

Election Commission of India

Cohort on Elections Integrity : Third International Conference **‘Inclusive Elections and Elections Integrity’** **(09 March 2023: New Delhi)**

Discussion Paper

Introduction

1. ‘Inclusiveness’ and/or ‘inclusivity’ in relation to Election Integrity is rightly assessed both as a means to an end as well as an end in itself. The first two interactions of the Cohort on Elections Integrity, i.e. on “Role, Framework and Capacity of EMBs” and, thereafter, on “Technology and Elections Integrity”, brought out that Election Management Bodies/Electoral Authorities (EMBs/EAs) acknowledge inclusivity as their foundational mandate. Accordingly, each step of the election process is designed to eliminate discrimination and to ensure inclusion. Inclusivity is viewed as a core building block of elections integrity, which in turn, builds public trust in the electoral outcomes. The discussions highlighted that ‘inclusivity’ allows the public at large and the electors in particular, to “buy into” the electoral steps as they unfold. This creates a sense of ownership and control of the electoral process, which in turn, adds to the credibility of the EMB/EA itself. Many of the commitments made during the Summit for Democracy (pertaining to the electoral space), focus on inclusivity as a primary requirement to judge the credibility of both the EMB/EA as well as, the process they adopt and thus a bulwark to resist shrinking of democratic spaces. The Commitments of the Summit go beyond the framework of the EMBs/EAs in as much as they also address the legal or foundational constraints to the inclusion of all citizen groups in the electoral process. The focus of EMBs/EAs is to work out existing enabling environment in their respective jurisdiction in a manner that breaks down indirect and/or non-formal social or cultural or economic barriers to a wholesome citizen involvement in the electoral space.

2. Inclusiveness in the elections at one level is amenable to be quantified, specially in terms of voter registration and voter turnout by well-established ratios such as Elector to Population (EP) ratios/percentage of votes polled etc. However,

all previous discussions have also brought out the non-quantifiable dimension built into any measure of inclusivity, especially when dealing with differently situated societal groups such as Persons with Disabilities (PwDs), Third Gender, those with less digital access, older persons, women and geographically remote communities etc. Therefore, the filters and the benchmark of identifying said groups are regularly improved both by the EMBs themselves as a continuous evolution, as well as by international institutions, civil society organisations and academia [both national and international], who work tirelessly to evaluate EMB/EA's claims of inclusiveness and, advocate for further electoral reforms.

3. The complexity of the inclusivity dimension vis-a-vis credibility of electoral outcomes is reflected in the paradoxical dialectics which on one hand can return the finding that high voter turnout *per se* is no guarantee of an inclusive process or an electoral outcome. It still needs to be assessed as being free from coercion/ inducement / indirect or societal hesitations. While a lesser voter turnout, on the other hand, is reflective of the population (e.g. all identities are represented in at least the proportion for which they make up society) it can demonstrate a credible mandate as no group is excluded from the decision-making process and still yield a trusted electoral outcome reflecting accurately the majority will, provided the process followed can be verified or assessed by electors as being inclusive.

4. For achieving a trusted electoral outcome, EMBs/EAs constantly work to ensure that each of the electoral steps are inclusive. The sequencing of the electoral steps generally begins with voter registration and, ends on the voting day in terms of voters' participation. This sequence contains empirical breaks, normally enforced by law, where inclusiveness quotient of a predecessor step of the process cannot be remedied in the next step. Thus, for example the process of preparing updated, accurate and wholesome electoral rolls is normally halted at a legally determined time, so that the rolls are firmed up for the actual poll. Inclusiveness in that sense needs to be embedded in each step, so as to cumulatively stack up to a trusted electoral outcome. In that sense, at each step of the electoral process, inclusivity is an end in itself.

5. The previous discussions also saw members approaching technology with the twin objectives of ensuring inclusion and so also providing self-validating tools to the

electors to continuously and transparently evaluate their own place in the electoral space. Technology despite its myriad challenges was clearly seen as an enabler which endowed EMB's/EA's the capacity to deal with volumes and respond on real time basis. The successful use of technology platforms were highlighted by various EMBs/EAs to support the powerful role that technology can play in electors, political parties and CSO's sense of ownership and participation in the electoral space and hence works to enhance voter trust. It is noted that trust is increased only when marginalised voters feel that it also increases their access.

6. In this 3rd and the last Conference, the members are expected to consolidate the “process” and “practice” aspects of “inclusiveness” which they variously ensure. The members may endeavour to bring out ‘inclusiveness’ and its imperatives as an outcome of the Elections Integrity Cohort, as well as of the Summit. Concepts such as transparency, self-disclosures, grievance redressal, use of appropriate technology, the capacity to respond to fair public criticism w.r.t. claims of inclusiveness by the EMBs/EAs, as well as the confidence of EMBs/EAs to take on the false narratives or dis-information (which also pervades the electoral space) are all vital to achieve an inclusive election.

Legal Framework

7. International standards for elections emanate from political rights and fundamental freedoms established by universal treaties and political commitments. Elections must be held by universal suffrage. Participation in terms of universal suffrage as a human right stems from the Universal Declaration of Human Rights, (UDHR) 1948 and the International Covenants on Civil and Political Rights (ICCPR), 1966. It is further expressed for ‘Inclusion’ in specific terms under the Convention on Elimination of Discrimination against Women (CEDAW) 1979, UN Convention on Rights of Persons with Disabilities, (CRPD) 2006 and Convention on Elimination of Racial Discrimination 1969 (CERD) besides similar other UN Treaties and Regional instruments.

8. The United Nations Centre for Human Rights in its Handbook on Human Rights and Elections (1994) <file:///C:/Users/Admin/Downloads/Human%20Rights%20and%20Elections%20Handbook.pdf> gives a comprehensive presentation of standards and issues relating to conduct of free and fair elections

including initiatives that may be taken for enhancing the participation of Women, Persons with Disabilities and Senior Citizens. It has spelt out the following guiding principles for voter education: “*Public Information and Voter Education - Para 125 : Literature should be widely available and should be published in the various national languages to help ensure the meaningful participation of all eligible voters. Multimedia methods should be employed to provide effective civic education to people with various levels of literacy. Voter education campaigns should extend throughout the territory of the country, including to rural and outlying areas.*” The CEDAW, the ICERD, the 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities and CRPD specify the mandate for inclusion and special attention to women, PwDs and various other underrepresented groups in society in terms of universal electoral participation. Emphasis on civic and voter education for all is laid down in the UNCHR Handbook.

9. A non-discriminatory universal adult franchise is now clearly a legal mandate as per international law and thus a requirement of domestic law.

Functional Dimensions – Best Practices and Procedures making the journey of electoral spaces from being inclusive, to being participative and, to being credible:

10. Election Management Bodies of different countries, with a view to fulfil the mandate for ‘Inclusive Elections’, have evolved their operational framework and developed strategies and action plans to identify and obliterate barriers, facilitate and maximize the participation of all categories of voters. This includes removing barriers in both in enrolment and polling faced by women, PwDs, senior citizens, young voters, third gender and marginalized populations. Other special groups may include Persons on poll duty, Security Personnel on duty, First time Voters, Populations with low levels of literacy, transgender, migrant labour, and internally displaced persons etc. for focused attention through strategic initiatives on inclusion in electoral participation.

11. EMBs/EAs have a key role in enhancing participation of all groups as listed above. In most countries, these institutions play a crucial role in the strategies, design and implementation of electoral policies. With their in-depth knowledge and practice of electoral legislation, EMBs/EAs are uniquely placed to support gender

equality and Women's empowerment and equal access to PwDs and Senior Citizens in the electoral process.

12. Published literature and EMB's/EA's own disclosed position manifest the following broad trends in play, viz.

(a) EMBs/EAs respond to and absorb 'entitlements' for special consideration being mandated in other enactments by the legislature. Typical example being when UN conventions or legal mandate create a legislative framework for special facilitation and access to PwDs, women and such groupings. Here too, literature reflects a strong trend of many EMB's/EA's creating facilitative measures which go beyond the 'statutory minimum'. The ECI example of categorization of "disability" and "benchmark disability" is such an example. Thus the Electoral Rolls in India have all categories of PwDs marked so as to facilitate access etc. on polling day. However, as per the Indian Law, for a person with benchmark of disability of 40% and above, the ECI provides special voting mechanism option.

(b) Literature reflects that in several jurisdictions, the EMB/EA took proactive steps to create Standard Operating Procedures (SoPs) without waiting for any legislative intervention. Thus, special measures to deal with barriers of remoteness, literacy, social & cultural hesitation, third gender inclusiveness etc. are good instances of electoral space showing a higher empathy and sense of duty and the EMBs/EAs fulfilling their mandate under the human rights frameworks noted in the legal section. The genre of 'outreach' measures in electoral space has had a pioneering effect on recognising "disadvantaged" groups beyond those legislatively recognized.

Proposed Session Structure

13. As this is the 3rd final Conference in the Calendar of events agreed to within the Cohort on Elections Integrity, it is expected and proposed that the Conference deliberation attempt both, i.e. (a) tying up of previous discussions and linking them to the expression of inclusivity [and, therefore, credible elections] from the view point of role and framework of EMBs/EAs and use of technology. And (b), to drill down on the presently faced challenges and constraints to inclusiveness and the strategies followed by member EMBs/EAs to overcome them.

14. As per published literature, the inclusivity challenge in the foundational sense i.e. creation of legal enablement or, removing of legal barrier for citizens' participation, as elector, is generally outside the remit of the EMBs/EAs. At best, EMBs/EAs at various points of their existence have recommended reforms to this end to the respective governments. Therefore, this issue of entry conditions in themselves being restrictive and not par with the international legal standards, is a matter which the participative Government in the Summit will address. Therefore, the Cohort can decide to add its weight through a categorical recommendation to this end.

15. Within the remit of the EMBs/EAs, the virtual conference may cover the following topics:

- a. Challenge in terms of enumerating the barriers to inclusivity covering focus on various methodologies to identify the disadvantaged groups at different stages of the electoral process. Generally, these would include societal, cultural, educational, economic, social, digital, remoteness, numerical and other informal barriers. The participants may relate the above to the thematics of registration/actual voting/counting and electoral outreach.
- b. Remedial measures including use of technology to enhance the voter experience especially at the polling station, role of election planning tools like vulnerability and critical mapping, & voter grievances and their resolution.
- c. Capacity building of EMBs/EAs and the need of having adequate statistical data in consultation with other government departments which focus on specific disadvantaged groups such as women, PwDs, third gender, youth, senior citizens. Utilising of the statistical and database information, science and technology to develop self-diagnostic tools as well as to encourage open audit of its operations from this perspective, could be an area of focus.

BACKGROUND REFERENCES

16. (a) The Concept Note for the Cohort on Elections Integrity circulated by ECI :
<https://eci.gov.in/files/file/14411-concept-note-summit-for-democracy-cohort-on-elections-integrity-led-by-election-commission-of-india/>

- (b) The Discussion Paper on 1st Conference on “Role, Framework & Capacity of EMBs” held in New Delhi on 30th November to 1st December, 2022 : <https://eci.gov.in/files/file/14639-discussion-paper-international-conference-on-the-theme-%E2%80%9Crole-framework-and-capacity-of-election-management-bodies/>
- (c) Statements/ Presentations by participants in 1st Conference : <https://eci.gov.in/ic/democracy-cohort-2022-participants/#presentation>
- (d) Proceedings and Summation Report of the 1st Conference : <https://eci.gov.in/files/file/14640-summation-report-international-conference-on-the-theme-%E2%80%9Crole-framework-and-capacity-of-election-management-bodies/>
- (e) The Discussion Paper on 2nd Conference on “Technology & Election” held in New Delhi on 23-24 January, 2023 : <https://eci.gov.in/files/file/14779-concept-note-and-discussion-paper-international-conference-on-%E2%80%9Cuse-of-technology-and-elections-integrity%E2%80%99/>
- (f) Proceedings and Summation Report of the 2nd Conference : <https://eci.gov.in/files/file/14775-proceedings-and-summation-report-on-the-international-conference-on-use-of-technology-and-elections%C2%A0integrity/>