



Voter Rights on Election Process in India

Dr. K. Hussain,

Associate Professor of Political Science,

Government Degree College, Siddipet (Autonomous), Siddipet, Telangana State.

Abstract

This article deals with Vote, voter, voter rights in India, especially on right to vote forms an essential aspect of citizenship in democratic societies. It grants individuals the opportunity to participate in the democratic process and have a say in their government. The right represents the fundamental democratic principles of equality, representation, and responsibility. Methods of Voting in India, Rights of the Voters' in India, Lack of proper voting, Legal Framework and Protection of Voting Rights, Voters Participation and Challenge, Recent Reforms in Voting, Grounds for Disqualification to Vote.

Keywords: Vote, Voter, Voting, Election Process, India

1. Introduction :

A Democratic state is a state where a person can elect his representative by voting a candidate of his choice and that person will be responsible to govern the state. In the process of election one vote is enough to determine the win and loss of the party. Power of one vote cannot be ignored as it is sufficient to make a person representative of everyone. Hence ignoring one voter will affect the security of all. Each person is responsible not only for his security but also for the security of everyone.

Vote is an instrument by which a person elects his representative to represent him before the sovereign and the elected representative reflects and represents the people by whom he is elected. Voting is one of the biggest assets available to the people of a democratic country. If a person is elected through voting his accountability towards the public increases as a result of which his performance and work for public welfare becomes for accurate which further results in creation of a welfare state. Vote is to express one's opinion formally, as at an election. Voting simply means making a choice between two parties or two candidates by casting a ballot or by raising your hand or by any other way to manifest your choice and that chosen candidate who received maximum votes will be the winner and the face of the people of the nation.

India stands as a model for many emerging democracies around the world. Free and fair elections are the hallmark of a well-functioning democracy. While we are justifiably proud of our democracy, there are a number of areas which need to be strengthened for us to realise the true potential of a well-functioning democracy. Our election system, from the selection of candidates, to the manner in which funds are raised and spent in election campaigns, are in dire need of significant changes.

The right to vote is the strongest tool or medium of raising one's voice in a democracy. The spirit of democracy is ensured by means of voting by the citizens of the country who participate in shaping the future of the country and thereby their own.

2. Constitutional Rights to Voter:

The Constitution of India grants the right to vote to all of its citizens above the age of 18 years and having a sound mind irrespective of their class, caste, religion or their socio-economic status. The right to vote is considered to be among the very fundamental rights of any citizen. The constitution of India thereby provides the citizens with certain privileges that ensure the safety and security of their rights as a voter and thereby curb any misuse of their rights.

In order to be eligible for voting in any of the elections, the person must be above 18 years of age and a citizen of the country. Every citizen that holds a valid Voter ID can vote in any of the following elections

- National-level elections
- State-level elections
- Local government body elections
- District-level elections

Right to vote forms an essential aspect of citizenship in democratic societies. It grants individuals the opportunity to participate in the democratic process and have a say in their government. The right represents the fundamental democratic principles of equality, representation, and responsibility.

Right to Vote – Fundamental Right

In India, the right to vote is guaranteed to all adult citizens by the Constitution of India under Article 326. Article 326 of the Constitution states that “the elections to the House of the People and to the Legislative Assemblies of States shall be on the basis of adult suffrage”, that is, every citizen who is 18 years of age or older has the right to participate in the democratic process by casting their vote in elections. The Election Commission of India conducts the elections to ensure they are free, fair, and transparent, upholding the principles of democracy. Voting in India is considered not just a right but a fundamental duty, as it plays an important role in shaping the nation’s policies and decisions.

3. Compulsory Voting in India: History and Context Compulsory voting was first considered by the Parliament in 1950 during the enactment of the Representation of the People Act. Nevertheless, citing practical difficulties in implementation, it was rejected (led by members such as Dr. B.R. Ambedkar). Then the Dinesh Goswami Committee in 1990 considered the question of making “voting compulsory” to increase voter turnouts. However, the Committee rejected the idea based on “the practical difficulties involved in its implementation”. Subsequently, in 2001, the Consultation Paper of the National Commission to Review the Working of the Constitution (NCRWC) on Electoral Reforms again considered, and rejected the proposal for compulsory voting, noting that it would “not be feasible or advisable at present ... [given that] in our situation, there may be several management and legal enforceability problems and difficult questions of penalty for not voting.”

4. Methods of Voting in India

A person eligible to vote in India can vote either through the Polling Booths or through Postal Ballots. The eligible voters can vote in an election by visiting the allotted polling booth. They will have to find their name in the voter’s list and assist the polling officials in marking their presence so as to avoid any case of misrepresentation or misuse of their Voter ID. The other available option to vote is by postal ballots. This option is available to only a select category of voters that are not able to visit the polling booth like the police officers on polling duties, armed personnel that are stationed at their respective posts, persons that are kept in preventive detention, etc.

5. Rights of the Voters' in India

The voter's have certain rights that are bestowed on them by the Election Commission of India. These rights are safeguarded by the Constitution of the country and are provided to all the citizens of the country.

Such Voter rights are discussed below.

Right to Know: The voter has the right to know about the candidates contesting the elections. The voters have the right to get the details of the past records of the candidate (criminal records, if any), financial position of the candidate, their election manifesto, etc.

Voting rights of NRIs: The NRIs are those citizens of the country that are not present at their place of residence for reasons of employment or any other reasons but are still eligible to vote in the elections of the country. NRIs were not initially allowed to vote in the elections of the country. However, a subsequent amendment allowed the NRIs to vote for elections in India even if they are not residing in the country for a period of 6 months.

Voting rights of Prisoners: The constitution of India and the guidelines of the Election Commission of India do not permit a person who is imprisoned to vote in the upcoming elections of the country.

NOTA (Right Not to Vote): NOTA or the Right Not to Vote is another right of the voter where the voter participates in the electoral process but does not vote or choose any of the contesting candidates. This right is exercised when the voter feels that none of the contesting candidates are worthy of his/her vote. In such a case, the voter will choose or vote NOTA (None Of The Above) which indicates that he/she does not wish to cast a vote for any of the candidates that are contesting the election.

Tendered Voting Rights: This right can be exercised by a voter when he/she realizes that another person has wrongly voted on their behalf. Such a person will need to provide a valid identity proof to authenticate their voting right and vote on a separate ballot paper as per Election Commission.

Voting rights of Disabled or Infirm Citizens: This right is to safeguard the voting right of the disabled and infirm citizens to ensure that their voice is also heard in democracy. When a person of disability is not able to cast his/her vote in the polling booth or through postal ballot, the Election Commission will provide assistance to such voters to cast their votes by taking their vote with the help of an Electoral Officer.

6. Legal Framework and Protection of Voting Rights

Voting rights in India are protected through a comprehensive set of laws and regulations. Various provisions are:

- **Constitutional Provisions:** **Article 326** grants the right to vote as a fundamental right to all citizens above the age of 18 years, and **Article 324** provides for the establishment of the Election Commission of India for conducting free and fair elections.
- **Representation of People Act (RPA):** The Representation of People Act, 1950, and its amendments lay down the criteria for the qualifications and disqualifications for being a voter and a candidate for elections. It also contains a provision regarding electoral rolls, electoral offenses, and delimitation of the constituencies
- **Election Commission:** Election Commission performs the following functions:
 1. It prepares and maintains the electoral rolls that contain the names of eligible voters in each constituency and updates them regularly.
 2. It superintends, directs, and controls the entire electoral process in a transparent manner.
 3. Valid identification documents for voting are prescribed by the Election Commission.
- **Right to Secret Ballot:** Voters can cast their vote in privacy without any force or influence.
- **Electronic Voting Machines (EVMs):** The EVM ensures the voting process is efficient, transparent, and tamper-proof.
- **Electoral Offences:** The law prescribes penalties for those who violate the electoral process, such as booth capturing, bribing voters, or electoral malpractices.
- **Judicial Review:** In case of disputes or violations related to the electoral process, individuals can seek legal recourse through the judiciary, which acts as a safeguard to protect voting rights and the integrity of the electoral system.

- **Criminal Disqualifications:** Subject to certain conditions, the law disqualifies individuals convicted of certain offenses from contesting elections or being voters.

7. Grounds for Disqualification to Vote

The election Commission while ensuring the safeguarding of the rights of the voters has also laid down certain criteria that disqualify a person from voting in any of the elections even if he/she holds a valid Voter ID.

These grounds of disqualification are mentioned below.

- If a person is convicted under Section 125, Section 135 and Section 136, such person will be disqualified to vote in any of the elections.
- Another ground for disqualification is if a person has committed an offence under the Section 171E and Section 171F of the IPC.
- Furthermore, if a person is found voting from two or more constituencies such person is disqualified from the electoral list.

8. Importance of Voting

Voting is a fundamental pillar of democracy, that ensures that the government remains responsive, representative, and accountable to the people. The voting process represents democracy's famous saying, "government of the people, by the people, and for the people". By casting their ballots, citizens express their political will and actively participate in the democratic process. Regular elections enabled by voting enable the peaceful transition of power, ensuring stability and continuity in governance. High voter turnout strengthens the legitimacy of the democratic process, ensuring that the government is truly representative of the people's will. The voter turnout for the Lok Sabha poll (2019) reached a record high of approximately 67.11% across 542 constituencies.

9. Voters Participation and Challenge

The various challenges and factors affecting voter participation are as follows:

- Lack of interest or motivation among some citizens to participate in the electoral process, as they are influenced by a perception that votes do not make a significant difference.
- Remote or difficult-to-access regions may present challenges for voters, particularly for people living in rural and hilly areas.
- Lack of education or awareness about the importance of voting can affect voter turnout.
- Incomplete or inaccurate voter registration data can lead to eligible voters being excluded from the electoral rolls.
- Discrimination or societal pressure, especially on the female gender, can impact voter participation.

These challenges requires efforts to be made by both the government and civil society. Various steps can be taken, like voter awareness through campaigns, simplifying voter registration procedures, improving accessibility to centres in the hilly and rural areas, and targeted outreach to underrepresented groups and marginalized communities.

10. Recent Reforms in Voting

In recent years, India has witnessed several reforms in the voting process to improve the efficiency, accessibility, and transparency of elections. Various reforms are as follows:

- **Postal ballot** facilities were extended to senior citizens above 80 years of age and persons with disabilities (PwDs) that allow them to vote from home.
- **NOTA (None of the Above)** was introduced that allows voters not to choose any candidate if they find them unsuitable.
- The Election Commission of India launched an **online portal** to allow citizens to register as voters and update their information conveniently.

- **VVPAT machines** were introduced, that provide a printed verification of the vote cast by the voter. This increases the confidence of the voter in the election process.
- **Voter education campaigns** were started to raise awareness about voting rights and the electoral process. To decriminalise the election, the election commission asks the candidates to declare their criminal records.
- Recent Supreme Court ruling that voting to based on informed choice, that is right to be informed fully about the candidates 2019 backgrounds.

Despite significant progress, various challenges persist in the electoral process, like financing elections, the misuse of social media for propaganda, proxy voting issues for non-resident Indians, and entry of criminals into politics are some of the key concerns. To reinforce Indian democracy, all political parties, civil society, and other stakeholders should actively participate in electoral reform efforts. Suggestions for reaffirming the right to vote as a fundamental right in a democratic society are:

- Include the right to vote explicitly as a fundamental right in the Constitution.
- Improve accessibility to polling stations for citizens with disabilities or living in remote areas.
- Increase transparency and accountability in political funding to reduce the influence of money in elections.
- Work towards online voting systems to make voting more convenient for citizens, including NRIs and those living abroad.
- Raise awareness about the importance of voting, electoral procedures, and the impact of individual votes on the governance of the system through various campaigns.
- Expand postal ballot facilities to all eligible citizens, not just specific groups, to increase convenience and voter participation.

11. Lack of proper voting

Lack of voting or not a proper use of voting rights is one of the biggest problems faced by various countries. With an advent of time and progress in society responsibility among citizens regarding their voting rights has increased considerably but still there are large number of people who do not give proper importance to their voting rights.

Right to vote is not a fundamental right rather it's a legal right under as discussed above person cannot be held liable under law for not using his legal right so therefore a person cannot be punished under law for not using his voting rights which is one of the main reasons behind less use of voting rights. There is a stereotype Among people that their one vote won't change the outcome which is also one of the prime reasons behind misuse of voting rights. There have been various attempts by government to increase participation of people in the festival of voting.

12. Suggestions

It appears jus and proper to state that following suggestions can be implemented by the state to increase the participation of people in voting:

- Educate citizens about positive outcomes of proper use of increased voting.
- Create awareness among people about voting and its significance.
- The rallies that parties conduct should not only promote their party but also try to focus on maximum voting by the citizens and they should promote maximum voting idea as well in their rallies. State should apply methods of creating the awareness among the people to eradicate their stereotypical thinking that one vote won't change anything and this can be done by surveys, street plays, researches as to know the other causes why people are not voting.

13. Conclusion

To conclude we would like to state that voting is a weapon available to citizens which should be used by them in right direction for shaping better future of their country. A proper use of voting right by citizens can serve as a building block of nation's future. The right to vote should be effectively used by every citizen to elect their respective leaders. If this right won't be used properly by those, who have it, it would affect the very essence of a democratic system of Nation.

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