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Anatomy of Indian Parliamentary Elections

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Chapter 2
The Anatomy of Indian Parliamentary Elections

2.1 Introduction

In elections to India's lower house of Parliament (the *Lok Sabha*) a single representative for each of 543 constituencies is elected - on the basis of obtaining the largest number of votes of all the candidates contesting that constituency – as the Member for that constituency. This system of election is known as the First-Past-The-Post (FPTP) system. In this chapter we examine features of the system of elections to India's lower house of parliament (hereafter, the *Lok Sabha*) with respect to the size of the electorate, the percentage of voters that turned out to cast their vote, and the candidates that offer themselves to the voters' judgement. Using recently available data, we examine the consequences of voters being able, under a 2013 ruling by India's Supreme Court, to reject all available choices by availing of the option of voting for a fictional candidate, 'None of the Above' (NOTA). We also examine the electoral performance of candidates who (following a 2003 Supreme Court ruling, requiring *all* candidates to reveal, six months before they filed their candidacy papers, whether there were outstanding criminal charges against them) had criminal charges against them.

Before doing so, we discuss in the next two sections the twin pillars of India's electoral system: the Election Commission of India (ECI) which oversees and regulates the electoral activities of political parties with the power to proscribe any activity (or activities) it feels inappropriate to the electoral process; and the plethora of political parties which, through their candidates, seek the mandate of voters and, by doing so, subject themselves to the regulatory supervision of the ECI.

2.2 The Election Commission of India

The ECI is a body mandated under Article 324(2) of the Indian constitution and currently comprises a Chief Election Commissioner and two Commissioners.[1] Its constitutional role is the "superintendence, direction, and control of elections". Under the Representation of the People Acts of 1950 and 1951, the ECI appoints the Chief Electoral Officer in each state or Union Territory (UT), the

[1] Article 342(2) states that the Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the President may from time to time fix and the appointment of the Chief Election Commissioner and other Election Commissioners shall, subject to the provisions of any law made in that behalf by Parliament, be made by the President.

District Election Officer for each district, and the Returning Officer for each *Lok Sabha* or Assembly constituency where the latter is responsible for the conduct of elections in that constituency. The ECI in consultation with the state or UT government appoints an Electoral Registration Officer who is responsible for the preparation of the electoral rolls for each constituency in that state or UT. The District Election Officer then appoints the Presiding Officer for a particular polling station who, with the assistance of Polling Officers, is responsible for voting at that station. In addition, the ECI may appoint 'observers' to a particular constituency – either with respect to the general conduct of that election or, more specifically, with respect to election expenditures - who then report directly to the ECI.[2]

The Electoral Commission of India (ECI) has progressively tightened its views on permissible campaigning practices through its *Model Code of Conduct (MCC).*[3] At the start of an election period, this Code sets out an elaborate set of parameters within which elections should be conducted. In general, the MCC places strictures on the conduct of the election campaign by requiring that:

1. "No party or candidate shall include in any activity which may aggravate existing differences or create mutual hatred or cause tension between different castes and communities, religious or linguistic".
2. "Criticism of other political parties, when made, shall be confined to their policies and programme, past record and work. Parties and Candidates shall refrain from criticism of all aspects of private life, not connected with the public activities of the leaders or workers of other parties. Criticism of other parties or their workers based on unverified allegations or distortion shall be avoided".
3. "There shall be no appeal to caste or communal feelings for securing votes. Mosques, Churches, Temples or other places of worship shall not be used as forum for election propaganda".
4. "All parties and candidates shall avoid scrupulously all activities which are "corrupt practices" and offences under the election law, such as bribing of voters, intimidation of

[2] See McMillan (2012) for a detailed account of the formation of the ECI.
[3] See http://eci.nic.in/eci_main/MCC-ENGLISH_28022014.pdf, accessed 5 November 2015.

voters, impersonation of voters, canvassing within 100 meters of polling stations, holding public meetings during the period of 48 hours ending with the hour fixed for the close of the poll, and the transport and conveyance of voters to and from polling station".

5. "The right of every individual for peaceful and undisturbed home-life shall be respected, however much the political parties or candidates may resent his political opinions or activities. Organizing demonstrations or picketing before the houses of individuals by way of protesting against their opinions or activities shall not be resorted to under any circumstances".
6. "No political party or candidate shall permit its or his followers to make use of any individual's land, building, compound wall etc., without his permission for erecting flag-staffs, suspending banners, pasting notices, writing slogans etc."
7. "Political parties and candidates shall ensure that their supporters do not create obstructions in or break up meetings and processions organized by other parties. Workers or sympathisers of one political party shall not create disturbances at public meetings organized by another political party by putting questions orally or in writing or by distributing leaflets of their own party. Processions shall not be taken out by one party along places at which meetings are held by another party. Posters issued by one party shall not be removed by workers of another party".

As Singh (2012) points out, the MCC was first developed in the 1960s in the state of Kerala following a broad consensus among politicians about the need for ethical ballast to the electoral vessel. Despite the fact that it has no statutory basis, the MCC has progressed from a voluntary agreement between political parties to a set of prescriptive rules, codified and implemented by the ECI with the acquiescence (however, grudgingly given) of all the political parties involved.

In 2013, the Supreme Court directed the ECI to frame guidelines with regard to the contents of election manifestos in consultation with all the recognized political parties. Broadly, the ECI expects that manifestoes will not seek to beguile voters by containing promises which cannot be met and, indeed, which the party concerned has no intention of meeting. In particular, the ECI expects

that "manifestos also reflect the rationale for the promises and broadly indicate the ways and means to meet the financial requirements for it.

The MCC also constrains the ruling party, in particular its government's ministers, from using public resources – cars, planes, helicopters, government personnel – for campaign purposes or to seek to influence voters by announcing new grants (for example, increases in pensions), new projects (like roads, hospitals, schools), or to make strategic appointments (like, university vice-chancellors or chairpersons of public bodies). Such constraints that the ECI places on the pre-election behaviour of the ruling party - and, in respect of bribing and intimidating voters, also on other parties - blunts the use of 'vote banks' for electoral purposes.

In the Indian context, Srinivas (1955) coined the term 'vote banks' to mean the exchange of benefits and favours to groups of citizens in return for their political support. Vote banks had three essential features: political parties which, at the time Srinivas was writing, was essentially the Congress party; a village 'middle man', usually a high caste landowner who was a party member and who had agency over groups of voters; and voter groups. There was then a patron-client relationship between party and 'middle man', and the middle man and voters, based on a system of reciprocal favours.

Favours to voters took essentially two forms: the provision of local public goods targeted at particular groups, say a paved road or a school in a locality in which people from a group were concentrated; the provision of private benefits to targeted groups of (usually poor) voters, often in the form of cash payments or gifts in kind like cycles, sewing machines, and illegally supplying below poverty line (BPL) cards to voters who do not qualify for these (Breeding, 2011). This raises the interesting question, addressed by Schedler and Shaffer (2007), of how one should distinguish between favours granted through the public purse ('local' public goods) and payments in cash and in kind. Indeed, even when direct payments are made they should not necessarily to be viewed as purely commercial transactions; instead, they may reflect a socio-cultural relationship between the patron and client, embodying 'obligation and reciprocity' and an egalitarian transfer of resources from rich to poor (Srinivas, 1955).

However, the efficacy of vote banks as an electoral instrument has been severely blunted by the MCC in respect of its strictures on bribing and intimidating voters. An important consequence of the MCC has, therefore, been that the reliance of parties in India on vote banks to deliver electoral approval is based more on hope than on expectation since falling foul of the ECI's strictures risks severe penalties including disqualification.[4] Today in India, not least because of the efforts of the ECI, as Breeding (2011) observes, "vote banks are social displays of wealth on the part of political parties to attract, primarily low-income citizens; they are gestures, historical remnants of a system in which the rules governing the game have changed" (p.77).[5]

2.3 India's Political Parties

Any political party wishing to contest an election in India for a seat in a state legislative assembly or to the *Lok Sabha* must first register with the ECI with the advantage of registering being that the (registered) party gets preference in the matter of allotment of free symbols vis-à-vis purely independent candidates. The ECI then classifies registered parties as 'recognised' or 'unrecognised' parties with recognition being awarded as a 'national' or as a 'state' party.

In order to be recognised as a 'national' party, a party must fulfil *any* of the following conditions:[6]

1. It wins 11 *Lok Sabha* seats from at least three different states.
2. At a *Lok Sabha* general election, it polls six percent of votes in four States and also wins four *Lok Sabha* seats.
3. It is recognised as a 'state party' in at least four states.

In order to be recognised as a 'state' party, a party must fulfil *any* of the following conditions:

[4] As a consequence of employing over two million workers during elections, the ECI's observers are ubiquitous and, since they are drawn from the ranks of those in civilian employment, cannot be easily identified. In addition, the Indian media seizes upon any infractions of the MCC and affords them considerable publicity.
[5] Indeed, it is a moot point whether the fact that 'vote buying' is virtually unknown in Western countries is due more to the difficulty of doing so than to any innate moral superiority. Wang and Kurzman (2007) detail the planning, organization, and sheer expenditure required for a widespread vote buying in the 1993 elections in Taiwan. Vote buying required extensive network of brokers who would each control small groups of voters. In order to be effective, such a network was predicated on: detailed local knowledge; relationships of trust between party brokers and voters; a large budget; and legal circumspection in conjunction with, possibly, judicial protection. To compound these problems, 45% of voters did not deliver on their promises to vote appropriately.
[6] Press Information Bureau, Election Commission of India, http://pib.nic.in/newsite/PrintRelease.aspx?relid=104537 retrieved 6 November 2015.

1. It should win at least three percent of the total number of seats or a minimum of three seats in the Legislative Assembly.
2. It should win at least one seat in the *Lok Sabha* for every 25 seats (or fraction thereof) from that State.
3. It should obtain at least six percent of the total valid votes polled during general election to a *Lok Sabha* or state Legislative Assembly and should, in addition, win at least one *Lok Sabha*, and two Legislative Assembly seats in that election.
4. Even if fails to win a seat to the *Lok Sabha* or to the state assembly, the party will still be recognised as a state party if it secures eight percent or more of the votes in that State.

As of 12 February 2014, there were, on the above criteria, six recognised *national* parties in India: the Bharatiya Janata Party (BJP); the Indian National Congress (INC); the Communist Party of India (CPI); the Communist Party of India Marxist (CPM); the Bahujan Samaj Party (BSP); and the Nationalist Congress Party (NCP). In addition, there were 47 recognised *state* parties and 1,563 'unrecognised' parties. [7]

Table 2.1 shows the composition of the 16th Lok Sabha (that is, formed after the May 2014 General Election). This shows that the status of a party - as a recognised national or state party – had little bearing on the number of seats it held in the 16th Lok Sabha – after the BJP and INC, the next six parties with the largest number of seats were all state parties with a national party (the CPM) only appearing in seventh place.

<Table 2.1 >

In every *Lok Sabha* election since 1989, the majority of votes cast accrued to the collective of the INC and the BJP. In the *Lok Sabha elections*of 2014 the two parties collectively received 51 percent of the vote with the BJP winning 282 seats with 31.3 percent of the national vote and the INC winning 44 seats with 19.5 percent of the national vote. The All India Dravida Munnetra Kazhagam came third in terms of seats, winning 37 seats with just 3.3 percent of the national vote.

[7] Press Information Bureau, Election Commission of India, http://pib.nic.in/newsite/PrintRelease.aspx?relid=104537 retrieved 6 November 2015.

2.4 Electorates and Turnout

Compared to the United Kingdom, the size of the Indian electorate is enormous. In the 2015 UK General election, the average size of the electorate in a parliamentary constituency was just over 71,000. In the 2014 *Lok Sab*ha elections, the average electorate size was 1.53 million. Only one Indian parliamentary constituency, the Lacadive Islands, with an electorate of just under 50,000, was smaller than the UK's largest constituency – the Isle of Wight with an electorate of 108,000. Malkagiri in Andhra Pradesh had an electorate of over 3 million and nine constituencies had electorates between 2 million and 3 million.[8] The turnout in Indian elections is also high: 67% of voters exercised their franchise in the 2014 *Lok Sabha elections*- compared to 66% in the 2015 UK General Election - and the average turnout, over the 14 *Lok Sabha* elections between 1962 and 2014, was 58.6%.[9] In 2014, the turnout of voters was greater than 80 percent in 69 constituencies and it fell below 50 percent was in only11 constituencies.

Table 2.2 shows, for each *Lok Sabha* election between 1962 and 2014, the average size of the electorate, the percentage of voters who voters in these constituencies, and also inter-constituency inequality in the distribution of these sizes and turnouts. Inequality is measured by the Gini coefficient which is one of the most commonly used inequality measures. If N represents the total number of constituencies and E_i *and* E_j are the electorate sizes in constituencies i and j, the Gini coefficient is defined as:

$$G = \frac{1}{2N^2\mu}\sum_{i=1}^{N}\sum_{j=1}^{N}|E_i - E_j|$$

In other words, the Gini coefficient is computed as half the mean of the difference in sizes between pairs of constituencies, divided by the average constituency size (μ). So, in 2014, with a mean constituency size of 1,536,144 and a Gini value of 0.092, the *difference* in electorate sizes between two constituencies *chosen at random* would have been 18.4% of 1,536,144 or just under 283,000.

[8] Chelvella (Andhra Pradesh), North West Delhi, West Delhi, Bangalore North, Bangalore Rural, Indore (Madhya Pradesh), Thane (Maharashtra), Ghaziabad (Uttar Pradesh) and Unnao (Uttar Pradesh).
[9] Though turnout in the UK General Elections exceeded 80% in the 1950 and 1951 elections and remained above 70% for all elections between 1945-97.

<Table 2.2 >

Table 2.2 shows that, between 1962 and 2014, the average size of the electorate increased by a factor of 3.5: from 437,876 in 1962 to 1,536,144 in 2014. Over the same period inequality in electoral size increased slightly: in 1962, the largest 10 percent of constituencies had an average electorate (493,266) that was 1.25 times the average electorate of the smallest 10 percent of constituencies (393,246); by 2014, this mark-up had increased to 1.44 (1,808,886 versus 1,258,59).

In order to examine changes in turnout, we can split the elections into two periods: 1962 to 1984 (when the BJP made its first electoral foray, winning just two seats in the 8th *Lok Sabha*); and 1989 (when the BJP secured 85 seats in the 9th *Lok Sabha*) to 2014 (when the BJP secured 282 seats in the 16th *Lok Sabha*). The average turnout increased from 57 percent in the earlier period to 60 percent in the later period and the turnout in constituencies in the highest and lowest deciles of turnout increased from 71.2 percent and 42.3 percent, respectively, in 1962-84 to 76.3 percent to 44.5 percent, respectively, in 1989-2014.

<Table 2.3 >

Table 2.3 shows the average turnout for the 2014 *Lok Sabha* elections by the major states of India. This table shows that the highest turnout was in West Bengal (82.2 percent) and the lowest in Jammu & Kashmir (50.6 percent) with several states recording a voter turnout in excess of 70 percent.

Considerations of voter turnout at elections raise the question of why people bother to vote. Traditional theories of voting are based on an individualistic model of voting. On this view of voting, it is not clear why a rational individual, on a purely cost-benefit basis, would bother to vote: the chances of an individual vote influencing the electoral outcome are infinitesimally small while the costs of voting – taking time off work, standing in a long queue – are real and not insubstantial (Downs, 1957). However, given the far from negligible turnout witnessed in elections in India and, indeed, throughout the world, it is clear that people do take the trouble to vote.

One reason why people vote is because of 'group identity' voting which has been analysed, for elections in Israel, by Hillman *et. al.* (2014). In the Indian context, the existence of vote banks go some way towards explaining why large numbers of people in India turn out to vote. Downs' (1957) argument was based on the belief that the *costs* of voting – gathering information about parties and

candidates, registration, time spent to/from/at the polling station – were specific to the voter and were likely to exceed the *benefits* from voting. The latter are in the form of collective goods and their benefit to a specific voter are likely to be zero.[10] However, in the context of 'vote banks', many of the benefits of voting may be private benefits paid to groups of voters for their electoral support and may be quite substantial.

The existence and implementation of the Model Code of Conduct, discussed earlier, is likely to have diminished the importance of an exchange of favours, between electors and candidates, that characterised traditional vote banks. However, in addition to opportunistic electoral politics, based on reciprocal favours, there are several, more general, explanations for this paradox of (not) voting. As Geys (2006) observes, the instrumental theory of voting holds that an action has value only if it affects outcome. Sen (1977) argued that if "outcome" was narrowly defined as serving one's own interest, to the exclusion of any other's, then a person acting in such a manner might be 'rational' but he would also be a fool.

Indeed, Sen (1977) argued that people act out of a myriad motives many of which are unconnected with self-interest. One of these is 'sympathy', another is 'commitment'. Even if it is argued that 'sympathy' is just an economic externality, Sen (1977) argues that commitment involves a counter-preferential choice, destroying the crucial assumption that the chosen alternative must be better than the others – "it drives a wedge between personal choice and personal welfare" (p. 329). Consequently, the high turnout in elections "may be guided not so much by expected utility maximisation but by something simpler, viz. just a desire to record one's true preference" (p.333).

The concept of 'expressive voting' elaborates upon, and extends, the view of people voting to record their preference. In terms of 'expressive voting', people vote not for instrumental reasons – that is to effect change – but rather to express an opinion or a point of view, regardless of whether that turns out to be the winning opinion. This view has been articulated by *inter alia* Brennan and Lomasky (1993), Hillman (2010), and Hamlin and Jennings (2011).

[10] Besley *et. al.* (2012) suggest that, in the context of Indian villages, residents in the *Gram Pradhan*'s village had greater access to public goods than residents in other villages.

All this is not to say that expressive voting cannot be self-interested or not result in change. As regards the first point, Hillman (2010) argues that expressive utility, along with material utility, comprises total utility. A person's voting decision may be based simultaneously on maximising material utility (a high income person votes against higher tax and more generous welfare payments) and on maximising expressive utility (a high income person affirms his identity). As regards the second point, if a sufficient number of people express the same opinion then social and political change – sometimes dramatic – inevitably follows. The 2014 Indian election results, which led to a landslide victory for the Bharatiya Janata Party (BJP) under Narendra Modi, can be interpreted as an expression of the electorate's distaste for the ineffectual, dynastic government led by the Congress Party. As Banerjee (2014) argues that, "for many Indian voters, voting is not just a means to elect a government…rather the very act of voting is seen by them as meaningful, as an end in itself, that expresses the virtues of citizenship, accountability, and civility that they wish to see in ordinary life, but rarely can. " (p. 3).

2.5 Independent Candidates and 'None of the Above'

Lok Sabha elections attract a large number of candidates to most constituencies but the record must surely be held by Nalgonda in Andhra Pradesh and by Belgaum in Karnataka which, in 1996, fielded, respectively, 480 and 456 candidates. Apart from this bounty of candidates in Nalgonda and Belgaum, 1996 was a bumper year for contesting *Lok Sabha* elections: *inter alia* the constituency of East Delhi was contested by 122 candidates; Allahabad by 73; Nagpur by 60; Muzaffarpur (Bihar) by 67; Pune by 44 and so on. Table 2.4 shows the average number of candidates in a constituency for each of the *Lok Sab*ha elections between 1962 and 2014. The numbers in this table point to a secular increase in the number of candidates from around five per constituency for the four elections between 1962 and 1977 rising to about 14 per constituency for the three elections of 2004, 2009, and 2014.

<Table 2.4>

As Table 2.4 shows, this increase is partly due to the increase in the number of independent candidates in a constituency (up from an average of one per constituency in 1962 to six per constituency in 2014) but it is partly also due to the increase in the number of political parties (up

from an average of three per constituency in 1962 to 10 per constituency in 2014). In 1962, of an average of four candidates per constituency, one was an independent and three were party candidates; in 2014, of an average of 16 candidates per constituency, six were independents and ten were party candidates. What is undoubtedly true is that the ratio of independent to party candidates has shifted in favour of the former: in 1962, there were three party candidates for every independent candidate but, in the elections between 1984 and 1996, party candidates were outnumbered by independents and in 2004 and 2009 there was approximately one independent candidate for every party candidate.

One possibility for the rise in independent candidates is not that they expect to win but that they want to undermine the vote of a party candidate. In a closely fought election (discussed in the next chapter) the presence of independent candidates can erode support sufficiently to have an appreciable impact of on the outcome.[11] Another reason for the reason for the rise in the number of independent candidates could be pique at being denied a party nomination. Since being a *Lok Sabha* member is a rewarding job - offering *inter alia* a good salary, generous pension benefits, government provided housing in the capital, and free travel across India - there is considerable competition to be adopted as a major party's candidate for a constituency ("getting a ticket", as it is termed in India). Alas, many are called, but few are chosen. Some of those not chosen seek to exact revenge by standing against the official candidate who deprived them (unfairly, in their eyes) of their opportunity.

<Table 2.5 >

Table 2.5 shows, for the 2014 *Lok Sabha* elections, the average number of candidates in a constituency in the 20 major Indian states. The smallest number of candidates in a constituency were in the three eastern states of Orissa (10.3 candidates), West Bengal (12.2 candidates), and Assam (12.6 candidates) and the northern state of Himachal Pradesh (10.5 candidates). These states had also the smallest number of independent candidates per constituency: 1.5 in Orissa; 2 in West Bengal; 2.8 in Himachal Pradesh; and 4.2 in Assam. At the other extreme, the newer states of Chhattisgarh and Jharkhand had a large number of candidates per constituency (20.2 in Chhattisgarh and 18.1 in

[11] This point is developed by Praveen Chakravarty, "Independent Candidates: party-poopers in disguise", *Business Standard*, 28 November 2013, http://www.business-standard.com/article/opinion/praveen-chakravarty-independent-candidates-party-poopers-in-disguise-113112800936_1.html accessed on 29 September 2015.

Jharkhand) and they were joined in this plethora of candidates by Tamil Nadu (22.7 candidates per constituency), Punjab (20.5 candidates per constituency), and Maharashtra (19.7 candidates per constituency).

Although there has been a rise in the number of independent candidates over time, this has not been matched by the number of independent members of the *Lok Sabha.* Figure 2.1 shows that the number of independent members in the *Lok Sabha* fell from 35 in 1967 to just three – one from Assam (Kokrajhar) and two from Kerala (Chalakudy and Idukki, respectively) - in 2014.

<Figure 2.1 >

Between them, independent candidates received a total of nearly 17 million votes in the 2014 *Lok Sabha elections* which represented three percent of the total of nearly 554 million votes cast in that election. Figure 2.2, which charts the share of independent candidates in the total of votes cast, shows that, notwithstanding the increase in the number of independent candidates between 1962 and 2014 (noted in Table 2.4), the proportion of the total votes going to independent candidates has seen a secular decline from 13 percent in the *Lok Sabha* elections of 1962 to three per cent in the *Lok Sabha* elections of 2014.

<Figure 2.2 >

None of the Above (NOTA)

Voting for independent candidates, arguably, expresses dissatisfaction with political parties in effectively representing voters' needs. A rejection of all candidates in a constituency, on the other hand, is an unambiguous rejection of the entire political system, party and non-party, in that constituency. In September 2013, the Supreme Court of India upheld the right of voters to reject all candidates contesting elections and directed the ECI to provide voters with the option of casting their vote for a phantom candidate: 'None of the Above' (NOTA). Following this directive, the *Lok Sabha* election of May 2014 was the first parliamentary election to incorporate the NOTA option.[12]

In this election, NOTA received just over a total of 6 million votes – that is, 11 million less than the 17 million received by the collective of Independent candidates - and the three constituencies

[12] Before NOTA, voters wishing to reject all the candidates were required to enter their names in a register and cast their vote on a separate paper ballot.

with the largest number of NOTA votes were: the Nilgiris (Tamil Nadu) with 46,559 votes comprising 5 percent of the total votes cast in the constituency; Nabrangpur (Orissa) with 44,408 votes comprising 4.3 percent of the total votes cast in the constituency; and Bastar (Chhattisgarh) with 38,772 votes comprising 5 percent of the total votes cast in the constituency.

The state with the largest number of NOTA votes was Uttar Pradesh (592,211 votes), followed by Tamil Nadu (582,062 votes), followed by Bihar (581,011 votes), followed by West Bengal (568,276 votes). These four states, collectively, accounted for 39 percent of the total of NOTA votes.

2.6 Candidates with Criminal Histories or Who Face Criminal Charges

In a landmark judgement in 2002, the Indian Supreme Court, mandated that, prior to an election, all candidates running for public office should file affidavits with the ECI in which they would report criminal histories or pending criminal charges for any offense punishable with imprisonment of two years or more; these affidavits were to be lodged six months before the individual filed his/her candidacy papers.[13] Since these rulings, there have been three *Lok Sabha* elections – 2004, 2009, and 2014: information on the 'criminal status' of all the candidates in the 2004 and 2009 *Lok Sabha* elections was collected by Golden (2014), and made available through the Inter-University Consortium of Political and Social Research (ICPSR) at the University of Michigan and information on the criminal status of candidates in the 2014 *Lok Sabha* elections was available from the Association for Democratic Reforms (2014).[14]

<Figure 2.3 >

Figure 2.3 shows that in the 2004 election, 8.7 percent of the candidates (475 out of 5,435) reported a criminal charge (hereafter, 'CC candidates'); in the 2009 election, 11 percent were CC candidates (893 out of 8,070); and, in the 2014 election, 17 percent were CC candidates (1,401 out of

[13] *Union of India versus Association for Democratic Reforms*. In a subsequent judgement in 2003 – *Union of India versus People's Union for Civil Liberties* – the Supreme Court mandated the compulsory declaration of candidates' financial assets. Details in Sen (2012).

[14] The difference between the two sources was that while the Golding (2014) data was available for individual candidates, the Association for Democratic Reforms (2014) data was available only in aggregated form and only for winners.

8,180). Consequently, there would appear to be strong evidence that the proportion of CC candidates in the total of candidates for *Lok Sabha* elections is on the rise.

<Table 2.6 >

The proportion of CC candidates was, however, unevenly distributed over the states. Table 2.6 shows the proportion of CC candidates, in the total number of candidates, for every state in India. The outlier states in this table were Bihar and Jharkhand – remembering that Jharkhand was carved out of erstwhile Bihar in 2004 – where, respectively, 20 and 23 percent of candidates reported a criminal charge against them.[15]

The fact that persons with reported criminal charges were candidates for *Lok Sabha* elections begs the question of how they fared in these elections. Of the 543 *Lok Sabha* members elected in 2004 (to the 14th *Lok Sabha*) and in 2009 (to the 15th *Lok Sabha*), respectively 128 and 129 members – or 24 percent of the total – had reported criminal charges (hereafter, CC members). Since, as Figure 2.2 showed, there were a total 475 CC candidates in the *Lok Sabha* elections of 2004, and 893 CC candidates in the *Lok Sabha* elections of 2009, respectively, 27 and 14 percent of such candidates were elected to the 14th and 15th *Lok Sabha*. After the May 2014 *Lok Sabha* election, there were 1,401 CC candidates of whom 185 (13 percent) were elected to the 16th *Lok Sabha*. Conversely, the proportions of non-CC candidates elected were: 8.3 percent to the 14th *Lok Sabha*, 5.8 percent to the 15th *Lok Sabha*, and 5.3 percent to the 16th *Lok Sabha*.

<Table 2.7 >

Table 2.7 shows the inter-state distribution of CC members of the 14th and 15th *Lok Sabha*, (that is, after the 2004 and 2009 elections). The five states that stand out in this table are: Uttar Pradesh (27 out of 80 were CC members in the 15th *Lok Sabha*), Bihar (18 out of 40 were CC members in the 15th *Lok Sabha*), Maharashtra (12 out of 48 were CC members in the 15th *Lok Sabha*), Andhra Pradesh (9 out of 42 were CC members in the 15th *Lok Sabha*), and Tamil Nadu (9 out of 39 were CC members in the 15th *Lok Sabha*). In sum, these five states supplied 75 of the total of 129 CC members (58 percent) in the 15th *Lok Sabha*.

[15] For reasons set out in the previous note, we were unable to present state-wise information for the *Lok Sabha* elections of 2014.

<Tables 2.8, 2.9, 2.10 >

Tables 2.8, 2.9, and 2.10 show the party affiliations of CC members for, respectively, the 14th, 15th, and 16th *Lok Sabha*. Of the 128 CC members in the 14th Lok Sabha, 52 (41 percent) were supplied by the two main parties, the BJP (28 CC members) and the INC (24 members). The 15th Lok Sabha saw these parties increase their supply of CC members: now 71 of the total of 129 CC members (55 percent) belonged to the BJP (36 CC members) or the INC (35 CC members). Not to be underestimated either is the contribution of the smaller parties in supplying CC members. One in three of the 36 *Samajwadi Party* (SP) members in the 14th *Lok Sabha* reported a criminal charge while eight of the 12 *Shiv Sen*a members were CC members. In the *15th Lok Sabha*, eight of the 20 *Janata Dal (United)* members, six of the 21 *Bahujan Samaj Party* members, and eight of the 23 *Samajwadi Party* members reported a criminal charge. The 16th *Lok Sabha* saw the number of CC members rise to 187 which comprised 34 percent of the total strength of the House.[16]

The election of candidates with reported criminal charges to the *Lok Sabha* raises the further question of how they performed as legislators. This issue has been examined, with respect to the 14th *Lok Sabha*, by Gehring *et. al.* (2015). Their first conclusion was that, compared to non-CC members of the *Lok Sabha*, the attendance record of CC members was about 5 percent *lower*. There was, however, no difference in the amount of 'parliamentary activity' – raising questions and participating in debates – between CC and non-CC members of the 14th *Lok Sabha*.

The Indian government operates a Member of Parliament Local Area Development (MPLAD) Scheme under which members of the *Lok Sabha* can suggest - up to an amount of ₹5 crore (£0.5 million) per year - to the Collector of the district in which their constituencies lie, public works that might benefit their constituents.[17] Gehring *et. al.* (2015) analysed the utilisation of the MPLAD scheme by individual members of the *Lok Sabha* and found that CC members had a utilisation rate of monies under MPLAD that was 7 percent lower than of non-CC members. The overall conclusion must be that although CC candidates have a better chance of being elected than non-CC candidates

[16] It should be cautioned that the numbers from Golding (2014) and the Association for Democratic Reforms (2014) are not entirely consistent. For example, according to Golding (2014) there were 129 CC members in the 15th *Lok Sabha* while the Association for Democratic Reforms (2014) put this figure at 158.
[17] See Ministry of Statistics and Programme Implementation, Government of India, http://mplads.nic.in/ accessed 7 November 2015. This facility is also available to members of the Upper House, the *Rajya Sabha*.

(13 percent to 5 percent for the 16th Lok Sabha), once elected they do not serve their constituents, both for reasons of attendance and for reason of constituency improvement, as conscientiously as do non-CC member of the *Lok Sabha*.

2.7 Concluding Remarks

This chapter set out some of the salient features of the Indian electoral landscape beginning with the regulator, in the form of the ECI, and proceeding to the candidates, both party and non-party. The importance of the ECI in administering, managing, and controlling elections in India cannot be underestimated. For example, purely in terms of administration and management, elections in May 2014 to the 16th *Lok Sabha* were organised in nine phases beginning on 7 April 2014 and concluding on 12 May with the results being declared on 16 May. Nearly 815 million persons were eligible to vote, of whom nearly 550 million voted, using 930,000 voting centres deploying 1.4 million Electronic Voting Machines (EVM). All this required the ECI to engage two million workers to oversee the electoral process.

Mozaffar and Schedler (2002) argue that "good elections are impossible without effective electoral governance" and it is precisely such governance that the ECI seeks to provide. So much so, that Rudolf and Rudolf (2002) place the ECI alongside the Supreme Court and the Presidency as an enforcer of rules that "safeguard the legitimacy of the political system" and suggest that the cabinet and parliament have ceded pride of place to these three regulatory institutions.

While many of the duties of the ECI are technical and administrative, the MCC provides a moral compass for the conduct of electoral politics in India. In so doing, the ECI has mutated from a referee enforcing rules agreed to by others, to a regulatory body which makes rules which others have to obey (Singh, 2012). In assuming this role it has been aided by the Supreme Court ruling that under Article 324(2) of the Constitution, the ECI has "a reservoir of powers where the law was silent" (Singh, 2012).

Some find the authoritarian nature of the ECI's mode of operation to be troubling. For example, Chaterjee (2006) feels that, by riding roughshod over local culture and practices, the ECI

has gone too far in the direction of sanitising and cleaning politics. Yet others feel that, at critical moments, the ECI has proved toothless. After his alleged "hate speech" in Philbit constituency in March 2009, the ECI advised the BJP not to adopt Varun Gandhi as its parliamentary candidate in that constituency for the *Lok Sabha* elections of 2009; this advice was ignored and Mr. Gandhi went on to become the *Lok Sabha* member for Philbit. More generally, the ECI has proved impotent in arresting an unsavoury trend in Indian politics where candidates with reported criminal charges are elected to legislative office: as the previous section noted, one in three of members to the 16th *Lok Sabha* report criminal charges against them. Unfortunately there is nothing in Moral Code of Conduct to prevent this trend from continuing.