

# RGICS



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## RGICS ISSUE BRIEF

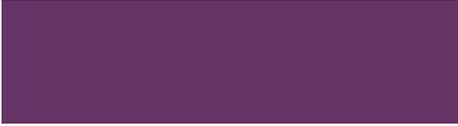
### **Proxy Voting In India**

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### KEY MESSAGES

- **Can a democracy differentiate between internal and external migrants: The Government is planning to accord NRIs the right to vote without being directly present, but internal migrants are not being given this option:** India has over 40 times more internal migrants than overseas ones. But most of them cannot participate in the world's biggest display of democracy. While the Government seems to be in favor of proxy voting for the NRIs, it is silent about any provision for the millions of migrant workers within India who are unable to exercise their franchise. If they are allowed, it will certainly have a large impact on the election outcomes especially in the poorer states.
- **Process lacks clarity:** It is essential for the Government to clearly state the process of proxy voting, the criteria for a voter to be considered a proxy on behalf of an overseas voter (apart from belonging to the same constituency), whether there will be any change in the concept of 'one man, one vote' (since a proxy will have to vote twice during elections), abolishment of direct voting and ensure the maintenance of secrecy and avoid buying of votes at the same time.
- **Impact on political outcomes: If proxy voting is allowed only for NRI voters it will largely impact the outcome in three states which have a large diasporas:** Three states (Kerala, Punjab and Gujarat) having the highest number of registered diasporas will be affected in terms of election outcomes if proxy voting is allowed for NRI voters. However only 24,348 NRIs have registered themselves as voters till now. The government may undertake a strong enrolment exercise to ensure larger participation from the NRI community which could change outcomes, especially in state like Kerala where victory margins in 28 of the 140 constituencies during the 2016 assembly elections were less than 5,000 votes.

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### PART I: INTRODUCTION

India has a large number of its citizens living abroad temporarily or permanently on account of education, employment and other related reasons. Following demands from various sections of NRIs with regard to participation in the Indian electoral process, the provisions of the Representation of the People Act, 1950, that provide, among others, the procedure for preparation and revision of electoral rolls for parliamentary and assembly constituencies was amended by “The Representation of the People (Amendment) Act, 2010 (36 of 2010)” w.e.f. 10.02.2011 to insert a new Section 20A to make special provisions for citizens of India residing outside India to get enrolled as an elector in the electoral roll. The NRI citizen, after registration, had to be present in his constituency to be able to participate as a voter.

#### REGISTRATION OF OVERSEAS ELECTORS

Out of the total 11,846 registered overseas electors January 2014, 11,448 (96.64%) are registered in the State of Kerala and the rest 398 (3.36%) are registered in the States of Punjab (138), Tamil Nadu (112) Puducherry (56), Goa (27), Delhi (13), Haryana (12), Daman & Diu (9), Gujarat (7), Chandigarh & Madhya Pradesh 6 (6 each), West Bengal (4), Chhattisgarh & Himachal Pradesh (2 each), and Andhra Pradesh, Rajasthan, Sikkim, Uttar Pradesh (1 each). According to the Election Commission Report for 2014 Lok Sabha Elections, the overall list went up to 13,039 whereas the NRI voter turnout was 8 of the total registered Overseas voters.

#### RECENT DEVELOPMENT

On August 3, 2017, based on a proposal by the Election Commission of India (ECI), Mr. Modi’s administration announced that it would permit proxy voting for registered NRIs. As per the decision, the NRI has to vote through a proxy in state and national elections which mean the overseas electors will have to appoint a nominee afresh for each. Earlier this provision was limited to the Army personnel who had the option to choose a proxy in perpetuity. Currently, voters residing abroad can only cast their votes in their respective constituencies. This means for the overseas Indians, the Representation of the People Act needs to be amended to include proxy voting as other means to cast their votes.

- For Proxy Voting under the RPA 1951: Amendment required in sections 50 and 60. Earlier in 2010, the act was amended to include NRIs as voters who were physically present in the country.
- For Conduct of Elections Rules 1961: Amendment needed in sections 17 (postal ballot), 18, 19, 20 (1) & (2), 22, 21 (1), (2), (3) and from 23-27

Hence, if overseas Indian voters and service voters register themselves and exercise their franchise, they may represent three to four thousand voters per constituency,

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### Proxy Voting And Indian Diaspora

REGION (NRI)	RECENT TREND (POPULATION)	EMPLOYMENT TYPE	ISSUES FACED	VIEWS ON PROXY VOTING
Saudi Arabia: 3,001,018 UAE: 2,800,000 Qatar: 600,000 Kuwait: 921,666 Oman: 795,082 Bahrain: 312,918 (2016)	1.1.84 lakh emigration clearance in 2017. 2.Bihar:35,807 workers (2017) UP: 33,043 workers(2017) Decline in Kerala 3.Migration trend from 90% to between 60-75%.	Largely unskilled labourers	1. Workers face hard time to register online. 2. Exploitation of workers by employees. 3. Unregulated private recruitment agencies.	Mixed: Prefer postal ballot. Demand of Aadhaar linked identification code
UNITED STATES 1,280,000 (2016)	1.3.9 million Indian Diaspora present in US	1. Median age group 39 years; 82 per cent working population between 18 and 64. 2. Highly educated with most of them acquiring white collar jobs. Many are at a financially secure position.	1. The minority NRI communities in the region like the Sikh and the Kashmiris demand for separate countries of their own.	Positive: Large section of Hindutva supporters in the United States welcomed the Government's decision. Direct voting suggested by a majority, including the demand for proper representation of NRIs in the Indian Parliament.
UNITED KINGDOM 325,000 (2016)	1.7.6 lakh immigrants. 2. According to the 2011 census, the cities with the most Indian-born residents are London (262,247), Leicester (37,224), Birmingham (27,206), Sandwell (15,190), and Wolverhampton (14,955).	Involved in Retail, industrial, trade and commercial sectors. Professionals like doctors, IT Specialists and teachers		1. Mixed: No particular community has commented on the provision so far.

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## **PART II: THE POLITICAL CONTEXT**

### **Views of the Indian Political Parties (Election Commission Report 2015)**

<b>PARTY</b>	<b>VIEWS</b>
<u>BJP</u>	<b>In favor of ‘proxy voting’.</b> Steps may be taken to ensure maximum registration of NRIs in the electoral rolls by way of special drive involving the Indian embassies, online voting at a pilot basis.
<u>CONGRESS</u>	<b>Not in favor of ‘proxy voting’.</b> The priority should be to increase the total number of NRI voters which is currently around 12,000, Free and fair election without pressure, voting facility in embassies by employing all procedural formalities.
<u>CPI</u>	The matter should be looked from all angles before implementation. Consultation with State Parties essential
<u>CPI-M</u>	The present system of voting at the polling stations where they are registered as voters should continue for overseas electors.

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### PART III: KEY ISSUES

#### PROFILE OF OVERSEAS VOTERS

According to the 'Overseas Indian Voters' portal, only 24,348 have registered with the poll panel. Out of these, 23,556 are from Kerala, 364 from Punjab and 14 from Gujarat, according to the data provided by the Commission.

STATE	DIASPORA IN NUMBERS	FAVOURED DESTINATION S	OVERALL REMITTANCE	SOCIO-ECONOMIC PROFILE	PARTICIPATION IN PREVIOUS ELECTIONS	RECENT TRENDS
<u>KERALA</u> 1.6 million NRK (2014)	Migrants from the region: 20 lakh (2016) <b>Malapurram:</b> <u>Emigrants:</u> 4,55,696 <u>NRI:</u> 7,55,554 <u>Out migrants:</u> 36,202 <b>Kannur:</b> <u>Emigrants:</u> 2,89,973 <b>Thrissur:</b> <u>Emigrants:</u> 2,30,081 <u>NRI:</u> 3,33,884 <u>Out migrants:</u> 31,759	The Middle East United States European Union Canada Africa	I Lakh Crore =36.3% (2014) <b>1.Malappuram(NK):</b> 10245 Crores	24.74(average age group of emigrants. (68.7% work as teachers, nurse, businessmen, 11.85% as drivers and 11% salespersons)etc	<b>Kerala State Assembly Elections 2011:</b> 8500 NRI voters <b>Kerala State Assembly Lok Sabha Elections 2014:</b> 12585 registered voters(EC Report), 12653 voters Kerala Commission Report) <b>Kerala State Assembly Elections 2016:</b> 23,289 (IUML winning with a margin of 1,157 votes because of NRI votes in Kuttiadi	1.Out of the total yearly remittances of Rs 15,129 crores, Rs 7029 crores were received by the Muslim community alone 2014 Kerala Migration Survey making the community one of the politically, economically and socially dominant communities in the state as well as in the Gulf.. 2.Nadapuram(CPM), Perambra(CPM), Kuttiadi(IUML)Palakkad(INC) and Varkala(CPM)have fairly large no of non-residents(2016) 3. The largest number of emigrants originated from Malappuram district.

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<u>PUNJAB</u>	0.39% of the overall world population (27 million)	United Kingdom Canada United States South East Asian Countries Middle East	<u>1. Doaba-</u> Ludhiana, Hoshiarpur, K aparthala and Nawanshahr <u>2. Moga</u>	Mostly Entrepreneurs; could also be Itaxi drivers, shopkeepers, IT professionals, bankers etc	<b>Lok Sabha State Elections 2014:</b> NRI turnout: 2, registered 169, 189 voters-Punjab Election Commission. <b>Punjab State Assembly Elections 2017:</b> 281 registered NRI voters	1.40 lakh migrants in Punjab. 2. Outward Migration is 48,431 at present. 3. 81 per cent of people migrating from Punjab to foreign countries come from the state's villages, a new study has revealed. GCC and Canada favourite destinations. 4. Hoshiarpur, Ludhiana, Bathinda, Patiala and Firozpur among top

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						districts with lowest margins.
<u>GUJARAT</u>	33% of the Indian Diaspora (129 countries out of 190 countries). Patels of Gujarat: 7,800,000 (3,120 families).	US UK Canada Australia South Africa New Zealand	Baladia village 2,000 crore per (2015) by Kutchi Patels (60%) Madhapar village : 5,000 crore (2015) by Kutchi Patels Kera village: 5000 crore by Khoja community (2015)	Mostly Traders, Business, jewellers etc	<b>Gujarat State Assembly Elections 2012: 0</b> <b>Lok Sabha Elections 2014:</b> registered 11, turnout 4(EC)	1. In the past five years, the state government received 1,838 applications from people of various religions to convert to another religion. Of them, 1,735 applications (94.4%), 57 Muslims, 42 Christians and 4 Parsis have applied for permission to convert. 2. Anand, Sabarkantha, Bardoli, Junagadh Patan and Amreli are the states with the lowest margin of votes

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### **Kerala:**

1. Victory margins in 28 of the 140 constituencies during the 2016 assembly elections were less than 5,000 votes. Seventeen of these seats went in favor of CPM and its allies in the Left Democratic Front (LDF). Twenty-five seats went below a margin of 2,700 votes in the 2016 Assembly elections, in which the Congress-led United Democratic Front (UDF) captured power by a wafer-thin margin of just four seats. The margin in five constituencies was less than 1,000 votes and in eight constituencies it was less than 2,000 votes.
2. The Bharatiya Janata Party, which opened its account in the 2016 Assembly in this election with one seat in Namom, missed another seat by a margin of just 89 votes in Manjeswaram, which is also considered to be a part of the Muslim dominated northern constituency in Kerala. This was possible with the sudden rise in the vote share of communities BJP managed to work in their favour. (The Nairs, the Ezhava community, and the Christian community). Whereas the overall victory margin in 8 of the 20 seats was less than 20,000 votes in the 2014 general elections. .
3. Since there is a positive increase in the participation level of the NRIs, the political parties that could benefit from proxy voting could be: The Indian Muslim League, an emerging favorite of a fair segment of NRI community. The recent win of the party in the Malappuram district with a large margin is a proof. The Indian National Congress too has a chance for a large NRI vote bank from the Gulf Countries as before the Assembly elections, many candidates who were a part of the Congress led UDF were seen campaigning in the Gulf countries (Dr. M K Muneer and M M Hassan).

### **ISSUES:**

- ‘Selling of votes’; since there is an increase in the level of participation among the NRI communities especially coming down from the GCC in the earlier assembly elections, political parties could approach them to ‘buy votes’ ensuring their win.
- 20 lakh immigrants working as migrant workers for many years in GCC have not been enrolled because of the difficulties they faced during the online registration process, they prefer to stay away from participation in the electoral process.

### **Punjab:**

1. The Punjab diaspora has showed great amount of interest in supporting political parties like the Aam Aadmi Party and the Indian National Congress in previous elections by coming down to India and organizing rallies, providing funds etc. It is quite evident from the voting trend in those NRI dominant regions in the district of Deoba, Moga etc where candidates won by low margins will be of interest for major political parties in the upcoming elections.
2. The presence of around 32% of population of Dalits in Punjab could bring out their issues at the forefront. This could be one of the reasons why in the 2017 Assembly elections results where the Congress’ spectacular surge in Punjab seemed to be powered by Dalits, who comprise a third of the state and had deserted the ruling Akali Dal following a string of caste atrocities.

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### **Gujarat:**

- Mr. Modi's home state has certainly seen strong NRI support in previous elections but lesser participation in the voting process.
- The Overseas Friends of the Bharatiya Janata Party this year has started to galvanize support among the Indian-American community for the 2019 general elections and the Gujarat Assembly polls later this year. It plans to distribute phone numbers of Indian voters living in India to the NRIs to vote for the BJP.

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### PART IV: ANALYSIS

#### Analysis of Proxy Voting

PROS	CONS
NRI Citizens get to exercise their democratic right to choose their legislators	Overseas migrants being given the option to vote while internal migrants being denied this right is a matter of concern
Promotes inclusive democracy through proxy as it will not only improve voter participation but also allows citizens working in different countries to participate directly in the electoral system while they continue to strengthen the Indian economy through remittances.	Are poor migrant voters lesser citizens than rich overseas migrants? The voting rights for poor migrant workers seem to have been overlooked as per the Election Commission report which rules out the rights for the poor interstate migrant workers to take part as voters in the electoral process of India, As per a recent online news article (Outlook) on proxy voting also indicated that women NRI voters' may have to choose a proxy from within their marital family is alarming as it completely dilutes the right of every citizen to choose their representatives in the Parliament as per their choice
The Election Commission considers the proxy voting as the most efficient and economically feasible voting process	Risk of votes being sold and security of the proxy system are matters of great concern
It will bring issues concerning the NRI community to the fore-front	

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### **PART V: CONCLUSION**

The introduction of proxy voting might initially face problems in terms of implementation and a risk of malpractices but once an effective mechanism is developed, it will make the whole electoral process more inclusive and have a positive impact on the Indian polity. Apart from that, it is not likely to reflect any major shifts in the electoral pattern or the functioning of democracy. However, there are some gaps that need to be addressed before implementation:

- **The Government needs to clearly define the process of proxy voting.** It is essential for the Government to clearly state the criteria for a voter to be considered as a proxy on behalf of the overseas elector, change in his/her voting rights if any (since a proxy will have to vote twice during elections), need to establish a new system for check and balances during voting and most importantly, if proxy voting is passed by the Parliament, will the government do away with the earlier direct voting procedure for the overseas voters.
- **The Government also should take into consideration the rights of the domestic migrants'** workers within the country to be granted the right to vote keeping in mind the national interest of the country and promoting democracy.
- **The Government needs to also take into consideration the issues and demands of entire cross section of the Indian Diaspora** (especially the vulnerable section of the diaspora, the migrant workers living abroad). For instance, the issues highlighted by the majority of migrant workers in GCC like the online registration process, illegal immigration, working conditions in order to promote greater participation. Since majority of the Gulf residents from Kerala earn low incomes and work double shifts to support their families, they are unable to exercise their vote (the result is evident from the low participation of the majority of Keralites living in the Gulf countries in the Lok Sabha Elections 2014). However, participation rates can be improved, if only the Indian embassies provide them a facility for enrolment.

#### **Changes in Law:**

Proxy voting would require amendments in the RPA to include the provision of voting through proxies for NRIs, mainly in Sections 50 and 60. With regard to Conduct of Elections Rules, amendments to sections 17 18, 19, 20 (1) & (2), 22, 21 (1), (2), (3) and 23-27 will be required. Amendments to the RPA will have to be passed by the both Houses of Parliament with a simple majority. Assuming none of the opposition parties support the motion as mentioned in the EC report, the NDA would still be able to successfully pass the amendment in the Lok Sabha but might have to win a few opposition votes to muster the required majority in the upper house.

#### **Effect on political parties and electoral outcome:**

Introduction of proxy voting may have a limited impact in terms of the electoral outcomes since only 3 states (expected Assembly Constituencies: Kerala-5 constituencies, Punjab- 3to 5 constituencies whereas Gujarat being a BJP dominant state with a bigger winning margin in almost all constituencies as compared to the other two), will witness a turnout of NRIs significant enough to change the results. Extending voting rights to internal migrants by proxy may substantially impact outcomes across large states like UP, Bihar, Jharkhand and even Assam etc. However, the latter doesn't seem to be on the table for now.

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### **PART VI: BACKGROUND INFORMATION/REFERENCE DOCUMENTS**

- i. Representation of People (Amendment) Act 2010 [http://eci.nic.in/eci\\_main/nri/rpa.pdf](http://eci.nic.in/eci_main/nri/rpa.pdf)
- ii. REPORT of Committee for Exploring Feasibility Of Alternative Options for Voting By Overseas Electors [http://eci.nic.in/eci\\_main1/current/NRI%20Voting\\_Final%20draft23012015.pdf](http://eci.nic.in/eci_main1/current/NRI%20Voting_Final%20draft23012015.pdf)
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- iv. Election Commission of India official website <http://eci.nic.in/eci/eci.html>
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