

20 hours ago

EVMs tamperable. Provide EVM receipts or revert to paper ballot: Dr. Subramanian Swamy argues in SC

Voter to get paper receipt after casting ballot: EC tells SC

PTI | Jan 22, 2013, 07.49 PM IST

NEW DELHI: The Election Commission today told the Supreme Court that it would soon incorporate a paper trail and issue a paper receipt to each voter after the ballot is cast through Electronic Voting Machine.

The EC submitted before a bench of Justices P Sathasivam and Ranjan Gogoi said that trial of Voter Verifiable Paper Audit Trail (VVPAT) in EVMs has been done in around 180 polling stations in various states and it could be incorporated in elections after an expert committee's nod.

Senior advocate Ashok Desai, appearing for the Commission, said VVPAT would first be used in bye-elections and then in state election and general elections.

"The Expert Committee is keen to have reliable system. The manufacturers have made considerable progress and it is hoped that the system will be stabilised within a few months," he said, adding 17 review and monitoring meetings have so far been held with EVM manufacturers.

"The Commission asked EVM manufacturers to accelerate their development and further fine-tune the design of VVPAT system for making it suitable for use in elections at the earliest. Bharat Electronics Limited and Electronic Corporation of India are working on improvement in the design of VVPAT system," the EC said in its report.

The apex court was hearing a plea of Janata Party chief Subramanian Swamy seeking direction to the poll panel to ensure that EVMs should have a paper trail and issue a paper receipt to each voter.

Earlier, Swamy had made a plea for reverting to paper- ballot system saying all advanced countries, including the US and Japan, have discarded EVMs and gone back to the old system.

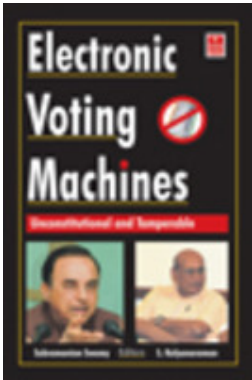
The Janata Party leader had contended that even Japan, which had pioneered the launch of EVMs, was today relying on the paper-ballot system only.

He said only private companies across the world are manufacturing EVMs, which are vulnerable to hacking.

<http://timesofindia.indiatimes.com/india/Voter-to-get-paper-receipt-after-casting-ballot-EC-tells-SC/articleshow/18134882.cms>

See also:

<http://tinyurl.com/b3r9eay> [<http://tinyurl.com/b3r9eay>]



[\[http://img8a.flixcart.com/img/981/9788170947981.jpg\]](http://img8a.flixcart.com/img/981/9788170947981.jpg) Electronic Voting Machines : Unconstitutional and Tamperable Author: S. Kalyanaraman, Subramanian Swamy

This book makes a host of startling and alarming revelations on the use of electronic voting machines (EVMs) in Indian elections:

The continued use of electronic voting machines in Indian elections is unconstitutional because Indian EVMs are non-transparent and vitiate the requirement of voter control over the balloting and counting process, which is a basic feature of India's Constitution.

EVMs are tamperable, posing the risk of wholesale rigging of election results. Computer experts have consistently held that Indian EVMs are not completely secure from software and hardware manipulation. Also, Indian EVMs can be hacked both before and after elections to alter election results.

Universal use of EVMs in Indian elections may also be illegal as per a judgement of the Supreme Court of India in 1984.

EVMs have already been banned in many countries, including Germany, the Netherlands, Ireland and Italy, and the list is getting longer. Thus, there is a growing lack of confidence in EVMs the world over. Why should India persist with a failed system that has been abandoned worldwide? The risk of wholesale rigging inherent in EVMs, howsoever small, cannot be accepted in a democracy where the stakes in winning elections are so high.

The book brings together a panel of political, constitutional and technical experts and makes a powerful and substantive case for the discontinuation of EVMs in Indian elections if these cannot be safeguarded to public satisfaction. The book is an eye-opener and a must-read for all Indian politicians and citizens alike.

POINTS MADE BY DR. SUBRAMANIAN SWAMY IN EVM SLP No.13735 of 2012
In the Supreme Court on January 22, 2013

1. On two fundamental facts the ECI is always in denial:

[i] the possibility of tampering of the EVMs. In the status report they have repeated the same untrue mantra.

The Hon'ble Delhi High Court while disposing off my Writ Petition [para 25-27, on p. 21-22 of the SLP] wanted the EC to address [p. 22, para 26].

The issue of tamperability thus is crucial because an analysis of the past election results show that on an average of 165 Lok Sabha seats are won or lost by a mere 10, 000 votes in an average voting population per constituency of 15 lakh voters.

There are about 1500 EVMs per constituency, and each EVM records up to a 1000 votes.

The ECI agreed that they would conduct field trials. But to be credible they must conform to certain internationally accepted guidelines for transparency which I submitted to them. But they failed to reply.

But they have not answered any of the queries I had raised for a proper field trial, which I submitted after consulting world renowned experts in computer science [p.173-177].

In fact when they had challenged me to prove tamperability by a demonstration, I went with two associates on September 3, 2009 to the EC to show it. The demonstration was video-taped by the ECI. When we were near completing the demonstration, they aborted the meeting. Then never re-convened the said meeting.

Later, Dr. Prasad, my associate, demonstrated before the media that it could be done. He was promptly arrested on trumped up charges on a complaint filed by the ECI that he had stolen the EVM from the ECI stock [p. 170].

Yet the ECI misleads the public by stating that no one has proved that the EVMs can be tampered with. Or has been tampered in an election.

[ii] Four facts which have not been acknowledged:

[a] the Indian EVM is not indigenously produced, because its crucial parts such as the EVM brain: the microcontroller, is manufactured by foreign companies, thereby raising security issues as the Hon'ble High Court had pointed out (p.50-53 at 52)

[b] the attempt by the ECIL and BEL to obtain a WIPO Patent for EVMs failed due to their inability to meet the conditions for being awarded the patent, and their Applications filed in 2002 were withdrawn in 2006 (p.55-56)

[c] the established democratic countries of the world, such UK, most democratic countries of Europe, and Japan, use paper ballots and have rejected the EVMs in the conduct of elections. Recently Germany, Netherlands and Ireland gave up EVMs on direction of their Courts (p.80-154). Ireland just gave up EVMs despite a heavy cost sunk in the necessary infrastructure.

[d] Finally, in any case the EVMs cannot handle more than 64 candidates. In a not so long ago Andhra byelections, 64+ candidates filed their nominations. Ballot papers had to be ordered.

Important Point of Law

2. Transparency, not efficiency, is a constitutional right under Article 324, and a statutory right under Sections 11-12 of the IT Act. is not.

3. The German Supreme Court held [p.80 at 144-54] that transparency was a constitutional principle while efficiency is not. Germany now has returned to ballot papers.

4. Following this so too Netherlands and Ireland. USA is slowly doing away with EVMs. Today except India, no other democratic country uses EVMs. Even Japan from which we buy the crucial microcontroller has refused to consider the EVMs.

5. Section 61 A of the RPA 1951 permits the use of EVMs. EVMs come under the purview of IT Act because of Sections 2 (r) and (t), r/w Objects and Reasons for the Act.

6. Sections 11 and 12 of the IT Act therefore require that every voter, if he or she wants, must receive an acknowledgement receipt.
7. Contrary to the claim made by the ECI, the plenary powers u/A 324 of the Constitution given to the ECI in the conduct of elections, is not unfettered.
8. The scope of the plenary powers of the ECI under Art 324 is limited to space unoccupied by statutes [(1983) SCR 74 at para 25].
9. In fact, following this judgment [para 38], the ECI had to amend the RPA w.e.f 15.3.89 to insert Section 61A to enable the use of EVMs [Vol I p. 55].
10. Nor does the ECI have unfettered right to make “policy” decisions to go electronic if it is against the Constitutional principle of transparency, or is otherwise arbitrary, unreasonable or malafide [(2011) 7 SCC 639 at 670-71, para 36].
11. I submit that the ECI is duty bound by the statutes to use EVMs only if it can provide a receipt for every vote cast. Otherwise, we must return to ballot papers.
12. I submit, that if at all EVMs are to be used, this voter verifiable receipt is a constitutional and statutory requirement for the Election Commission under Article 324 read with Sections 11 and 12 of the Information Technology Act.
13. The Hon’ble High Court did not accept that submission but gave no indication as to why not [p.22, para 25]. The Hon’ble Division Bench disposed off the prayer in a non-speaking order.
14. I humbly submit this non-speaking statement or opinion requires re-consideration in view of the clear Parliament intention that receipt must be given.
15. Otherwise, the EVMs deployment would have been placed by Parliament in the exempted category in the Schedule of the Act.
16. The Act instead was enacted to safeguard use of electronic machines and data processing equipment in governance, which includes elections.

PRAYER

1. That is why I am here before Your Lordships. Either we use safeguarded EVMs or return to the ballot papers system as in now the current international practice in established democratic countries.
2. The secrecy of the vote can be safeguarded by requiring that the printed voter received be deposited in a ballot box before exiting the booth.
3. If it cannot be done, then to return to ballot papers till it could be done. Hence my case
4. nstead addressing these issues had made claims in this Hon’ble Court about immaculate invincibility of the EVMs that they use. Most of their claims are not supported by evidence.
5. First, they claimed it is a unique invention that had received a Patent from WIPO and hence the nation can be proud about it. This turned out be false.

6. Second, while it is not my case here before Your Lordships that EVMs were for rigging the elections in India, the ECI falsely claimed that no one has demonstrated that EVMs can be tampered with or that it can be rigged.

7. This is deliberate or unwitting misinformation because on Sept 3, 2009, I did accompany two of my Software engineer associates Hari Prasad and V.V. Rao to the Election Commission to demonstrate precisely that this could be done.

8. Just as we were near demonstrating it, and which demonstration was video-ed by the EC [It can be summoned and showed to Your Lordships but the EC has denied me a copy], the ECI aborted the meeting, never to re-convene the meeting as promised.

9. Later the EC sought an adjournment in the Hon'ble High Court on 23.3.2011 on an assurance that they would conduct field trials for a voter verifiable printed receipt [p. 172].

Posted 20 hours ago by [Srinivasan Kalyanaraman](#)

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yogesh saxena [January 22, 2013 at 9:56 AM](#)

WHETHER INDIAN DEMOCRACY IS FRAUD AND FABRICATED PROCESS OF ELECTION?. WHO CREATED An Instruments of oppression?. – ANTI NATIONALIST FORCES PROMULGATED Institutional corruption

Whether EVM VOTING MACHINE VUNERABLE?. , WHETHER HIMANCHAL PRADESH AND UTTARA KHAND UTTARANCHAL ELECTIONS RESULT TEMPERED BY NEHRU GANDHI DYNASTICAL CONGRESS USURPATIONS THROGH CONGRESS MANUPULATION BY CHIEF ELECTIOPN COMMISSIONER ON THE INSTRUCTION OF ITALIAN SONIA GANDHI NEXUS WITJH ISI, CIA AND KGB ?. -Legal System Crumbled by its inglorious Research Upon Innocent Citizen Making Mockery to Electorates Parliamentarian Democratic Set Up. WHETHER APPOINTMENT OF MUSLIMS MINISTERS, CONSTITUTIONAL POSTS and CHRISTIANS APPOINTMENT ON CONSTITUTIONAL POST TO DEFEAT INFIDEL HINMDUS SENTIMENTAL PATRIOTISM?.

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Badari Narayanan V T [January 23, 2013 at 2:11 AM](#)

Remarkable investigation and perseverance of Dr Swamy in saving India's democracy

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