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Electoral Justice And Right To Vote: Issues And Challenges In India

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Abstract: The right to vote forms the foundation of any democratic system.[1] In India, the world's largest democracy, this right enables citizens to engage in governance by electing their representatives at local, state, and national levels. Although the Indian Constitution does not explicitly declare the right to vote as a fundamental right, it is a crucial statutory right derived from constitutional principles such as democracy, equality[2], and popular sovereignty.[3] Over time, India has developed a comprehensive electoral system, but voting rights remain subject to numerous challenges that require thoughtful reforms and policy measures. This article addresses the constitutional framework, key issues affecting voting rights, major issues in voter registration, contemporary challenges, judicial interventions, and democratic values. The paper concludes by suggesting comprehensive reforms to the electoral rolls.

Key words **– Electoral Justice, voter registration, Voting Rights, Electoral Process**

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[1] Jean-Jacques Rousseau, *The Social Contract* (1762); David Held, *Models of Democracy* (3rd ed., Polity Press 2006).

[2] Amirtya Sen, Development as Freedom Knopf, 1999 at p. 151, Right to vote is considered as political freedom.

[3] *Jyoti Basu v. Debi Ghosal* 1982 AIR 983

I. INTRODUCTION

The right to vote forms the foundation of any democratic system.[4] In India, the world's largest democracy, this right enables citizens to engage in governance by electing their representatives at local, state, and national levels. Although the Indian Constitution does not explicitly declare the right to vote as a fundamental right, it is a crucial statutory right derived from constitutional principles such as democracy, equality[5], and popular sovereignty.[6] Over time, India has developed a comprehensive electoral system, but voting rights remain subject to numerous challenges that require thoughtful reforms and policy measures.

Constitutional and Legal Framework

India's right to vote is primarily governed by Article 326 of the Constitution, which mandates elections to the Lok Sabha (House of the People) and State Legislative Assemblies based on adult suffrage. Every Indian citizen aged eighteen or above, who is not disqualified due to reasons like non-residence, mental incapacity, criminal conviction, or corrupt practices, has the right to register as a voter. The Representation of the People Acts, 1950 and 1951, constitute the backbone of India's electoral democracy. It operationalize the principle of popular sovereignty by regulating voter registration, electoral participation, and the conduct of elections. Together, they give practical content to voters' rights in India and ensure that elections are free, fair, and inclusive. It define the qualifications, disqualifications, electoral roll procedures, and election conduct. It safeguard voters' rights by ensuring inclusive and accurate voter registration and right to vote[7]. The Act lays down qualifications and disqualifications for registration as a voter[8], emphasizing citizenship, age, and ordinary residence.

Under the Act of 1951[9], every eligible citizen has the right to be registered in the electoral roll of the constituency where they ordinarily reside. It provides mechanisms for inclusion, correction, and deletion of names, thereby protecting voters from wrongful exclusion. The Act also ensures equality by mandating one person–one vote–one value, subject to *constitutional provisions.*

Special provisions under the RPA, 1950 enable the registration of service voters, including members of the armed forces and government employees posted outside their home constituencies, thereby extending voting rights to those serving the nation away from home.

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[5] Amirtya Sen, Development as Freedom Knopf, 1999 at p. 151, Right to vote is considered as political freedom.

[6] *Jyoti Basu v. Debi Ghosal* 1982 AIR 983

[7] Section 64 Representation of the People Act 1951

[8] Section 16 Representation of the People Act 1950

[9] Representation of the People Act 1951

The Supreme Court has clarified in Jyoti Basu & Ors v. Debi Ghosal[10] that the right to vote is a statutory, not a fundamental, right. However, Article 19(1)(a) – guaranteeing freedom of expression – has been interpreted to include the right of voters to access information about candidates' criminal records, assets, and educational qualifications, thereby enriching democratic participation. Supreme Court observed in Union of India v. Association for Democratic Reforms[11] that "a successful democracy posits an 'aware' citizenry." Later, the Supreme Court of India held in PUCL v. Union of India[12] that Indian voters have a right under Article 19(1)(a) of the Indian Constitution and even choose not to vote and express dissatisfaction. [13]

Key Issues Affecting Voting Rights

A significant issue is voter disenfranchisement. Despite a well-established electoral system, many eligible voters remain unregistered or are excluded due to inaccuracies in electoral rolls. The electoral process is majorly focussed on "residency"[14]. Hence many persons frequently face difficulties registering or maintaining voter identity due to frequent changes in residence.

Major Issues in Voter Registration

One of the most significant issues in voter registration is the exclusion of eligible voters. Errors in electoral rolls, such as missing names, incorrect details, or duplication, remain common despite technological improvements. Marginalized groups, including migrant workers, urban poor, homeless persons, and residents of informal settlements, are disproportionately affected due to lack of permanent addresses or documentary proof of residence.

Internal migration poses a major challenge to voter registration. Millions of seasonal and interstate migrant workers are often unable to register at their place of work or update their voter details from their home constituencies. As a result, many are effectively disenfranchised during elections.

Another issue is low registration among young and first-time voters. Although awareness campaigns exist, lack of civic education, bureaucratic delays, and apathy contribute to under-registration in the 18–25 age group.[15] Similarly, elderly citizens and persons with disabilities may face difficulties in accessing registration facilities due to mobility constraints.

[10] 1982 AIR 983
[11] Decided on 2 May 2002
[12] Decided on 13 March 2003
[13] Supreme Court directed Election Commission of India to include NOTA option in Voting machine.
[14] Banasmita Bora, THE ABSENT VOTERS OF INDIA Challenges and Prospects for the Enfranchisement of Migrants https://www.idea.int/sites /default/files/2025-04/absent-voters-of-india.pdf

[15] Election Commission of India mainly focussing on 18-19 group, National Voters Day and Youth Voter Festival are planned. Refer: *Systematic Voters' Education and Electoral Participation (SVEEP) Programme*; National Youth Policy, Government of India (2014).

Urban voter registration also presents unique challenges. Rapid urbanization, frequent relocation, and low community engagement lead to higher rates of non-registration and deletion of names from electoral rolls in cities[16].

Low voter turnout is another ongoing concern, especially in certain regions and among particular groups like urban voters, youth, and marginalized communities. Factors such as political disengagement, mistrust in institutions, and the belief that one's vote does not effect change contribute to this trend.

The influence of money and muscle power undermines free voting. Practices such as vote-buying, distribution of freebies, intimidation, and occasional booth capturing, though reduced, persist in some areas. These undermine voter choice and the principle of free and fair elections.

The criminalization of politics is a grave problem. Candidates with criminal backgrounds discourage genuine participation and shake voter confidence in democracy. Despite having the right to information, many voters still base their decisions on caste, religion, or regional loyalties, sometimes ignoring serious criminal allegations against candidates.

Contemporary Challenges

Technological advances have improved electoral efficiency but introduced new issues. Electronic Voting Machines (EVMs) offer faster and more accurate voting, yet doubts about their transparency linger among some political groups and the public. Though courts and expert panels have repeatedly validated EVM integrity, misinformation can erode trust.

Voting rights for Non-Resident Indians (NRIs) and internal migrants remain problematic. While NRIs are eligible voters, the requirement to be physically present in their constituency limits their participation. Seasonal migrants also often miss voting opportunities due to procedural and logistical barriers.

Ensuring inclusive participation for persons with disabilities, elderly voters, and those in remote or conflict-affected regions is another challenge. Accessibility of polling stations, availability of assistance, and voter-friendly infrastructure vary widely across the country.

Misuse of social media and digital platforms presents a new threat to informed voting. Fake news, targeted misinformation, and hate speech can manipulate public opinion, polarize society, and undermine rational electoral decisions.

While technology has the potential to deepen democratic participation, unequal access to digital resources risks excluding large sections of the population from informed and meaningful electoral engagement.

[16] Anirudh Tagat et al., Networked nudging: Designing a voter registration nudge in urban India, Journal of Behavioral Economics for Policy, Vol. 5 (2021) at p. 53

India has made substantial progress in digitizing electoral processes. The Election Commission of India (ECI) uses digital platforms for voter registration, correction of electoral rolls, dissemination of polling information, and voter awareness campaigns. Initiatives such as online voter registration portals, mobile applications, and social media outreach have simplified procedures and improved transparency. For digitally connected citizens, these tools enhance convenience, access to information, and participation in the electoral process.

However, the digital divide significantly affects the exercise of voter's rights. "India is a country which consists of millions of voters. Although they are quite conscious of their duties politically, unfortunately, a large percentage of them are still illiterate"[17] and some of them are digitally illiterate. A large segment of India's population—particularly in rural areas, tribal regions, urban slums, and among the elderly, women, and economically weaker sections—lacks reliable access to the internet, smartphones, or digital literacy. For these groups, reliance on digital mechanisms can create new barriers to voter registration, verification of details, and access to election-related information. When essential electoral services are predominantly available online, digitally excluded citizens may be indirectly disenfranchised.

The digital divide also affects the right to information, which the Supreme Court has recognized as integral to free and fair voting. Election-related information, including candidate affidavits, campaign messages, and voter education material, is increasingly disseminated through websites and social media platforms. Citizens without digital access are deprived of timely and comprehensive information, limiting their ability to make informed electoral choices. This informational inequality undermines the democratic principle of equal participation.

Another critical dimension is the growing influence of digital campaigning and social media. While these platforms enable direct interaction between candidates and voters, they also tend to privilege urban, educated, and digitally connected populations. Political narratives shaped online may not adequately reflect the concerns of digitally marginalized communities. Moreover, the spread of misinformation and targeted political advertising through digital platforms can distort voter perception, further disadvantaging those with limited digital literacy who may struggle to verify information.

The digital divide also raises concerns regarding future reforms such as remote or online voting for migrants and non-resident Indians. While such measures are often proposed to expand voter participation, they may inadvertently exclude citizens who lack digital access or technological confidence, thereby creating a two-tier system of electoral participation.

Addressing the digital divide is therefore essential for protecting voter's rights in India. Digital initiatives must be complemented by robust offline mechanisms, including physical voter facilitation centers or kiosks, door-to-door outreach, and traditional media campaigns. Expanding affordable internet access, improving digital infrastructure in rural areas, and promoting digital literacy—especially among marginalized groups—

[17] Kanhiya Lal Omar v. R.K. Trivedi and others (1985) 4 SCC 628- A case in which Constitutional validity of the Election Symbols (Reservation and Allotment) Order, 1968 issued by the Election Commission was challenged.

are crucial long-term measures. Ensuring that technological advancements enhance, rather than restrict, voter's rights requires an inclusive, balanced, and rights-based approach. Bridging the digital divide is not merely a technological imperative but a democratic necessity.

Judicial Interventions and Democratic Values

The judiciary has actively worked to strengthen voting rights. In People's Union for Civil Liberties (PUCL) v. Union of India (2003), the Supreme Court affirmed the voter's right to information as part of freedom of expression. The recommendation to introduce the "None of the Above" (NOTA) option in PUCL v. Union of India (2013) further empowered voters to reject all candidates, enhancing democratic choice, even though NOTA carries no direct electoral consequence. The interpretations of the provisions of the Constitution and Representations of Peoples Act provided a deeper dimensions to voters' rights. Equal right to vote and voter registration is linked to Article 14 and choice of candidates including NOTA ensures the right of the citizens to freedom of speech and expression under Article 19 (1) (a). The proactive interference by Hon'ble Supreme Court has elevated the statutory right to the status of a constitutional right, if infringed.

Suggestions and Way Forward

In order to strengthen voting rights in India, a comprehensive reforms of electoral rolls are essential. Regular, transparent updates, use of technology for error correction, and integration with civil registration databases can reduce voter exclusion. Special registration drives targeting migrants, urban poor, and first-time voters should be institutionalized.

Increasing voter awareness and civic education is vital. A vibrant democracy depends on informed, engaged citizens. Incorporating civic education into school and university curricula alongside continuous voter education campaigns by the Election Commission of India can combat political apathy and misinformation.

Electoral reforms to limit money and criminal influence must be prioritized. Enforcing stricter election expenditure limits, enhancing transparency in political funding, and establishing fast-track courts for electoral offenses can deter malpractice. Consideration should also be given to disqualifying candidates facing serious criminal charges, while respecting constitutional safeguards.

To tackle migration-related voting challenges, mechanisms such as remote voting, postal ballots for internal migrants, or constituency-neutral voting options should be explored cautiously, ensuring vote secrecy and integrity. Expanding home voting and assisted voting facilities can further enhance inclusivity for elderly and disabled voters.

Finally, building and maintaining trust in institutions is crucial. The Election Commission's independence and credibility must be preserved through transparent appointments and adequate resources. Combating misinformation through regulation, digital literacy initiatives, and promoting ethical political communication is equally important.

Conclusion

The right to vote is not just a legal entitlement but a democratic duty that upholds India's constitutional vision of participatory governance. While India has achieved remarkable success in conducting free and fair elections on an unparalleled scale, persistent issues and new challenges require ongoing reforms and vigilance. By addressing structural barriers, promoting inclusivity, and reinforcing democratic values, India can ensure that voting remains a meaningful, effective expression of the people's will. That only can guarantee electoral justice to the voters.