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THE ILLUSION OF UNIVERSAL SUFFRAGE: DISABILITY AND ELECTORAL EXCLUSION OF INDIA

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Abstract

The right to vote represents the foundational expression of our democratic participation and political equality. Although the Indian constitution guarantees Universal adult franchise, persons with disabilities continue to face systematic exclusion from meaningful electoral participation. This exclusion is not only limited to the polling booth but is embedded within the legal provisions, administrative practices, and institutional design. This article critically examines the constitutional, statutory, and regulatory framework governing elections in India to identify legal barriers that restrict the electoral participation of people with disabilities. The study analyzed the Representation of People Acts (1951), The Rights of Persons with Disabilities act, 2016, the Election Commission guidelines, Judicial pronouncements, and India's obligations under the United Nations Conventions on the rights of persons with disabilities. The article attempts to explain the persistent gap between formal recognition and substantive enjoyment of electoral rights. It argues that accessibility and reasonable accommodation must be recognized as enforceable legal entitlements rather than discretionary measures. This article concludes that dismantling these legal barriers is necessary not only for disability justice but also for preserving the constitutional legitimacy of India's democratic purposes.

Keywords – Electoral rights; Persons with disabilities; Universal Adult suffrage; Accessibility; democratic participation; Election Law; Constitutional Equality

I. INTRODUCTION

Democratic governance is premised on the principle that every citizen has an equal voice in decision making. In India, universal adult suffrage is celebrated as a radical constitutional commitment that rejects historical hierarchies of caste, class, and gender. Yet, despite this formal guarantee, people with disabilities remain disproportionately marginalised within the electoral process. Their exclusion is rarely the result of an express denial of their voting rights; rather, it is produced through legal, procedural, and structural barriers that operate beyond the act of casting a ballot[1].

Disability, when understood through a rights-based framework, is not merely an individual medical condition but is a consequence of the interaction between persons and inaccessible conditions. Electoral systems that fail to accommodate diverse disabilities effectively deny political

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[1] Samuel Issacharoff, Democracy Unmoored, 47 Harv. J.L. & Pub. Pol'y 1 (2014).

participation. India's ratification of the *United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)* reinforces the obligation to ensure that persons with disabilities can equally and fully participate in political life like others.[2] However, the persistence of inaccessible polling infrastructure, restrictive legal provisions, and discretionary administrative practices reveals a deep disconnect between constitutional goals and lived realities.

This article argues that the electoral exclusion of persons with disabilities in India is a fundamental legal problem. The failure to provide accessibility and reasonable accommodation as enforceable rights within electoral laws undermines the constitutional guarantees of equality, dignity, and democratic participation. By examining legal barriers within the electoral laws and governance, this article seeks to move the discourse, above and beyond the symbolic inclusion towards substantive electoral justice.

II. CONSTITUTIONAL FOUNDATIONS OF ELECTORAL PARTICIPATION

The constitution of India has established a normative framework that has placed equality and dignity at the epicenter of democratic participation. *Article 14* guarantees equality before the law and equal protection of laws, which the Supreme Court has consistently interpreted as encompassing substantive equality rather than formal equality.[3] Electoral arrangements that ignore disability-related disadvantages violate *Article 14* by perpetuating structural exclusion.

Article 19(1)(a) protects freedom of speech, which includes political expression through voting and participation in public affairs.[4] Denial of accessible voting mechanisms restricts freedom by preventing persons with disabilities from independently expressing their political will.

Article 21, which protects the right to life and liberty, has been interpreted in ways to include dignity, autonomy, and meaningful participation in social and political life.[5] Exclusion from the electoral process completely undermines these constitutional values.

Article 326 mandates that elections be based on universal adult franchise, subject only to constitutionally permissible disqualifications. Although the Supreme Court has held that the right to vote is legally valid, it is also integral to the democratic structure envisioned in the Constitution.[6] Along with this, any restriction on the electoral participation must be narrowly construed and justified by compiling legal reasons. These provisions collectively impose a positive

[2] Convention on the Rights of Persons with Disabilities, Dec. 13, 2006, 2515 U.N.T.S. 3.
[3] *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 SCC 3 (India).
[4] Union of India v. Ass'n for Democratic Reforms, (2002) 5 SCC 294 (India).
[5] Maneka Gandhi v. Union of India, (1978) 1 SCC 248 (India).
[6] People's Union for Civil Liberties v. Union of India, (2003) 4 SCC 399 (India).

obligation on the state to ensure that voting rights are not mere in theory but accessible to all citizens in all strata including people with disabilities.

III. STATUTORY AND REGULATORY FRAMEWORK

A. REPRESENTATION OF THE PEOPLE ACT, 1950 AND 1951

The Representation of the People Act, 1950, governs the voter registration, while *the Representation of the People Act of 1951* regulates the conduct of elections. Despite operationalizing *Article 326*, these statutes inadequately address disability specific concerns. *Section 16(1)(b) of the 1950 Act* disqualifies persons of "unsound mind", declared by a competent court after being registered as a voter.[7] The vague and antique nature of this terminology has reflected a medicalized and paternalized understanding of disability.

Such provisions fail to understand and distinguish between legal incapacity and disability and enable broad disenfranchisement without regard to individual autonomy. Further, the act does not impose an explicit statutory obligation on the electoral authorities to ensure a reasonable accommodation or an accessible voting environment. As a result, accessibility remains peripheral rather than integral to electoral law.

A deeper legal issue underlying the statutory silence here is the absence of a positive obligation within the electoral law. While the electoral laws protect the right to vote, the lack of enforceable duties on electoral authorities renders this protection illusory for persons with disabilities. Accessibility in this sense is not an ancillary to suffrage but constitutive of it. Treating inaccessible polling infrastructure and inadequate accommodative policies as logistical concerns rather than as a legal violation obscures their constitutional character. A rights-based electoral framework will require the state to actively facilitate participation rather than merely refrain from interference in order to fulfil the mandate of substantive equality.

B. Rights Of Persons With Disabilities Act, 2016

The Rights of Persons with Disabilities Act, 2016,(*RPwD),* represents a paradigm shift in Indian disability law by adopting a rights-based initiative. *Section 11* of this Act focuses on the political rights of the disabled and recognises that the state should ensure the voting procedures, facilities,

[7] Representation of the People Act, 1950, § 16(1)(b).

and materials are accessible and appropriate.[8] This provision also reflects India's commitment towards the internal obligations under the *UNCRPD.*

However, the *RPwD* Act lacks robust enforcement mechanisms. The absence of clear penalties for non-compliance and limited avenues for Individual legal redress significantly weaken its practical impact. Along with this, electoral accessibility often remains aspirational only, mostly being dependent on administrative discretion rather than an enforceable legal enlightenment.

C. ROLE OF THE ELECTION COMMISSION OF INDIA AND ACCESSIBILITY GUIDELINES

The Election Commission of India (ECI) has issued multiple guidelines aimed at facilitating electoral participation for persons with voting disabilities. These include providing ramps, wheelchairs, Priority voting, and assistance provided at polling stations and booths.[9] While these initiatives reflect administrative sensitivity, their non-binding nature results in inconsistent and uneven implementation across the country's various Jurisdictions. Without a statutory backup, such guidelines fail to guarantee a uniform implementation of accessibility and accountability for the disabled.

IV. LEGAL BARRIERS BEYOND THE ACT OF VOTING A. PHYSICAL AND INFRASTRUCTURAL BARRIERS

Inaccessible polling booths across our country remain a significant obstacle for voters with locomotor, visual, and sensory disabilities. The absence of ramps, tactile paths, accessible signs, and an adequate transportation system exclude disabled voters. Treating the accessibility factor as a logistics concern rather than as a constitutional obligation reflects a narrow understanding of equality and undermines democratic inclusion.[10]

PROCEDURAL BARRIERS

Procedural requirements such as voter registration, physical presence at polling stations, and rigid identification rules put intense and disproportionate burdens on persons with disabilities. Although mechanisms such as postal ballots and home voting exist, their limited scope and restrictive nature lead to the prevention of their widespread utilization. Assistance rules often compromise voter autonomy by being dependent on who the disabled voter is being assisted by, thereby undermining the secrecy and the independence of the vote.

[8] Rights of Persons with Disabilities Act, 2016, § 11.
[9] Election Commission of India, Handbook for Persons with Disabilities (2023).
[10] Anita Ghai, Disability and the Law in India, 54 J. Indian L. Inst. 189 (2012).

LEGAL CAPACITY AND DISENFRANCHISEMENT

Disqualification based on mental capacity remains one of the most exclusionary measures. Such provisions contradict the *UCRPD's* recognition of universal legal capacity and the principle of supported decision making.[10] The continued reliance on capacity-based exclusion entrenches paternalism within the electoral laws of our country and denies persons with intellectual and psychosocial disabilities recognition as equal political agents.

ATTITUDINAL BARRIERS WITH LEGAL CONSEQUENCES

Paternalistic assumptions regarding competence and dependency frequently influence administrative decision making. These attitudes manifest in a restrictive interpretation of eligibility and assistance rules, which reinforces exclusion in the name of protection. When it is embedded with the legal framework, such assumptions acquire a coercive force.

V. JUDICIAL ENGAGEMENT WITH DISABILITY AND PARTICIPATION

Indian courts have progressively recognized disability as an integral constitutional right. In *Javed Abidi vs Union of India,* the Supreme Court of India emphasized the state's obligation to ensure accessibility in public services.[11] Similarly, in *Rajive Raturi vs Union of India,* the court affirmed that accessibility is essential for equality and dignity.[12] In *Suchitra Srivastava vs Chandigarh Administration,* the court recognized that autonomy and decisional capacity are the core components of individual liberty.[13]

Despite these judgements, judicial engagement with systematic electoral disenfranchisement remains limited. Courts have yet to directly interrogate the structural legal barriers embedded within electoral law that undermine political participation for persons with disabilities.

VI. ELECTORAL ADMINISTRATION, LEGAL OBLIGATION, AND SYSTEMATIC FAILURE

While the constitutional courts have repeatedly affirmed the right to vote as a foundational democratic enlightenment, the pragmatism of this right for persons with disabilities remains contingent on electoral administration. In India, the enforcement of disability inclusive voting is largely delegated to the Election Commission of India (ECI), whose role, although constitutionally significant, has increasingly relied on the discretion of the executive rather than enforceable legal obligations.

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[10] UN Comm. on the Rights of Persons with Disabilities, General Comment No. 1, U.N. Doc. CRPD/C/GC/1 (2014).
[11] *Javed Abidi v. Union of India*, (1999) 1 SCC 467 (India).
[12] *Rajive Raturi v. Union of India*, (2016) 4 SCC 413 (India).
[13] *Suchita Srivastava v. Chandigarh Admin.*, (2009) 9 SCC 1 (India).

The Representation of the People Act, 1951, does not explicitly mandate structural accessibility at polling stations. Instead, accommodation measures such as ramps, wheelchairs, and assisted voting are being implemented through the guidelines of the ECI. While these guidelines represent a progressive intent, they lack a statutory force, rendering them non-justiciable in most circumstances. This administrative gap uncouples between constitutional promises and on-ground electoral reality.

The Supreme Court's jurisprudence has also failed to impose binding duties on the electoral body in this regard. In *People's Union for Civil Liberties vs Union of India,* the court emphasized voter autonomy and electoral fairness, yet the court stopped short of recognising accessibility as an enforceable component of the right to vote.[14] This judicial restraint has allowed systematic exclusion to persist under the concerns of logistical difficulties.

From an administrative law perspective, this raises serious concerns regarding the non-application of the mind. When accessibility is treated as a matter of concern rather than a guarantee, it undermines *Article 14's* guarantee and *Article 21's* protection of dignified participation in public life. The absence of accountability mechanisms further entrenches this exclusion, leaving disabled voters dependent on ad hoc agreements rather than predictable legal safeguards.

Consequently, electoral administration in India reflects the broader failure of rights implementation, where legal recognition existed without corresponding enforcement. Without making guidelines into binding obligations, the right to vote for persons with disabilities remains nominal rather than substantive.[15]

VII. INTERNATIONAL AND COMPARATIVE PERSPECTIVES ON DISABILITY-INCLUSIVE VOTING

Article 29 of the *UNCPRD* obligates the state to guarantee political participation for persons with disabilities on an equal basis with others, which includes accessible voting and protection of the secrecy of the ballots.[16] Comparative jurisdictions such as the United Kingdom and Canada have incorporated accessibility and reasonable accommodation into electoral law as enforceable rights. India's continued reliance on non-binding guidelines places it at odds with evolving international standards and democratic inclusions.

[14] People's Union for Civil Liberties v. Union of India, (2003) 4 SCC 399.
[15] Election Commission of India, Handbook for Returning Officers (latest ed.).
[16] Convention on the Rights of Persons with Disabilities, art. 29.

A comparative examination of disability-inclusive voting practices reveal that democratic jurisdiction has moved from a policy-based accommodation towards legally enforceable accessibility standards. These models provide valuable insights into how India's electoral framework may be strengthened.

In the United Kingdom, *the Representation of Peoples Act 1983* mandates reasonable adjustment at polling stations, which include tactile voting devices and companion-assisted voting. Courts have also interpreted these provisions purposely, recognizing accessibility as an intrinsic electoral right rather than a discretionary welfare measure.[17]

Similarly, Canada adopts a pro disability rights-based approach under the *Canadian Charter of Rights and Freedoms.* The Supreme Court of Canada has consistently held that barriers to voting, whether physical or procedural, it will violate *section 3* of the Charter, which guarantees democratic participation.[18] The Electoral body of Canada is statutorily obligated to ensure accountability and accessibility, and failure in this obligation will result in judicial scrutiny.

In contrast, India's reliance on executive guidelines lacks equivalent enforceability. Although India is a signatory to the *UN Convention on the Rights of Persons with Disabilities (UNCPRD),* the domestic interpretation is inadequate. *Article 29* of the convention requires state parties to guarantee political participation on an equal basis, yet Indian courts have not only fully functionalized this mandate within the electoral law.

The comparative analysis demonstrates that accessibility must be embedded within binding legislation rather than soft law instruments. India’s current model is normatively aligned with international standards but is below par in execution. Legislative reforms inspired by best practices would not only enhance electoral inclusivity but also strengthen democratic legitimacy.[19]

VIII. RECOMMENDATIONS FOR LEGAL REFORMS

First, the *Representation of the People Act, 1951* must be amended to remove vague and discriminatory disqualification provisions based on mental capacity. Second, accessibility and reasonable accommodation should be recognized as a statutory right within the electoral law. Third, the Election Commission guidelines must be accorded a binding legal status to ensure a

[17] Representation of the People Act, 1983, c. 2 (UK).
[18] *Sauvé v. Canada (Chief Electoral Officer)*, [2002] 3 S.C.R. 519 (Can.).
[19] United Nations Convention on the Rights of Persons with Disabilities art. 29, Jan. 24, 2007, 2515 U.N.T.S. 3.

uniform implementation. Finally, electoral reform should be an autonomy-based framework that recognizes persons with disabilities as full political citizens rather than passive beneficiaries.

IX. CONCLUSION

Universal adult suffrage remains constitutionally incomplete so long as persons with disabilities face systematic barriers to electoral participation. These barriers, embedded within the legal framework and institutional practices, have undermined the democratic values of equality, dignity, and political institutions. Examining electoral participation beyond the ballot boxes reveals that meaningful democracy requires more than formal recognition of rights. It demands enforceable legal obligations, institutional accountability, and a fundamental reimagining of disability within electoral governance. Ensuring equal electoral participation for persons with disabilities should not be an act of charity but a constitutional mandate that is essential to India's democracy.

The right to vote is not merely a formal entitlement but a substantive democratic guarantee that demands meaningful accessibility. For persons with disabilities in India, this promise remains unfulfilled. Despite constitutional safeguards and international commitments, structural and administrative barriers continue to persist, excluding a significant segment of the electorate.

This article has demonstrated that the problem does not lie in the absence of legal recognition, but in the failure of enforcement. Judicial drawbacks, administrative discretion, and non-binding guidelines collectively dilute the effectiveness of disability rights within the electoral process. As a result of this, disabled voters are not able participate within a system that claims to be universal participation.

Addressing this exclusion requires a shift from a symbolic accommodation to an enforceable legal obligation. Legislative amendments to the *Representation of People act 1951,* along with judicial recognition of accessibility as a fundamental component of voting rights, are essential. Only then can India claim compliance with its constitutional ethos and international commitment.

An inclusive democracy is measured not by the number of voters it registers but by the barriers it dismantles. This ensures accessible elections are not an act of charity but a constitutional necessity.