VOTING COUNTS
Liberty and Equality For All

Voting Counts provides an overview of the governance related issues that India faces today. This introductory paper was used to launch the Governance Collaborative, an initiative of the Omidyar Network. The Governance Collaborative aims to strengthen an ecosystem of local funders that can improve governance by supporting sector leaders such as ADR, IndiaSpend and PRS.

This is an introductory paper to initiate the much-needed dialogue and greater engagement on election reform by convening roundtable discussions in major Indian metros and highlighting innovative approaches. As part of the Governance Collaborative, in 2014 Dasra will publish a research report which will provide a comprehensive framework for identifying where philanthropy can be most impactful in building effective scalable organizations tackling various governance issues across India.

In Sanskrit, Dasra means Enlightened Giving.
Dasra is India's leading strategic philanthropy foundation. Dasra works with philanthropists and successful social entrepreneurs to bring together knowledge, funding and people as a catalyst for social change. We ensure that strategic funding and capacity building skills reach non-profit organisations and social businesses to have the greatest impact on the lives of people living in poverty.

Omidyar Network is a philanthropic investment firm dedicated to harnessing the power of markets to create opportunity for people to improve their lives. To date, Omidyar Network has committed more than $500 million to for-profit companies and non-profit organisations that foster economic advancement and encourage individual participation across multiple investment areas, including microfinance, property rights, consumer internet, mobile and government transparency.

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I. Importance of elections-related reform

1) The need for good governance

There are many existing definitions of governance, covering a broad range of issues. However, there is consensus around some aspects of what should constitute governance – the rule of law, capacity of government to formulate and implement sound policies, accountability to citizens, processes by which governments are selected, monitored and replaced, and respect for institutions that govern economic and social interactions among citizens and state.[1] There is broad agreement between policymakers, scholars, civil society and business that good governance is a fundamental ingredient of sustained progress and economic development. This intuitive understanding is backed up by a body of evidence that points to a strong positive relationship between good governance and development.

The World Governance Indicators (WGI), developed by the World Bank and the Brookings Institution, measure governance across six dimensions of governance: [2]
- Voice and accountability
- Political stability and the absence of violence
- Government effectiveness
- Regulatory quality
- Rule of law
- Control of corruption.

Research based on these indicators has demonstrated that better governance leads to more capable public sector institutions, independent judiciary and press, effective regulatory and anticorruption institutions and property rights protection, all of which result in sustained long-term development and poverty reduction.

Elections are the key institutional technology of democracy that enable citizens to hold their governments to account

2) The link between governance and elections

The commonly held definitions of governance as well as the WGI point to an important phenomenon – the shaping of economic policy and development models is dependent on institutions and people. Good governance is primarily reliant on policies and laws, and the institutions that implement them – which in turn are shaped by the people that a society chooses to represent it. Elections then are critical for good governance and effective policymaking. They are the means by which democratic societies choose the candidates that best represent their vision and goals. In addition, they are the key institutional technology of democracy that enables citizens to hold their governments to account.[3]
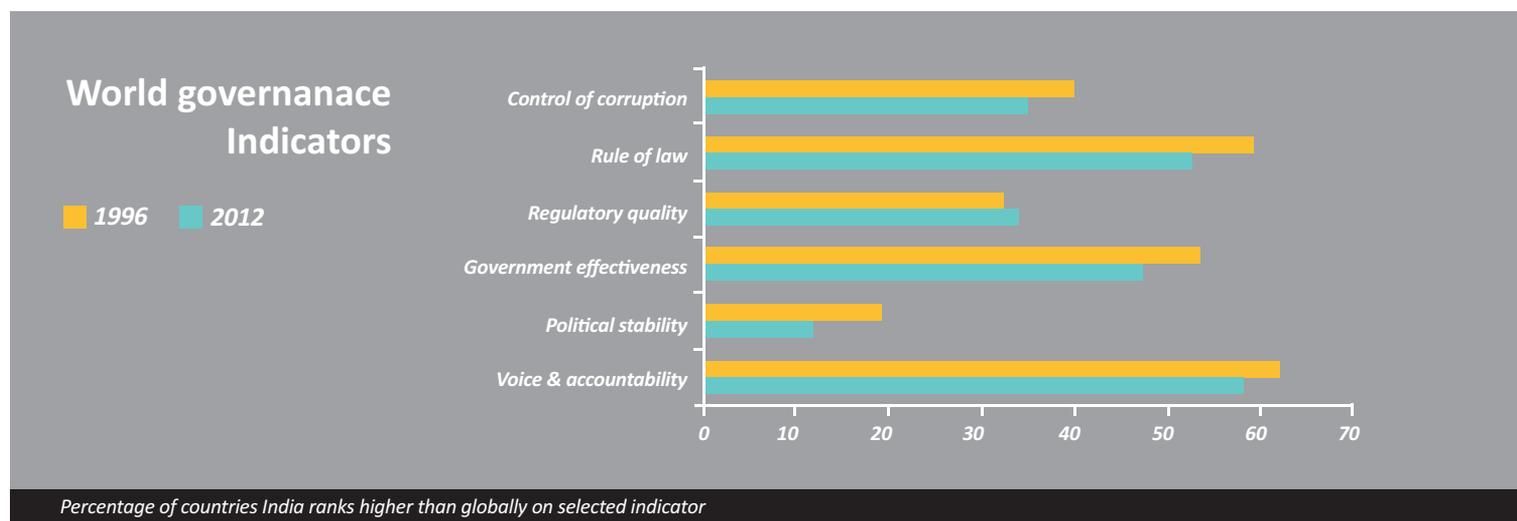
While elections are the foundation on which democracy is built, the quality of elections varies widely across the world. Research shows that infrequent or low-quality elections have no significant effect on policy, and can in fact actually have a negative impact on the same.[4] Just as good elections produce competent candidates who are accountable to citizens, uncompetitive elections can lead to politicians who are not incentivized to work for the public good. In order for elections to have their desired impact, i.e. lead to more accountability and better policymaking, there are some important areas that societies need to focus on:

- Rules that regulate political parties and eligibility criteria for candidates
- Rules regarding nomination, campaigning, voting and counting
- Campaign finance
- Free and fair conduct of elections
- Citizens' ability to access their right to vote
- Availability of information regarding candidates' backgrounds and finances

A focus on transparency in information, setting impartial rules, increased civic participation and a reduction in illicit tactics is vital for achieving well-functioning elections. This is important for the continued health of a democratic system, where a government and its policies derive legitimacy from the votes that citizens cast for them. As the Election Commission of India notes, there is a danger to the idea of democracy itself if citizens do not have faith in the way that elected representatives are chosen.[5]

3) Governance and elections in India

India performs poorly on the six dimensions of governance under the WGI. In addition, from 1996 to 2012, its standing has declined on five of the six indicators, with only Regulatory Quality witnessing a (very) marginal improvement.

World governanace Indicators

■ 1996   ■ 2012

Control of corruption
Rule of law
Regulatory quality
Government effectiveness
Political stability
Voice & accountability

0   10   20   30   40   50   60   70

Percentage of countries India ranks higher than globally on selected indicator

The table above shows India's performance on governance indicators relative to other countries globally in both 1996 and 2012. For example, India measured higher than 53.66% of countries in 1996 on Government Effectiveness; while in 2012, it measured better than only 47.37%.

This comes at a time when there are widespread concerns about slowing economic growth, ineffective institutions and large-scale corruption scandals. There is a public perception that governance has suffered due to a paralysis in policymaking and an ineffective polity, leading to a greater demand among citizens for improved choices and increased participation in the political space.

In India, as with other democracies, elections present the opportunity to elect candidates who will work for the public good, are accountable to the citizenry and bring about policies that result in long-term development. While elections in India are a well-renowned logistical marvel, involving more than 700 million voters in the world's largest democratic exercise, there are concerns regarding their functioning.

The Election Commission has noted the "alarming trends… (that) can potentially jeopardize the democratic freedoms we enjoy in India today." Given that elections are the basis of our democracy, it is imperative to ensure that they are free, fair and representative.

The Election Commission has identified the need to correct the deficiencies in our elections process, such as the growing criminalization of politics, illicit financing of elections, and irregularities in the voting process. This is important to not only identify and select only those candidates who are interested in the public good, but also for ensuring that more citizens participate in the democratic process.

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II. Areas of focus for elections-related reform

1) Reducing criminalization in politics
2) Funding for candidates and political parties
3) Citizen voice and accountability
4) Election conduct and management

1) Reducing criminalization in politics

The criminalization of politics has been identified as one of the most significant issues affecting the electoral system.[7] This is most prominently manifested by the growing number of elected representatives with criminal charges against them - of the 543 Members of Parliament in the Lok Sabha, almost 30% (162) have criminal cases pending, while 14% (76) have serious criminal cases pending against them.[8]

In 1999, a public interest litigation (PIL) was filed with the Delhi High Court seeking disclosure of the criminal, financial and educational backgrounds of candidates contesting elections. This led to the Supreme Court making it mandatory in 2003 for all candidates contesting elections to disclose their criminal, financial and educational background prior to the polls by filing an affidavit with the Election Commission.

While this was a landmark judgment, there have been some concerns that candidates often do not represent their criminal or financial status in an honest manner while filing their affidavits. In addition, most voters usually do not have access to the information declared by candidates in their affidavits, and so are unaware about the criminal records of the latter.

Some of the specific initiatives that can help to reduce the growing criminalization in the political system include:

- Providing access to candidates' criminal, financial and educational backgrounds to the voting public through large-scale media dissemination
- Making the current requirements for disclosure through affidavits more stringent
- Providing for an independent authority to verify the declarations in the affidavits of candidates on their criminal and financial backgrounds
- More stringent sanctions against candidates who misrepresent information in their affidavit

In July 2013, the Supreme Court passed a decision that barred convicted lawmakers from continuing in Parliament or state assemblies, paving the way for MPs and MLAs to be disqualified if convicted by court. This judgment was upheld after the Court dismissed an appeal filed by the government in September 2013.

2) Funding for candidates and political parties

A National Commission in 2001 noted that "the campaign expenditure by candidates is in the range of about twenty to thirty times the legal limits".[9] While there are limits on campaign expenditure that are fixed depending on the nature of the election, these spending limits are not sufficient to cover the actual costs of running an election campaign. The limits for candidate expenditure for a Lok Sabha election and an assembly election are Rs 40 lakhs and Rs 16 lakhs respectively[10] - amounts that are far below the actual spends needed.

That these limits are frequently violated by candidates is an open secret. There is also no provision currently for state funding of elections. The high costs of running and winning elections therefore can act as an incentive for corruption in the public sphere, where "the sources of some of the election funds are believed to be unaccounted criminal money in return for protection, unaccounted funds from business groups who expect a high return on this investment, kickbacks or commissions on contracts".[11] The report of the National Commission in 2001 has stated that the compulsion for getting funds for electoral purposes forms the foundation for the superstructure of corruption.

The sources of funding for most political parties remain unknown – from 2004-05 to 2011-12, political parties in India received Rs 3,674.5 crore in income from unknown sources.[12] This lack of transparency makes it difficult to trace sources of corruption and criminal linkages in the political system, further contributing to the criminalization of politics. It also provides disincentives for elected representatives to focus on policies that contribute to the public good rather than their own individual well-being or that of their campaign contributors.

Some of the measures proposed by experts to improve transparency around campaign funding include:

- Making candidates' and parties' income and sources of income public information
- Stringent monitoring of election-related expenses and levying of penalties for defaulters
- Pushing for greater transparency and monitoring of donations to political parties and candidates
- Providing for the verification of financial declarations of candidates by an independent authority
- Widespread dissemination of candidates' financial background to the voting public in order for them to make an informed decision
- Rationalization of the ceiling on election expenditure from time to time
- Allocation of state funding for election related expenses

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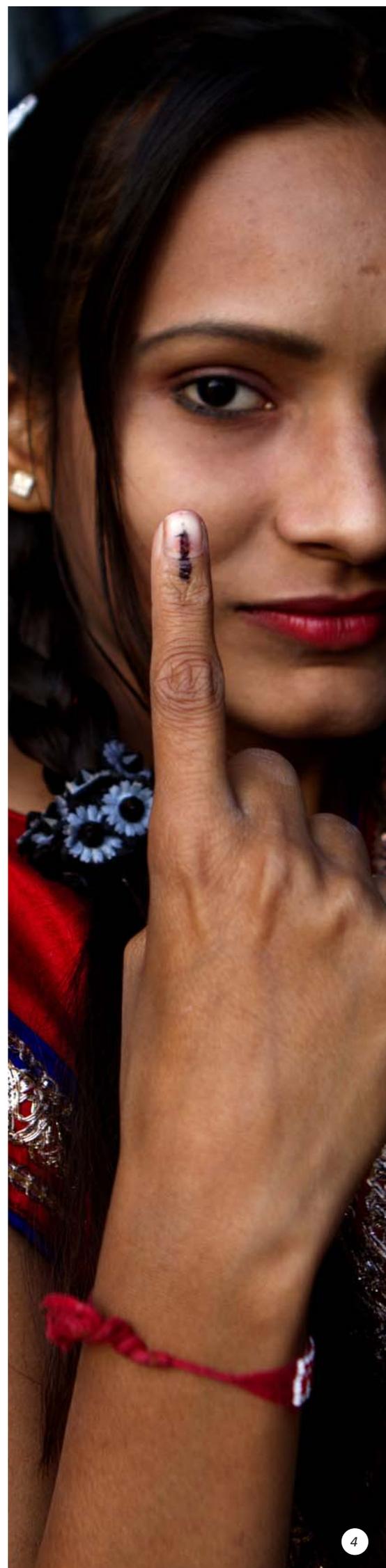
3) Citizen voice and accountability
Candidates for elections ask for people's votes based on a combination of their party affiliation, their own track record and their promises for the future. Candidates and political parties make numerous promises about their intentions if elected, as well as a number of claims regarding what they have already achieved. Often, the electorate lacks both the education and information properly to evaluate both past performance and fulfillment of promises.

In an atmosphere where the media can be highly partisan and also lacks the capacity (or the patience) for a specialist analysis of policy and implementation, this leaves little room for nuanced discussion or informed understanding of the issues of the day. This is particularly a problem if the aim is to veer the conversation away from religious, linguistic, caste or other identity-based issues towards substantive ones around development and inclusion.

Accountability and transparency is thus one area with significant scope for work around:

- Empowering citizens by providing them with information and facts to base their voting decisions on
- Providing data- and fact-driven journalism in order to foster objectivity and critical debates
- Following up on campaign promises made by elected officials and political parties and checking on their progress
- Holding government to account through data-driven accountability initiatives
- Providing a channel for the public to engage with candidates or elected officials on issues that matter to them

Educating citizens about their obligation and right to vote, organizing voter registration and education drives, and helping make the voting process easier are important initiatives in connecting citizens to the democratic process.

In addition to providing more objective, factual coverage of policies and news, it is also important to create awareness among citizens about the need to engage with the electoral process. Many state and local elections witness low turnouts, particularly among urban populations. Citizens often feel disengaged from the democratic process .

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4) Election conduct and management

Elections in India, as mentioned earlier, are an enormous logistical exercise, requiring more than 5 million personnel and 1 million polling booths. While by and large elections in India are well-organized affairs, there are some problems that affect their conduct.

One of these problems is irregularities in the electoral rolls. Incomplete, defective or tampered rolls present serious problems to the electoral process. The National Commission to Review the Working of the Constitution has noted that "political parties and influential persons manage large-scale registration of bogus voters, or large-scale deletion of names of "unfriendly" voters." Irregularities in electoral rolls can be exacerbated by election officials with vested interests. In addition, discrepancies between rolls prepared by the Election Commission (for parliamentary and assembly constituencies) and State Election Commissions (for local elections) can lead to voter confusion and missing information. The problem of fraudulent or incomplete electoral rolls can be tackled by:

- Having one nodal agency in charge of preparing rolls
- Outreach to prospective voters and voter registration campaigns
- Online computerized databases with unique IDs assigned to each voter to prevent fraudulent voters
- Having a common roll for all elections at different levels

Rigging of elections through intimidation of voters, tampering of booths, bribing election observers and other means are also widespread in many areas. Stronger monitoring and coordination by civil society and independent media, empowered local officials, tamper-proof electronic voting machines (EVMs) and usage of electronic surveillance equipment are some of the measures that can be employed to check rigging of elections.

In September 2013, the Supreme Court directed that voters be provided with a "None of the Above" (NOTA) option, which would allow them to reject all the candidates without compromising their right to secrecy. Under the current rules, even if the "NOTA" option gathers the most votes in a particular constituency, it will not mean the disqualification of the candidates. For that to happen, the present laws would have to be changed to enable re-polling if NOTA votes are higher than those obtained by any other candidates.

However, the Supreme Court and various political and legal experts believe that this represents a symbolic step towards giving voters a greater voice and letting them express their dissatisfaction with the political system. Many experts believe that this would lead to a cleaner political system and greater civic participation in the long run.

III. Role of civil society

> 1) Legal advocacy
> 2) Voter outreach and empowerment
> 3) Electoral rolls management
> 4) Information dissemination and fact checking

Over the years, there have been multiple committees and commissions instituted by the Election Commission and the Central Government to look into problems affecting the electoral system. Some of the recommendations have been accepted by the government and implemented, while many initiatives have not taken off. **Though the Election Commission of India has pursued many reforms, it has been limited in its mandate since it does not hold the power to make laws.**

The Election Commission and the institutions of government are just two of the stakeholders responsible for bringing about more effective elections. Creating widespread change requires the participation of a multitude of actors, including an informed and participative civil society and an independent media. Change to any established system threatens vested interests. An informed citizenry which is aware of its rights and participates strongly in the democratic process is essential for changing the status quo. The Election Commission states that "civil society groups, journalists, and other observers of the process have been playing an important role in identifying a number of the weaknesses of our existing system." [13]

Civil society organizations and media perform the following vital functions in strengthening the electoral process:

- Identifying deficiencies in existing electoral processes
- Pushing for reform in electoral laws and practices through various means, including legal measures
- Providing information and knowledge to the public for informed decision-making
- Helping citizens become aware of their rights and responsibilities regarding the electoral process
- Helping all citizens, including those from excluded or minority backgrounds, gain access and participate in the electoral process
- Holding government and elected officials to account and pushing for greater transparency

Civil society organizations have been responsible for some of the more important changes to our electoral system over the past few years, due to their sustained efforts in advocacy and reform. Some of the major ways in which they work to bring about changes include the following:

1) Legal advocacy
Many organizations, experts and jurists have sought to bring about changes in the electoral system through the judicial system. The Association for Democratic Reforms (ADR) filed the original litigation with the court in 1999 that led to the Supreme Court ruling that every candidate has to declare his/her assets, liabilities and pending criminal cases. This is widely acknowledged as a landmark ruling in the fight against the criminalization of politics.

Bringing about change in various facets of the electoral system – from voting procedures to eligibility criteria for convicted legislators – can be a lengthy procedure, but one which has the potential to achieve wide-ranging impact. Organizations such as ADR use various legal measures, such as Public Interest Litigations (PILs), complaints and Right to Information (RTI) requests to advocate with the Central Information Commission (CIC), different courts, and central and state agencies.

Janaagraha's Jaagte Raho! program in Shanthi Nagar Assembly constituency in Bangalore used 400 community volunteers called Area Voter Mitras to perform checks on electoral rolls and was able to register more than 44,000 people, leading to a significant increase in the turnout in the state elections in 2013.

2) Voter outreach and empowerment

Voter outreach, through education and engagement, is an extremely important way in which civil society organizations and media groups interact with citizens. Educating people, especially young people, about the importance of exercising their right to vote and the difference that voting makes to democracy. This is usually accompanied by voter registration drives, in order to give people a path to the polling booth. This is especially important in urban areas where voter turnout can be quite low – less than 25% of Mumbai residents voted in the 2009 general elections.

Jaago Re! is a campaign that was launched in 2008-09 as a collaboration between Tata Tea and Janaagraha to motivate Indian youth to participate in the electoral process. The campaign has since evolved to enable Indian citizens to register to vote. Through an online information portal and registration engine, Jaago Re! aims to simplify the process of registering to vote and encourage higher voter turnout.

Haiyya is a Mumbai-based organization that is running a Right to Vote campaign focused on combating urban voter apathy and increasing participation by training thousands of volunteers to conduct voter registration drives in local communities. Haiyya believes that the more people register to vote, the more they are likely to exercise their right to vote and strengthen the democratic process.

3) Electoral rolls management

An important issue in enabling everyone to participate in the electoral process is electoral roll management. There are many problems with voter rolls, including non-issue of voter cards, errors in the electoral rolls, and falsified voter lists. Through monitoring of lists, registration drives, setting up help lines and phone/SMS-based information systems, organizations can ensure that citizens are not excluded from the voting process, as well as prevent fraud in voting.

Janaagraha's Jaagte Raho! program in Shanthi Nagar Assembly constituency uses 400 community volunteers called Area Voter Mitras to perform checks on electoral rolls through daily checks. The team was able to register more than 44,000 people, leading to a significant increase in the turnout in the state elections in 2013. The Election Commission of India recently signed an MoU with Janaagraha to expand the latter's approach to all constituencies of Bangalore. This approach will include daily checks of the electoral rolls rather than once a year, checks at the polling booth level, and the creation of a supplementary list to the national roll.

4) Information dissemination and fact checking

There are many emerging efforts that aim to provide citizens with the knowledge to make informed decisions about who they should vote for, be it at the local, state or national level. These initiatives seek to provide comprehensive information about candidates and political parties including information on their background (criminal record, financial background and educational qualifications), analysis of their manifestos, legislative records data and analysis for those who are/have already served as an elected legislator, and other relevant information. Such information allows citizens to hold government and elected representatives accountable.

By making information available to the public, organizations such as Mumbai Votes hope to empower citizens make informed decisions about who would be the best candidate to represent their needs and aspirations, rather than voting on the basis of grand promises, or community, religion, or caste-based lines. Praja, a non-partisan organization operating in Mumbai, releases an annual Report Card for Members of Legislative Assembly (MLAs). The MLAs are ranked using criteria such as attendance, questions asked and quality of questions, criminal record, perceived performance, perception of corruption, and accessibility. Praja believes that this allows citizens to demand more accountability from their elected representatives, and lead to the latter directing their efforts towards the public interest.

An increasing number of initiatives also seek to use data and facts to help citizens take objective views on policy issues, and foster data-led discussion and debates. This helps empower people to hold elected representatives accountable for their promises and statements.

IndiaSpend, an online journalism initiative, uses primary data sources to analyze state and national level issues. It covers issues through research reports on socio-economic issues, key data on socio-economic indicators across states, and FactCheck – brief reports that use research and data to validate statements made by politicians. These are released on a real-time basis through social media outlets, its website and print media partners.

IV. Role of philanthropy

Clearly, there is a vital role that civil society can play in improving governance in the country; the big question though has been who will fund it?

Funding from Indian sources to organizations in what can broadly be understood as the governance space has been little or non-existent over the years. Private Indian donors have largely stayed away from supporting Indian think tanks or policy-oriented institutions; these organizations have historically relied on funding from the government,[14] and increasingly from foreign donors[15] to support themselves.

Interestingly, this pattern of funding has coexisted with the peculiar phenomenon of Indian corporates and high net worth individuals (HNIs) giving millions of dollars to overseas think tanks and policy institutions, such as the Brookings Institution and the Carnegie Endowment. In 2011, when Brookings and Carnegie looked towards funding from Indian sources to set up their centers in India, they were able to raise more than US $10 million from Indian donors.[16]

There are a few reasons why Indian funders have not supported domestic institutions as opposed to overseas ones:

- Philanthropic giving in India has tended to concentrate on issues with tangible and emotionally engaging outcomes such as education, food and health rather than research, policy development or transparency initiatives.[17] In a survey of HNIs across India by Bain & Co in 2012, governance and policy issues were not mentioned as causes they considered important to fund.[18]
- There is a perception that many think tanks have particularly-close links to the government and bureaucracy, and therefore have had questions raised about their independence.
- Corporates have also seen little benefit for themselves in funding think tanks or governance initiatives in terms of increasing their influence or brand.

There are however compelling reasons for why Indian funders should support initiatives around governance and democracy, and specifically elections. Elections are the foundation that our democracy is built on. Through supporting initiatives that aim to increase civic participation, reduce criminalization, bring about transparency and accountability and strengthen electoral systems, philanthropists can help lead to:

- More effective and capable politicians
- Transparent and accountable institutions
- Better policymaking by elected officials
- Less corruption
- Enhanced economic environment
- Increased space for democratic participation in policymaking

All of the above translates into greater development and progress for the country which in turn translates into a better and enabling environment for business as well as civil society.

There is therefore a compelling argument for Indian philanthropy to step up and fill the huge gap in domestic funding for election-related efforts. These initiatives cannot for obvious reasons accept funding from the government. Raising money from foreign sources is also a risky undertaking – not only is this unsustainable over the long run, there is a strong perception that initiatives working on democracy and elections need to be owned and funded by Indians, not by foreigners.

There are signs that this situation is slowly changing. Giving among HNIs towards governance has continued to rise over the last few years, and is expected to keep increasing.[19] As philanthropy in India matures, funders are increasingly realizing the importance of influencing government and holding institutions to account.

END NOTES

1 - Kaufman, D. & Kraay, A., (2009), "Governance Indicators: Where Are We, Where Should We be Going?"

2 - http://info.worldbank.org/governance/wgi/index.aspx#home

3 - Chauvet, L. & Collier, P., (2008), "Elections and Economic Policy in Developing Countries"

4 - Chauvet, L. & Collier, P., (2009), "Elections in developing countries: do they improve economic policy?"

5 - Core Committee on Electoral Reforms, Ministry of Law and Justice & Election Commission, (2010), "Background Paper on Electoral Reforms"

6 - Core Committee on Electoral Reforms, Ministry of Law and Justice & Election Commission, (2010), "Background Paper on Electoral Reforms"

7 - Core Committee on Electoral Reforms, Ministry of Law and Justice & Election Commission, (2010), "Background Paper on Electoral Reforms"

8 - http://adrindia.org/

9 - National Commission to Review the Working of the Constitution, (2001)

10 - Gowda, M.V. & Sridharan, E., (2012), "Reforming India's Party Financing & Election Expenditure Laws"

11 - Core Committee on Electoral Reforms, Ministry of Law and Justice & Election Commission, (2010), "Background Paper on Electoral Reforms"

12 - http://adrindia.org/content/sources-funding-national-political-parties-fy-2004-05-2011-12

13 - Core Committee on Electoral Reforms, Ministry of Law and Justice & Election Commission, (2010), "Background Paper on Electoral Reforms"

14 - http://articles.economictimes.indiatimes.com/2012-04-08/news/31305317_1_tanks-funds-indian-corporates

15 - http://www.imagindia.org/debate_aug10.html

16 - http://articles.economictimes.indiatimes.com/2012-04-08/news/31305317_1_tanks-funds-indian-corporates

17 - Livemint, (2013), "Philanthropic funds take different route"

18 - Bain & Co, (2012), "India Philanthropy Report"