

# EVA STALIN IAS ACADEMY

12/24, Muthuranga Mudali St, next to Deepam Hospital,  
West Tambaram-600045

## Questioning the polls 'rain washes out play' moments

Getting elected unopposed is perfectly legal in the existing provisions of electoral laws and practice. It is also thrilling. You emerge as the unrivalled representative of the people without the people having chosen you because you are the only choice on the ballot. It is like achieving something without making the requisite effort.

Rule 11 of the Conduct of Election Rules 1961 says: "(1) The returning officer shall... cause a copy of the list of contesting candidates to be affixed in some conspicuous place in his office and where the number of contesting candidates is equal to, or less than, the number of seats to be filled, he shall, immediately after such affixation, declare under sub-section (2) or as the case may be, sub-section (3) of section 53 the result of the election in such one of the Forms 21 to 21B as may be appropriate..."

### Democratic rights, the process

Yes, in such a scenario, there is a victor but there is no 'vanquished' party. There are only those who are ruled out under the Rules and those who decided to 'voluntarily' withdraw. We must remember the recent example of the Surat Lok Sabha seat where the two candidates were disqualified and eight others withdrew. The purpose of this article is not to question the circumstances behind the extraordinary sequence of events but to go deeper into the process underlying the exercise of democratic rights.

Similarly, 40 other Assembly seats were procured in Arunachal Pradesh. Section 53 of The Representation of the People Act, 1951 says: "(1) If the number of contesting candidates is more than the number of seats to be filled, a poll shall be taken. (2) If the number of such candidates is equal to the number of seats to be filled, the returning officer shall forthwith declare all such candidates to be duly elected to fill those seats."

The question raised by some is that this process does not allow electors to exercise the None of the Above (NOTA) option. The NOTA option was not originally provided for in law but incorporated on court directions to 'enlighten' political parties and candidates about what some people thought of them.

That NOTA does not impact the election process in any way might sound insulting to those who think that way. The pity is that it does not even seem to affect political parties in any way whatsoever. Thus, what was conceived to be a progressive reform to influence the political culture hangs over the system like an "ineffectual angel, beating in the void his luminous wings in vain".

However, the real question arises here: what



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The Surat and Arunachal Pradesh results are issues that call for debate where an election is made to seem 'free and fair' despite people not having cast a single vote

happens if no one opts to contest the election or if all the electors boycott the election and "have failed to elect a person...to fill the vacancy"?

Is the Election Commission of India bound to call upon the constituency to elect a person again as it happens when say in government procurement there are unresponsive bids or no bids are received?

### The financial rules parallel

Interestingly, the General Financial Rules (GFRs), which is a compilation of rules and orders of Government of India to be followed by all while dealing with matters involving public finances (it was amended in a comprehensive manner when I was Union Finance and Expenditure Secretary), speak about "a fair, transparent and reasonable procedure" for public procurement. Rule 166, for instance, provides for a 'Single Tender Enquiry' that can be resorted to if the supplier is the original manufacturer, or in case of an emergency, or if there is a technical necessity for standardisation purpose. However, it does say in Rule 173(xx) that lack of competition "shall not be determined solely on the basis of the number of bidders. Even when only one bid is submitted, the process may be considered valid provided the procurement was satisfactorily advertised and sufficient time was given for submission of bids, the qualification criteria were not unduly restrictive, and prices are reasonable in comparison to market values".

The procedure followed under the Representation of the People Act (RPA) meets all these requirements although the two are in no way related. The similarity may be in the sense that electors are meant to choose from the available alternatives and if there is only a 'single bidder' to represent them they are not required to make a choice.

So, in a sense, the "elector" (defined in the RPA as "a person whose name is entered in the electoral roll of that constituency for the time being in force and who is not subject to any of the disqualifications") is completely excluded from the process of choosing his representative. A person who does not have even a single vote would sit in Parliament to legislate on behalf of the entire constituency.

This to my mind is the dichotomy that the present electoral process creates. It is designed to be pragmatic even if it appears not entirely fair. Unless there is a conflicting demand on their vote, the voters' choice is presumed because they have no choice. Does it mean that the election process can be controlled or manipulated by a handful of candidates who have the means to nullify the right of millions of voters? In an extreme situation, all the candidates in 543

parliamentary constituencies (even if they are 10,000 representing different political parties or independents) could game the system and deny a billion electors their statutory right by complying with the process but seriously wounding the spirit of democracy.

What can be done to remedy this remote but not impossible, extreme possibility?

It could be argued that voters could also be denied their right if there are no candidates to contest. The democratic process is fulfilled only when there is interest among the contestants and the voters. Someone has to seek your vote for you to cast it.

### The candidate is at the fore

The system is weighed in favour of the contesting candidates because the RPA provides that a complete boycott will be treated as everyone receiving zero vote and covered under Section 65 which deals with 'Equality of votes'. It reads thus: "If, after the counting of the votes is completed, an equality of votes is found to exist between any candidates, and the addition of one vote will entitle any of those candidates to be declared elected, the returning officer shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote". The will of the people is replaced by the expediency of the system in identifying who will represent the people who did not participate in the process. It is quite a paradox considering that democracy is defined as a "government of the people, by the people and for the people".

The RPA provides for issuing another notification if there are no candidates filing their nomination the first time but is silent if the same thing is repeated thereafter. However, it has a solution by completely excluding people if they abstain from elections and are deprived from the NOTA option because NOTA has no significance in the democratic exercise. Candidates can nullify the process but people collectively cannot. Does that mean that we consider amending the first-past-the-post system by introducing a minimum percentage of votes for the winning candidate? Similarly, if no candidate offers herself for elections the second time, should that seat be transferred to the nominated category where the President of India can nominate a person as per prescribed qualifications without consulting the government?

These are issues that call for a wide-ranging debate so that we can avoid the prospect of 'rain washes out play' or a 'collusive walkover' making the election seem 'free and fair' without giving people the opportunity to cast their vote without being subdued by fear or swayed by favours.

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## *The war on Gaza and America's paradoxical role*

Over 34,000 people are dead, i.e., nearly 33,000 Palestinians, 1,200 Israelis, 97 journalists and media workers, and hundreds of aid workers. Most of the Israeli casualties were the result of the attack by Hamas on October 7, 2023. And over 100 hostages still remain unaccounted for. However, the Israeli attack that has followed since that day of terror, is one of the worst in humanity. The tragedy is playing out on live broadcast and people cannot plead ignorance. It is important to remember that the conflict did not start on October 7.

There has been growing criticism of Israel for this massacre, but its western allies are equally culpable, most notably the United States.

### **Hypocrisy of neutrality**

Historically, the U.S. has been the primary supporter of Israeli statehood. It was the first country to recognise it. The U.S. has helped Israel's survival in an extremely hostile neighbourhood. Superficially, it has led efforts for the two-state solution following the 1973

Arab-Israel war in various forms including U.S. President Jimmy Carter's Camp David talks, Bill Clinton's Parameters for the two-state solution, George Bush's Road Map to Peace, and U.S. Secretary of State John Kerry's Six Principles.

The U.S. may act as a neutral arbiter but has been the force behind Israel's settler colonialism. It has regularly vetoed to protect Israel from UNSC resolutions claiming the UN, an organisation designed and dominated by the U.S. and its allies, is biased against the Jewish state. The U.S. is Israel's largest trading partner and its aid contributes to 16% of Israel's military expenditure. The Arab-Israel ties normalisation drive, often brokered by America, has gradually removed the Palestinian cause from Arab politics. If Israeli settler colonialism is a monster, then the U.S. is Dr. Frankenstein.



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Gaza is a reminder of the high costs of geopolitical manoeuvres and the real-world impact of normless international diplomacy

The American hypocrisy of neutrality was most visible in President Donald Trump's 'Peace to Prosperity' plan, a brainchild of Jared Kushner, which proposed to further take away land from the Palestinians, hand Jerusalem to Israel, and failed to provide Palestinians with the right to return or have a military defence after statehood. It was a completely pro-Israel plan and rightly rejected by the Palestinian Authority.

### **Under the Biden administration**

Under the Biden administration, U.S.-Israel relations have been relatively low due to Benjamin Netanyahu's attack on the judiciary, the coalition with the far right, and the attack on the Al Aqsa mosque. But the work on the Abraham Accords continued and the fundamentals of Israel-U.S. ties remained strong. Therefore, it was no surprise that Joe Biden in his October 10, 2023 address ("Remarks by President Biden on the Terrorist Attacks in Israel") stated that 'the United States has Israel's back'.

Despite domestic fiscal pressure, Mr. Biden has bankrolled Israel's war on Gaza. The U.S. is also at the forefront of rallying western allies such as the United Kingdom, Canada, and France behind Israel's right to defend itself while fuelling a live genocide. It blocked a resolution for a humanitarian pause early on in the crisis. The administration even bypassed the Congress to allow weapons sales to Israel. But Israel's near absolute destruction of Gaza and a possible full-scale invasion of Rafah are testing the American limits as well.

Mr. Biden is facing pressure from within the Democratic party which is pushing for a ceasefire, provision of aid for the Palestinians, and conditioning support to Israel. There is a growing rift between Mr. Netanyahu and Mr. Biden when it comes to the course of action in the coming weeks. The U.S. also abstained from

voting on a UNSC resolution calling for a ceasefire.

The Houthis' disruption of Bab el-Mandeb and Iran's retaliation after the Israeli attack on its consulate in Damascus can have a domino effect. The unwillingness of the West to influence Israel may lead the states to sleepwalk into a region-wide violent conflict.

The domestic factors are equally important in understanding Mr. Biden's policy. With the upcoming election, the Trump campaign will pursue grandstanding with an eye on the American Jewish community and the Evangelical Christians. Mr. Biden, keen to build a broad voter base, may end in brinkmanship with Mr. Trump. There is only one winner in that contest.

### **On true leadership**

The people, like the students in Columbia, have shown more spine than the American leadership. A case has even been filed against the Biden administration in court for its complicity in the genocide. Globally, countries such as South Africa and Bangladesh have shown true Global South leadership, unlike the states that merely seek the title. In a painful irony, it is not the murder of over 25,000 women and children but the death of seven World Central Kitchen workers that shook the American leadership. This grim reality underscores a perennial truth in global politics: all lives are equal, but some are more equal than others.

Despite its unique position to influence peace, the U.S. continues to play a paradoxical role, simultaneously capable of ending violence and perpetuating the status quo, as evidenced by its recent veto against full recognition of Palestine. As the world watches, Israel's war on Gaza serves as a brutal reminder of the high costs of geopolitical manoeuvres and the real-world impact of normless international diplomacy.