

Voter Participation and Democratic Legitimacy: Examining the Significance of NOTA in Indian Elections

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Abstract:

The Constitution of India provides for elections based on the principle of universal adult franchise, guaranteeing every eligible citizen the right to vote. Despite this constitutional guarantee, electoral statistics reveal that a considerable number of eligible voters abstain from participating in elections. The reasons for such electoral abstention remain a matter of concern and may stem from political discontent, dissatisfaction with the available candidates, or other socio-political factors. Prior to 2014, voters had limited options to express their electoral preferences. Recognizing the importance of protecting voters' privacy, freedom of expression and strengthening democratic participation, None of the Above (NOTA) option was included in the in the electoral ballots by the intervention of judiciary. The inclusion of NOTA enabled voters to reject all contesting candidates while preserving the secrecy of their vote, thereby enhancing the fairness, inclusiveness, and credibility of the electoral process. Against this backdrop, this paper examines the role and implications of the NOTA option in India's electoral process, with particular emphasis on its contribution to democratic participation, voter expression, and underscoring its potential electoral significance.

Key words- Electoral reforms, NOTA, Political Participation, Rational Voter Model.

Introduction.

The success of democratic institutions and establishments heavily depends on the participation of the people. Greater participation provides greater legitimacy to the system (Zakhour, 2020). It is the voluntary involvement of the people in governance that makes democracy the best available form of administration. What distinguishes this system from other forms of administration is the accountability and responsiveness of the rulers to the ruled. Popular will always plays a decisive role in making and unmaking governments in a democracy. In this system, destiny of the rulers should be determined by the people. Political participation, by involving many people in the day-to-day affairs of the state, provides stability and order on the one hand and legitimacy to the ruling authority on the other. In a democracy, participation is the principal measure by which consent is granted or withdrawn, and the rulers are made accountable to the ruled. It enables citizens to exert

pressure on the government and consequently influence the decision-making process. Without the active participation of people in the administration, no government can reflect the general will of the people.

Political participation encompasses a broad spectrum of activities by citizens within a political system. These activities include providing input for public policy formulation, voting at polling stations, participating in pressure group activities, distributing pamphlets, attending public meetings, maintaining active membership in political parties, holding political office, engaging in public debates, participating in civil society organizations, and even activism through social media in the modern digital age. However, the general public is often not interested in all these activities. The majority of people in a political system belong to the spectators, while the transitional and gladiator actors are few in number (Milbrath, 1965). Thus, the participation of the people in the political sphere has narrowed as much as their electoral participation.

In most democratic countries, voting in general elections is regarded as both a civic right and an obligation for citizens. In numerous nations where voting is considered a legal duty, it has been proclaimed mandatory and is governed by national constitutions and electoral laws. Proponents of compulsory voting argue that when a greater percentage of the population participates in the election process, the actions of democratically elected governments have more legitimacy (Dezelan, 2023). Modern democratic governments worldwide are formed based on periodic elections on the basis of universal adult suffrage. The Indian Constitution has proclaimed that elections in states and the union are conducted on the basis of universal adult franchise (Article 326).

The Supreme Court of India has, at various times, vigorously used its constitutional power of interpretation to bring about electoral reforms. The Commission has heavily relied on the directives and orders of the Supreme Court while implementing the Model Code of Conduct, curbing the menace of criminalization of politics, and introducing NOTA (Ravikumar, 2020). In 1978, the Supreme Court of India distinctly defined the scope of the Commission's powers by broadening the terms "superintendence, direction, and control" in Article 324 of the Constitution (Mohinder Singh Gill v/s Election Commission of India, 1977). In a landmark decision in 2002, the Supreme Court proclaimed that the electorate has the genuine right to acquire information about candidates and directed the Commission to ensure that each candidate submits an affidavit with their nomination, detailing their criminal background, movable and immovable possessions, pending criminal cases, liabilities, and educational achievements (Union of India v/s Association for Democratic Reforms, 2002). As per the Constitution of India, the President, under Article 103, and the Governor, under Article 192, seek the advice of the Election Commission regarding the disqualification of members, except in cases of defection. In a related judgment, the Supreme Court opined that the President or Governor must decide these matters based on the advice of the Commission without consulting the Council of Ministers (Brundaban Nayak v/s Election Commission of India, 1965).

Since the nation's inception, India has adopted a parliamentary system of administration based on the principle of the first-past-the-post system. In this system, the electoral verdict is relative to the voting strength of the candidates. The people's choice in selecting their representatives was so limited that they were compelled to choose from the available candidates without an option to reject the entire candidate pool or cast a negative vote in a secret manner. However, Section 49(O) of the Conduct of Elections Rules, 1961, allowed voters to cast a negative vote by entering their electoral serial number on Form 17A and signing it. This procedure compromised the secrecy of the vote (Times, 2013). This led to a historical judgment by the Supreme Court in *PUC v/s. UOI* in 2013, which ultimately introduced NOTA into the Indian electoral system. A writ petition under Article 32 by PUC was granted by the Supreme Court, asserting that the right to vote is a statutory right and that denying it, violates the freedom of speech and expression under Article 19(1)(a) of the Constitution (Apurva, 2014). According to the then Chief Justice of India, P. Sathasivam, "Negative voting will lead to a systemic change in polls and political parties will be forced to project clean candidates." He further stated that if the right to vote is a statutory right, then the right to reject a candidate is a fundamental right under the Constitution (Chauhan, 2013).

The Supreme Court in its ruling stated that Rules 41(2) and (3) and Rule 49-O of the Conduct of Election Rules are ultra vires Section 128 of the RP Act and Article 19(1)(a) of the Constitution to the extent that they violate the secrecy of voting. It declared them unconstitutional as they did not secure the voter's identity. Through the voter's remarks on Form 17A, poll officials and election agents were given the opportunity to learn the reason for a candidate's rejection, compromising voter privacy. To address this issue, the Election Commission proposed that the union government amend the legislation to include a negative or neutral vote option in the EVM and ballot paper (Sorabjee, 2009).

The right to reject all the candidates on the ballot is a game-changer in the electoral politics of India (Vijapurkar, 2013). The main advantages of this system are the recognition of the citizens' right not to vote for a candidate and the assurance of secrecy during that act. The true spirit of electoral politics lies in the participation of the entire population in the democratic process. However, citizens should not be compelled to select the best from the worst. The Supreme Court's decision in *PUC v/s UOI* is an eye-opener for political parties as it compels them to project candidates with clean backgrounds (Quraishi, 2013). The disapproval of the people towards all candidates on a ballot reflects not only the candidates in the election but also the discontent of the people regarding the policies of the parties (Fiorina & Shepsle, 1989). NOTA is being adopted by the people as a form of protest and denial of the existing political regimes, established political parties, and alliances, exerting tremendous pressure on the political process of the state (Prabash, 2024). The share of votes accumulated by NOTA has had a crucial impact on electoral outcomes and the victory margins of political parties, especially in constituencies with very narrow victory margins. Therefore, NOTA may become significant in determining the electoral verdict. Although legally these votes have no bearing on the election

results, they are likely to exert enormous moral pressure on political parties to propose candidates with greater acceptance among the electorate (Mandal, Mandal, & Bhattacharjee, 2017).

Use of Technology in Elections and Voters Anonymity.

The fundamental principle behind impartial elections is that voters should be able to cast their votes without fear of retribution or the influence of promised rewards. This principle ensures that elections are fair and that voters' choices reflect their true preferences. To maintain this impartiality, returning officers have the authority to reject any ballot paper that bears marks or writings that could identify the elector (The Conduct of Election Rules, 1956). Such measures prevent any form of intimidation or coercion that could undermine the voter's free will. In traditional electoral systems, ballots from different polling stations were mixed during counting to prevent targeting based on voting trends in specific areas. This mixing process helped preserve the anonymity of the voters' choices, ensuring that no particular group's voting pattern could be singled out for retribution or reward. However, the introduction of electronic voting machines (EVMs) has changed this dynamic (Lavasa, 2024). EVMs, while enhancing the efficiency and accuracy of vote counting, do not allow for the physical mixing of votes from different polling stations. As a result, the declaration of results from individual voting machines can reveal the voting trends of specific polling stations. These are some of the challenges that must be taken into consideration to ensure the anonymity of votes and the impartiality of elections in the age of electronic voting.

Voter Behaviour: The Influence of Education, Living Conditions, and Political Apathy

Pioneering studies in electoral politics and voter turnout reveal that turnout tends to be higher in states with higher literacy rates and instances of close battles in elections. Additionally, urban populations are generally more indifferent towards electoral politics compared to village populations (Divakar, 2008). Thus, education and living conditions have a strong impact on the political behaviour and participation of individuals in the electoral process. The rational voter model theory of democracy asserts that citizens will rationally weigh the costs and expected benefits of voting versus not voting and will cast a ballot only if the benefits exceed the costs (Downs, 1957). This attitude can foster apolitical culture and attitude towards politics. In all societies, participation in politics comes at a price, in terms of appropriation of resources, money and energy. For this reason, not everyone can or will shoulder these costs and therefore will not be equally active or engaged in politics. This is called political apathy, a condition indicating disinterest and/or apathy toward the political system. One of the reasons for such an attitude is the rational voter model. It is estimated that over 30% of the electorate in India regularly does not participate in electoral politics. In a democratic system, non-participation in the political process can be due to a political indifference and lack of interest.

There are numerous reasons behind people's non-participation in the day-to-day affairs of the state and government. One reason is the application of the rational voter mindset, where individuals perceive political involvement as less rewarding than other activities. Some people abstain from the political process due to feelings of inferiority, believing they cannot change the existing system. Anarchy is another reason for general apathy, as people become completely frustrated with the system. Additionally, the involvement and influence of extremist groups in the political system contribute to people's apathy. Naxalite groups, for example, often call for boycotts of general elections, which can influence the electorate.

Table-1 NOTA on Voter Turnout in India- Lok Sabha Elections since 2014.

Year of election	Total votes on EVM		Total Postal Ballots		Over all Polling		Total Voter turnout
	Valid Votes Polled	NOTA	Valid Votes Polled	NOTA	Total Polled	NOTA	
2014	553020648	5994418 (1.08%)	1154607	8524 (0.73%)	554175255	6002942 (1.08%)	66.44
2019	604357242	6491102 (1.07%)	2276171	22253 (0.97%)	606633413	6513355 (1.07%)	67.40
2024	635292105	6324657 (0.99%)	3698587	47182 (1.27%)	646420869	6371839 (0.99%)	66.1%

(Source- Author's calculation based on data from Election Commission of India.)

The analysis of the data reveals a stable trend in NOTA voting on both Electronic Voting Machines (EVMs) and Postal Ballots. NOTA votes on EVMs have consistently accounted for around 1% of the total valid votes across the three elections. This consistency highlights the presence of a steady segment of voters expressing their dissatisfaction with the candidates available. However, there is a noticeable rise in NOTA votes on Postal Ballots from 2014 to 2019, with the percentage increasing from 0.73% to 0.97%. By 2024, this percentage rose further to 1.27%, indicating that voters using Postal Ballots have increasingly relied on NOTA as a means to voice their dissatisfaction. Voter turnout peaked in 2019 at 67.40%, reflecting heightened voter engagement during that election cycle. However, a slight decline to 66.10% in 2024 indicates a stabilization in voter participation, returning closer to the levels observed in 2014. In the elections mentioned above, merely 1% of the people consistently chose NOTA as their mandate. This demonstrates that the implementation of NOTA has positively contributed to increased electoral participation while also providing a legitimate space for voters to express their disagreement with the candidates contesting an election.

The NOTA data for the General Elections, Lok Sabha 2024, obtained from the State/ UT level shows significant disparities between the different States and Union Territories, suggestive of differences in electoral behaviour, competition and trust in candidates. Nationally, out of the 646,420,869 valid votes cast, 6,371,839 votes were cast under NOTA, which is 0.99 per cent of the total votes cast. This indicates that about one per cent of voters in India disapproved of the elections and opted to vote in favours of NOTA. In the States, Bihar

had the highest percentage of NOTA votes (2.07%) with 899,616 voters casting NOTA votes out of a total of 43.48 million votes cast. This was closely followed by Gujarat (1.58%), Madhya Pradesh (1.41%), Tripura (1.40%), and Odisha (1.29%). Nagaland on the other hand, recorded the lowest percentage of NOTA with merely 1,646 (0.21%) NOTA out of 766,573 total votes cast in the State. Other States with comparatively low NOTA shares include Haryana (0.33%), Mizoram (0.38%), Telangana (0.47%), Punjab (0.50%), and Delhi (0.51%). Among the Union Territories, Dadra and Nagar Haveli and Daman and Diu (DNH and D&D) recorded the highest NOTA percentage (2.06%), making it the highest among all Union Territories and second only to Bihar in the overall ranking. At the other end of the spectrum, Lakshadweep recorded the lowest NOTA percentage (0.27%), with only 133 NOTA votes out of 49,247 total votes, representing the second smallest proportion of NOTA votes among all States and Union Territories. In Kerala, 0.79 per cent of the electorate exercised the NOTA option in the 2024 Lok Sabha election. This proportion is lower than the national average of 0.99 per cent.

NOTA -An Indian Experience

The increasing prominence of the NOTA option in Indian elections underscores a significant shift in voter sentiment and behaviour. In 2024 electoral outcomes in constituencies such as Indore in Madhya Pradesh and across the state of Sikkim highlight a growing discontent with traditional political candidates and parties. In the Indore constituency of Madhya Pradesh, Congress candidate Akshay Kanthibam withdrew his candidacy and joined the BJP. Consequently, NOTA secured the second position, receiving 2,18,674 votes (Election Commission of India E. 2., 2024). This outcome reflects the unethical and unprincipled stance of the candidate, which led to negative voting from the constituency. In the 2024 legislative assembly election in Sikkim, NOTA received 0.99% of the votes, surpassing the Indian National Congress, which received only 0.32%. The Bharatiya Janata Party accumulates 5.18% of the votes (Election Commission of India, 2024). These results indicate the people's aspirations and discontent with their political system, as they chose NOTA to express their protest against unethical practices in electoral politics. By voting for NOTA, voters demonstrated their dissatisfaction with the dishonourable behaviour of political parties and candidates, disregarding the practical utility of their votes.

The voters are empowered with the adoption of NOTA in electoral politics, and it has evidently accelerated the political participation of the people. The NOTA option in electoral politics granted the right to vote negatively in secret, so it may act as a catalyst to express popular will in democracy and pressure political parties to nominate sound candidates in the election (S Nirmal Kumar vs Union of India, 2019). NOTA enables those who are not interested in the listed candidates on the ballot to provide a reputable position in the electoral process. They should never be considered as passive observers of the electoral system but an active participant by casting their vote in a neutral way. But this negative type of participation clearly provides an intimation to

the party bosses and the political system as a whole. So, it definitely contributed to thriving democratic ideals and governance. The introduction of NOTA would not affect the electoral verdict, but it definitely ensures the secrecy of the voter, who would not want to vote for a particular candidate in his constituency. It also minimizes the possibility of electoral malpractices such as bogus voting and so on (S Y Quraishi, 2010).

Conclusion

The introduction of the NOTA option has strengthened the democratic character of the Indian electoral system by providing voters with a formal mechanism to express dissatisfaction with the available electoral choices. Since its implementation, approximately one per cent of voters have consistently exercised the NOTA option in successive elections, indicating its growing acceptance as a legitimate means of registering electoral dissent. The inclusion of NOTA represents a significant electoral reform, as it recognizes the right of voters to reject all contesting candidates while preserving the secrecy and integrity of the ballot. It serves as an institutional channel for expressing dissatisfaction arising from the perceived inadequacy of candidates, frustration with political parties, or broader discontent with prevailing political practices. Consequently, NOTA has contributed to enhancing the inclusiveness and participatory nature of India's democratic process by acknowledging negative electoral preferences within the framework of representative democracy. By allowing voters to express their dissatisfaction with the available candidates, NOTA has emerged as a critical tool for assessing public sentiment and serves as a barometer to measure the political aspirations of the electorate. Such outcomes serve as a wake-up call for political parties, prompting them to introspect and address the grievances of the voters. In constituencies with intense competition among political parties, there has been a notable decline in NOTA votes, suggesting that voters are more likely to engage positively when they perceive credible and deserving candidates.

The number of NOTA votes in any election provides valuable insights into the electorate's views on the candidates and parties. High NOTA counts indicate considerable dissatisfaction, signalling to political parties the need to reassess their candidates, policies, and strategies. This feedback mechanism is invaluable in a democratic setup, where understanding and addressing voter concerns are crucial for maintaining public trust and legitimacy. Additionally, this option has played a crucial role in protecting the dignity of voters, enabling them to cast a negative vote independently and anonymously, without fear of disclosure. This allows the electorate to express their discontent without boycotting the electoral process, thus maintaining their engagement and participation in democracy. NOTA can also act as a corrective measure within the electoral system. By highlighting widespread discontent, it pressures political parties to field better candidates and adopt more transparent and ethical policies and practices in electoral politics. The fear of losing votes to NOTA can drive parties to improve their internal processes and candidate selection, ultimately leading to a more robust and representative political landscape. Overall, the introduction of NOTA has fortified the democratic

process in India, enhancing voter engagement and ensuring that the electorate's voice is heard clearly. It highlights the necessity for political parties to address the electorate's concerns genuinely and uphold ethical standards, ultimately contributing to a more vibrant and accountable democratic system. In short, NOTA has provided a platform for expressing discontent, served as a barometer for public sentiment, and acted as a catalyst for political reform. It has led to a new era of responsive and accountable political practices, highlighting the electorate's power to demand better governance and representation.

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