yet, it may be commonly observed that whereas successive processes of electoral reforms have focused largely on improving the conduct of elections, very little concrete action has been taken towards reforming our method of Electoral Winner Determination. Our electoral practices make the conduct of an election an end in itself,

ignoring the fact that an election is but a tool to be used to return a representative Parliament, and that clean elections can be effective only when used in combination with a foolproof method of determining the electoral winner. Clearly, *First-Past-the-Post* is unable to serve as such a foolproof system, thereby creating an urgent need for an alternative system of Electoral Winner Determination in India.

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