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Eliminating Barriers to the exercise of the Right to Vote

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Due to numerous impediments, voter turnout has been declining in most established democracies in India since the 1980s. Low voter turnout is frequently associated with disillusionment, apathy, or a sense of futility (the perception that one's vote has no consequence). Political scientists believe that "democracies work better when more people vote," according to Adam Bonica of Stanford University's political science department. Low attendance is commonly seen to be unfavourable. As a result, a number of programs have been launched to increase voter participation, encourage political engagement, and remove voting barriers. The outbreak has been attributed to a number of economic, demographic, cultural, technological, and institutional factors. This article covers the history of voting and what is right to vote as per the law of India. It emphasizes the objectives of the Right to Vote and why it is so important that all citizens vote for their leaders. This article attempts to elaborate on what the barriers to the exercise of the right to vote are and how we, as citizens of India, can eliminate them for the upliftment of society.

Keywords: *right to vote, objectives, barriers, elimination of barrier.*

INTRODUCTION

Maroof Azam, a 24-year-old mechanic, put down his equipment to confront a guy passing by his shop. The individual in question was a volunteer for a smartphone app that monitored voters who had gone missing. "Did you get my voter registration card yet?" Azam inquired,

his hands coated by soot from the bike he was working on. “No, you've been denied,” the volunteer stated emphatically. “I am Indian—at the very least, I should be entitled to vote,” Azam said, his face flushed.¹ Azam is one of the thousands of people who were unable to vote in Maharashtra's state elections, which Prime Minister Narendra Modi's Bharatiya Janata Party is anticipated to win comfortably when the results are released. According to the volunteer who filed Azam's application, an election official came to inquire about his paperwork, but his case was never granted despite Azam providing acceptable identity papers. The same situation happened in May's general elections across the country. The Supreme Court of India's decision in *People's Union for Civil Liberties v Union of India*² puts the status of the right to vote in India into perspective. The Representation of the People (3rd Amendment) Act was struck down by the Supreme Court because it violated voters' basic right to know the antecedents of candidates running for parliament under Article 19(1)(a) of the Indian Constitution. In a democracy, the people's will is reflected through elections held regularly. Availability of basic information about the candidates enables voters to make an educated decision and permits for public debates on the candidates' virtues and demerits.

WHAT IS RIGHT TO VOTE

Every Indian citizen is aware of the right to vote, which is both easy and difficult. However, many citizens are unaware of the intrinsic value/importance it possesses. In our nation, practically everyone, regardless of religion, gender, education, or reading level, has the right to vote at the age of eighteen. Every citizen of India who is of sound mind has the right to vote. It assists them in selecting future leaders who will contribute to the country's progress. It contributes to a better India. Voting is a procedure that allows voters to select their government. It makes the country's governing system run in this sense. People can elect their representatives in government through voting. The elected government attends to the needs of the people and creates and implements numerous programs and initiatives to benefit the people and the country.

¹ Soumya Shankar, 'Not Everyone Can Vote in Indian Elections' (*Foreign Policy*, 22 October 2019) <<https://foreignpolicy.com/2019/10/22/missing-voters-india-elections-muslims-dalits/>> accessed 05 February 2022

² *Peoples Union For Civil Liberties (PUCL) v Union of India* (2020) SCC OnLine SC 573

HISTORY OF VOTING

In some ways, India's debut on the international map was signaled by the first general elections in 1951. It was only the beginning of India's transformation into the true flag-bearer of democratic principles, not only in South Asia but across the world. Until 1946, the Indian natives' overall voting percentage was significantly lower than their actual population. The Morley-Minto Reforms were a result of the Indian Councils Act of 1901,³ which prepared the ground for various legal amendments. Only a few affluent people were given the option of choosing their own representative. Prior to 1951, the number of women who were eligible to vote was extremely low. *"Through this act extended electoral eligibility, it still allowed only 2.5% of the entire women population of India."* *"In 1946, when the Constituent Assembly of India was elected, 15 seats went to women and they also helped in drafting the new constitution. In 1947, the parliament agreed in principle about universal suffrage."*⁴

THE OBJECTIVE OF THE RIGHT TO VOTE

Citizens' right to vote: Voting is a right that all citizens have. It is up to the people to claim it. Voting for the person one loves is a personal choice.

Leads to Change: Voting allows a person to express his or her right to vote for the representative he or she prefers. In this method, if the person on whom the individual put his vote is chosen, it will result in a change for a better India.

Every vote makes a difference: Every vote has an impact. When someone casts a vote, it will be counted and considered. As a result, there is no logic because one's rights will be squandered.

³ 'Morley-Minto Reforms - Indian Councils Act 1909' [NCERT Notes: Modern History of India for UPSC]' (BYJUS, 17 February 2019) <<https://byjus.com/free-ias-prep/ncert-notes-morley-minto-reforms/>> accessed 06 February 2022

⁴ 'India Today Web Desk' (India Today, 7 March 2020) <<https://www.indiatoday.in/education-today/gk-current-affairs/story/women-s-day-the-only-15-women-who-contributed-to-making-the-indian-constitution-1653496-2020-03-07>> accessed 06 February 2022

NOTA: NOTA means 'None of the above. This is an option given to the people to choose in any case if people are not satisfied with any of the candidates. This option will make a great difference. when many people go for this option, it will mean that there are not enough candidates.

LAW IN INDIA PERTAINING TO VOTING RIGHTS

Article 324 of the Indian Constitution:⁵Superintendence, direction, and control of elections to be vested in an Election Commission

Article 325:⁶No person to be ineligible for inclusion in, or to claim to be included in a special, electoral roll on the grounds of religion, race, caste, or sex:

Article 326:⁷Every person who is a citizen of India and who is not less than [twenty-one years] eighteen years of age on such date as may be fixed in that behalf by or under any law made by the appropriate Legislature and is not otherwise disqualified under this Constitution or any law made by the appropriate Legislature on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice, shall be entitled to be registered as a voter at any such election. The bill of The Constitution (Sixty-first Amendment) Act, 1988 was introduced in the Lok Sabha on 13 December 1988, it was introduced by B. Shankaranand, then Minister of Water Resources. In article 326 of the Constitution, for the words "twenty-one years", the words "eighteen years" were substituted.

Article 327:⁸Power of Parliament to make provision concerning elections to Legislatures.

Article 328:⁹Power of Legislature of a State to make provision concerning elections to such Legislature Subject to the provisions of this Constitution.

⁵ Constitution of India, 1950, art 324

⁶ Constitution of India, 1950, art 325

⁷ Constitution of India, 1950, art 326

⁸ Constitution of India, 1950, art 327

⁹ Constitution of India, 1950, art 328

Article 329:¹⁰ Bar to interference by courts in electoral matters notwithstanding anything in this Constitution.

BARRIERS

The prime objective of the Election Commission has been to enhance the voting system in India. It also aims to enhance citizen participation and enhance the provisions of Article 21 of the Indian Constitution. The contemporary world, where most of the countries follow democratic ideologies, provides every citizen with a provision of voting. This signifies that every vote is essential and unique in itself. Citizens of India were provided with voting rights since the day of independence but there were certain barriers formed after their execution. In a world that is increasingly becoming very polarized by the day, whether in the Americas, Europe, Asia, and Africa, there is a genuine need for all of us to be reminded of what democracy is.

Making the voting system effortless: We have observed people not having awareness about voting rights given to them, but if we compare our recent trends, we see the increase in rural India voting compared to the aware classes. This might certainly be because of the hassle the election system creates. Thus, in this digital era, we need to make voting online so that it becomes more accurate and hassle-free. Technology was meant to reduce human efforts and we should use the opportunity of Digital India's mission to enhance India's voting system. Instead of standing up and waiting in a queue (although we do get holidays for such events), it is a task in itself.

Amendment required to enforce the manifesto clauses to ensure public trust in their vote: Apart from this issue, we need to take into consideration the costs spent in the Election Rallies. A few months before the actual elections, election parties come up with their manifestos i.e a set of objectives they wish to fulfill if they win. These objectives aren't obligatory but they should be. These will ensure the trust people put in a particular party. Increasing unbiased security at poll booths: We have also seen cases of Poll booth hijack and people not following

¹⁰ Constitution of India, 1950, art 329

Model Code of Conduct guidelines during the elections. This infringes the philosophy behind the Right to Vote. There must be free consent while applying this right since every vote makes a difference.

Inclusion of every individual: Every Indian citizen with a disability or reduced mobility/functions who has reached the age of 18 on the qualifying date, i.e. the first day of January of the year of electoral roll revision, is eligible to be registered as a voter in the roll of the part/polling area of the constituency in which he or she resides unless otherwise disqualified by a competent court for crime or unsound mind. We cannot discriminate against anybody, thus persons with impairments and unsound minds must be included. Only if a judge or, in certain situations, a jury concludes that a person is mentally incompetent and so excluded from voting based on clear and persuasive evidence that the individual is unable to convey, with or without reasonable accommodations, a desire to engage in the voting process. A qualified individual with a disability or restricted mobility / physical functions can enroll in the electoral roll by filling out Form 6 online at www.nvsp.in and attaching the required papers.

ELIMINATION OF THE BARRIERS

Proper implementation of policies: Barriers still exist since the government policies aren't being properly implemented as well there is no proper supervision for the tasks that are being done. Although India has been a nation where women have been given equal right to vote with any suffrage movement compared to the United States which took almost 144 years for this task. It came with restrictions as well, that the women could only be allowed to vote if she was a widow or mother of an officer or soldier or her husband was a tax-payer.

No right to vote for prisoners: India has a provision where no prisoner is allowed to vote. This is highly unfair to their rights. Even if they have committed a crime doesn't mean that 4 lakh prisoners should be stripped of their right to vote as well.

NOTA (None of the above) option: People have the provision of NOTA which could be used if they wish that none of the parties is worth winning. Although there have been a lot of

reforms by the government. The provision where the votes can only vote from their original place of residence can be seen as a major limitation. Students, workers, and seasonal workers often leave their place of birth or origin because of several reasons. There should be an amendment to this restriction. The solution of going digital with the voting system would eliminate this barrier.

Rights of voting for Non-Resident Indian and Overseas Citizens of India: Voting Rights for Non-Resident Indians Electors who don't reside in India but have not acquired citizenship of the other country since India doesn't follow dual citizenship. In *Election Commission of India and Anr. v Dr. Manmohan Singh and Ors.*¹¹ "ordinarily resident in a constituency as mentioned in the Representation of the People Act, 1950 shall mean a habitual resident of that place or a resident as a matter of fact in the regular, normal or usual course. It means an ordinary and normal resident of that place. The residence must be permanent in character and not temporary or casual. It must be as above for a considerable time, he must have the intention to dwell permanently. He must have a settled abode at that place for a considerable length of time for which a reasonable man will accept him as the resident of that State". According to Section 20A of the Representation of people act 1950, an NRI settled in a foreign land can become an elector. While the Overseas Citizens of India are not given rights as citizens of India are given under Sec 16 of the Representation of People Act 1950.¹² However, voting for overseas electors could also be done by appointing a proxy. However, the only risk, in this case, is that the proxy might vote for someone else. This system thus cannot be trusted.

CONCLUSION

Any flaw within the election process, real or perceived, offers an opportunity to question the credibility of the process or violently protest the results. When engaging with an election commission one should emphasize the importance of inclusion, adequate dispute resolution, and the protection of vulnerable voters and candidates. Compulsory voting would bring

¹¹ *Election Commission of India v Dr. Manmohan Singh* (2000) 1 SCC 591

¹² Tushti, 'Voting Rights in India to Non-Resident Indian' (*Legal Services India*, 2012)

<<http://www.legalservicesindia.com/article/2266/Voting-Rights-in-India-to-Non-Resident-Indians.html>>

accessed 07 February 2022

positive improvements to our democratic system, as India is a growing country. It's past time to switch that RIGHT into a DUTY. The right to vote is a basic right that ensures the proper functioning of our governmental system. As a result, it cannot easily be ignored or waived. It just does not make sense as a right not to vote. The right to vote must be viewed as an obligation. Individuals have the right to vote to help shape a better tomorrow by electing government representatives who can make necessary modifications in response to public needs and strive for good government functioning. Also, compulsory voting may seem a bit restricting of one's liberty/freedom to vote. But, at the same time, it will enhance our autonomy which is much needed for a developing country like India. There are arguments on both sides as to whether in India compulsory voting is made or not. Time will only tell us as to which one should prevail.¹³

¹³ Vali Rachana, 'All You Need to Know about Voting Rights in India' (*Ipleaders*, 2 March 2021) <<https://blog.ipleaders.in/need-know-voting-rights-india/>> accessed 07 February 2022