

## ELIMINATION OF BARRIERS TO THE EXERCISE OF THE RIGHT TO VOTE

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### INTRODUCTION

Loung Ung, a Cambodian American activist said, “Voting is not only our right, but it is also our power. When we vote, we take back our power to choose, to speak up, and to stand with those who support us.”<sup>1</sup> The right to vote is the most powerful non-violent tool, which lies in the hands of the citizen in a democratic society. Democracy is not a spectator sport and a vote is like a rifle, its usefulness depends upon the character of the user.

Abraham Lincoln said, “The Ballot is stronger than the Bullet”<sup>2</sup>. In today’s scenario, voters must have faith in the electoral process for our democracy to succeed. To enable the better functioning of our representatives and to make democracy work, we cannot be only observers as ignorance of one voter in a country like ours, impairs the security of all. Democracy is certainly not about politics; it is about the people and the real powers lie in their hands. Our country India is the largest democracy in the world, with a total of 900 Million active voters residing within its territories<sup>3</sup>. The election commission has been conducting campaigns in many different states of India to ensure maximum turnout in the polls. Voting in India is a constitutional right which makes it optional and in urban areas, voting day is treated as a day of rest which eventually results in disastrous consequences. Just as the elected leader must fulfill the well-being of the voters, the same is the need for the people of our country to contribute to choosing the right person for their representation.

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<sup>1</sup> <https://posts.specterops.io/voting-is-not-only-our-right-it-is-our-power-loung-ung-79f1e22041dd?gi=b6e9e80ab53>

<sup>2</sup> <https://quod.lib.umich.edu/j/jala/2629860.0038.207/--suppressed-ballot-is-stronger-than-the-bullet?rgn=main;view=fulltext>

<sup>3</sup> <https://www.google.com/amp/s/www.firstpost.com/india/lok-sabha-election-2019-900-million-registered-voters-one-million-polling-booths-seven-phase-polls-to-be-worlds-largest-democratic-exercise-6406791.html/amp>

## HISTORY OF VOTING RIGHTS IN INDIA

Under British rule, this right to vote was only confined to certain eligibility criteria like property ownership, land ownership, and payment of income<sup>4</sup>. The Indian council's Act 1901, followed by Morley- Minto Reforms was a very small yet impactful step in making people aware of their right to vote. Government of India Act 1909 was a huge turning point in the functioning of the government as it divided the government functioning into two bodies: the council of states and the Central Legislative Assembly. Women's right to vote was recognized under British rule in the 1920s and between the years 1919 and 1929, all the British provinces granted women the right to vote and we even have instances where women contested elections at the local level. The Simon Commission in 1927 advocated for reducing the voting age to 21 and within 10 years, the gap between the voting percentage of men and women started narrowing down, and presently, there is hardly any gap<sup>5</sup>. The true existence of India on the world map came in the year 1951, the year in which the first general elections were held. Universal suffrage came into play after India gained complete independence and the enforcement of the Indian Constitution paved the way for the establishment of a country, with deep-rooted democratic values and India has been a flag bearer of these values across the globe.

## BARRIERS TO THE EXERCISE OF THE RIGHT TO VOTE

It is rightly said that non-voting is the worst illness that democracy can suffer from. In the present 21<sup>st</sup> century, the right to vote and voting, in general, is of more importance than ever before in India. The problem of voting is two-fold. Firstly, persons duly qualified to be eligible voters do not care to get themselves registered at the time of the compilation of voting lists. Secondly, those who are on the voting list act indifferently and do not go to exercise this huge privilege, which is very crucial for the proper functioning of the government and democracy. The Lok-Sabha elections of 2019 registered the highest ever turnout, which was just 67.47%, merely 1.03% more than the 2014 figure<sup>6</sup>.

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<sup>4</sup> <https://www.google.com/amp/s/zeenews.india.com/india/voting-rights-in-india-how-the-country-arrived-at-the-concept-of-universal-suffrage-2393489.html/amp>

<sup>5</sup> <https://zeenews.india.com/india/bjp-banks-on-women-power-to-ace-2019-lok-sabha-elections-2088031.html>

<sup>6</sup> <https://timesofindia.indiatimes.com/india/at-67-1-2019-turnouts-a-record-election-commission/articleshow/69419715.cms>

Our main concern at the moment should be to analyze the cause of such a low percentage of voting and the methods through which we can overcome this issue. We would be unfolding the barriers that abridge one's exercise of the right to vote.

**1. The Illiterate Voter:** We cannot stress more the importance of literacy in a developing country like India. It is a fundamental human right and the basis for any individual's ability to learn. Literacy is essential not only for social and human development, but it also plays a vital role in providing individuals with the skills to transform their lives. There is even a literacy day set aside by UNESCO to help promote the importance of literacy in the overall development of any nation. The current literacy rate of India is approximately 75%<sup>7</sup>. Census of India estimated the average literacy rate to be 73% in the year 2011 while NSC surveyed literacy to be close to 78% in 2017-18<sup>8</sup>. From the research conducted to date, it is evident that there is a very wide gender disparity even in the literacy rate in India. The large proportion of illiterate females is the major reason for the low literacy rate in India (65.46% female literacy rate, compared to 82.14% male literacy rate). In a country where the literate and the educated class of the society neglect their civic duties, it is no wonder to find the illiterate voter awfully shying away from performing their duty of transforming the nation. They are yet to realize the significance of this power, which is vested in their hands. Daily wage earners see this as an opportunity to take a break from their daily schedule. It is the responsibility of the government to see that people are not only allowed to vote but also made aware of the impact and change that they can bring using this right.

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**2. No right to vote for the undertrial:** Section 62(5) of the Representation of the People's Act, 1951 governing the right to vote highlights the point that no person shall vote in any election if they are confined in prison under a sentence of imprisonment or transportation or otherwise, or are in the lawful custody of the police<sup>9</sup>. If we look at Chapter 43 of the Reference Handbook on the general elections, 2014, it can be concluded that undertrial prisoners are not eligible to vote even if their names are on the electoral rolls. Before delving into the flows of this provision, let's elaborate on who exactly is under trial prisoners. Under trail prisoners, also called un-convicted prisoners, are people who have not been convicted of the charge(s) for

<sup>7</sup><https://knowindia.india.gov.in/profile/literacy.php#:~:text=The%20literacy%20rate%20in%20the,males%20and%2065.46%20for%20females.>

<sup>8</sup><https://knowindia.india.gov.in/profile/literacy.php#:~:text=The%20literacy%20rate%20in%20the,males%20and%2065.46%20for%20females.>

<sup>9</sup><https://indiankanoon.org/doc/5827315/>

which they have been detained and are presumed to be innocent by law. The number of undertrial prisoners is increasing rapidly with each passing year in India. The number of undertrial prisoners has increased from 3.2 Lakhs in 2018 to 3.3 lakhs in 2019<sup>10</sup> and this number is growing with every passing month. Depriving such a large portion of Indians of exercising this civil political right is unreasonable. Article 326 of the Indian Constitution only permits the disqualification of a voter on the grounds of non-residence, unsoundness of mind, or involvement in criminal practices. It would be unfair to take suspicion of crime into this ambit and every accused is assumed to be innocent until proven guilty. Depriving a person on mere suspicion is certainly unfair and unreasonable. In a densely populated country like India, with a huge economic disparity, it is safe to consider that many undertrial prisoners remain in prison because of their incapacity and inability to pay the bail bond and they remain ignorant about their right to get a bail. Excluding undertrials from voting can be taken as a barrier to their right to vote.

**3. Problem with the EVM Machine:** An EVM is an essential part of participatory democracy and allows the voter to cast their vote for the candidate of their choice or choose the NOTA option. To make an informed decision, each voter must know how an EVM works. In our country, there have been allegations of fraud by all the losing political parties and it can rightly be claimed that “Voting fraud is not present everywhere or absent everywhere”. Computer scientists have tampered with machines to prove that it can be done easily. A malicious voting system supplied by one vendor can falsify millions of votes. According to the congressional research service of electronic reform and electronic voting systems, vendors state that they transmit election results via VPN. But even this approach can be subject to attack via the internet. A team led by V. Hari Prasad of Net India Pvt. Ltd. has shown that if criminals get physical possession of the EVM before voting, they can easily change the hardware inside<sup>11</sup>.

### **METHODS THROUGH WHICH THESE BARRIERS CAN BE REMOVED**

It would be unjustified from our end if we do not acknowledge the issues that we have discussed so far. However, it is equally important to highlight the methods through which the barriers to voting can be eliminated. First and foremost, the mindset of the citizens that their single vote

<sup>10</sup> <https://ncrb.gov.in/sites/default/files/Executive-Summary-2019.pdf>

<sup>11</sup> Wolchok, Scott; Wustrow, Eric; Halderman, J. Alex; Prasad, Hari K.; Kankipati, Arun; Sakhamuri, Sai Krishna; Yagati, Vasavya; Gonggrijp, Rop (October 2010). Security Analysis of India's Electronic Voting Machines (PDF). 17th ACM Conference on Computer and Communications Security.

cannot make a difference needs to be changed. Citizens of the country must be made aware of the fact that every single vote is significant and one single vote can be a game-changer and a decisive factor in some cases. Voting is the most effective medium to have the change that we want in the existing government. We as citizens must honor the right of voting given to us by the Indian Constitution. We all aspire and voice our opinions for exercising our basic fundamental rights but none of us pays any heed to the cardinal element by the virtue of which we can exercise our rights, we are an independent democratic nation. Democracy is the form of government that is for the people, by the people and to the people, this depicts that this is a government of people and if people fail to perform their duty the government framed will be inefficient for regulating and managing the country.

The existing government should give more focus on Voter awareness programs that are being conducted in the rural parts of India. Voting is the most vital aspect of participation, and in a democratic nation we must focus on the awareness and importance of voters, their opinion, their say, and stake in the formation of government, the voter awareness programs that are being conducted in villages are an enlightening initiation for inclusion of people in the process of formation of a government. The awareness program should be of such nature that every individual understands the importance of voting, and considers that election is not only for a few people who are electing it rather it is an inclusive activity demanding the participation of every individual. Another area that can be improvised is the “cost of voting”: the time and distance taken to travel to a polling station, time spent waiting in line and unfavorable weather conditions force the voter to restrain from voting. These are all environmental, economic, and societal reasons which restrain a voter from exercising his right these problems are curable and the government must come up with policies and techniques which function in the eradication of these problems and ensures maximum participation by individuals. The number of polling stations in India should be increased, keeping the pandemic and the population in mind. EVMs that are used in the Indian Election should be checked thoroughly to ensure that they are full – tamper-proof. Democracy is the best form of government because it is believed that democratic governments are transparent, accountable, and efficient they are elected for a specific period and always have this fear in their mind that their misconduct during one tenure may lead to the termination of their party forever from the race of election as the power of choice vests in the hands of individuals, so if the EVM machine tampers or malfunctioned a government who wins with mala fide intention will never work for the betterment of the country and an in-efficient

government will be out of the race so this ill- practice of manipulating the EVM machines should be curbed at the first place.

Free and fair elections must be facilitated by the government in power to uphold the essence of democracy. Democracy will only survive and breathe till the time people are involved and have a say the moment government controls the process of election, deviate people's vote and opinion according to their whims and wishes, democracy rests its soul in peace and dies, so to survive and let democracy alive governmental influence on the choice of the vote, the number of votes and the function of EVM must be minimal. Feelings of mistrust and skepticism must be removed from the minds of the voters, to attain maximum participation. Without maximum participation we cannot claim to be one of the largest democracies, our forefathers fought for our independence fought for this democracy and it is of utmost shame and disgrace that we as one nation are not capable enough to uphold and respect their struggles, the moment a vote is manipulated we lose our fight of independence, we lose our victory that moment, and we are losing it every time an EVM tampers, a vote is manipulated, a voter's right is infringed. So, to uphold our principles our nation and our ideals we must inculcate and imbibe voting as an essential practice, voting is as important for democracy as oxygen is for breathing voting is the oxygen of our democracy and we must preserve, propagate and promote the practice of voting.