

POLITICAL PARTIES AND POLITICS IN INDIA: AN APPRAISAL

Dr. Alok Chantia,

*President, All Indian Rights Organization (AIRO),
Lucknow*

Dr Preeti Misra,

*Asso. Prof.,
Dept. of Human Rights,
BBA University,
Lucknow*

ABSTRACT

Across the globe every Homo sapien (Biological being) is a cultural being who belongs at least to one nation and nationality under the reign of established government. Democracy is very good system in which every citizen can play its role for his/her nation. Democracy is established with the help of electoral policy which governs elections of a country. India is the biggest democratic country in the world where numerous national and regional parties are surviving with electoral policies. An individual always thinks about his basic rights of food, sex (marriage), protection etc for smooth survival. People of India give majority to that political party for next five years, which agrees to all these parameters in its manifesto , But it is also a fact that parties are getting good results by making comment on social and cultural sentiments of the electorate, though a voter never thinks about the cost of his vote. A voter never demands anything in return for his voter ship. The Voter of India is not aware of Article 21 and other fundamental rights given in the Indian constitution, which talks about health, wealth, safety, health, house, education, road, security. A voter also never challenges the manifesto of any party. The winning party gets all the desires of the electorates fulfilled only at the utopian level, which should otherwise be challenged in the frame of commitment which was made by the party and its member who contested during the election. A party which ignores the basic rights and violates its manifesto commits the violation of human rights of its citizens. To discuss how an individual feels cheated in the name of election and what electoral reforms are required to maintain the dignified life of a national , is the main objective of our paper.

*“Our great democracies still tend to think that a stupid man is more likely to be honest than a clever man, and our politicians take advantage of this prejudice by pretending to be even more stupid than nature made them.” — **Bertrand Russell, New Hopes for a Changing World***

INTRODUCTION

India has adopted federal form of government, with elected officials at the federal, state and local levels. At the national level, the head of government, Prime Minister, is elected by members of the Lok Sabha, the lower house of the parliament of India. The elections are conducted by the Election Commission of India. All members of the Lok Sabha, except two who can be nominated by the President of India, are directly elected through general elections which take place every five years, in normal circumstances, by universal adult suffrage and a first-past-the-post system.¹ Members of the Rajya Sabha, the upper house of the Indian parliament, are elected by elected members of the legislative assemblies of the states and the Electoral College for the Union Territories of India.

For Election Commission conducting elections in India has become a challenging mammoth task due to increasing number of political parties and growing interest of general public in politics. General Elections 2014 involved an electorate of 814,500,000 people (larger than both EU and US elections combined). Declared expenditure has trebled since 1989 to almost \$300 million, using more than one million electronic voting machines. The size of the huge electorate mandates that elections be conducted in a number of phases (there were nine phases in the 2014 general election). It involves a number of step-by-step processes from announcement of election dates to the announcement of results paving the way for the formation of the new government.

The Parliament of India comprises the head of state and the two houses which are the legislature. The President of India is elected for a five-year term by an electoral college consisting of members of federal legislature and state legislatures. This is the election process of India. The House of the People (*Lok Sabha*) represents citizens of India (as envisaged by the Constitution of India, currently the members of Lok Sabha are 545, out of which 543 are elected for five-year term and two members represent the

Anglo-Indian community). The 545 members are elected under the plurality ('first past the post') electoral system. The Council of States (*Rajya Sabha*) has 245 members, 233 members elected for a six-year term, with one-third retiring every two years. The members are indirectly elected, this being achieved by the votes of legislators in the state and union (federal) territories. The elected members are chosen under the system of proportional representation by means of the single transferable vote. The twelve nominated members are usually an eclectic mix of eminent artists (including actors), scientists, jurists, sportspersons, businessmen and journalists and common people.

RIGHT TO VOTE

To have meaningful and significant democracy, it is necessary that people of a country participate in politics, but since everyone is not born with the political skill, so voting is the best way to ensure one's participation in political process of the country. The right to vote is a key political right in any democracy. With independence and a new Constitution, Indians got the right to vote relatively easily.

Right to vote and the exercise of this franchise by eligible citizens is the pulse of every democracy. And India, the largest democracy of the world, holds this right as the most precious attribute of the Indian Parliamentary democracy. Keeping this in view, in Indian Constitution, provisions are enacted regarding structure, powers and functions of the Election Commission.

Indian Constitution in Part XV deals with Elections. Article 325 provides that "No person to be ineligible for inclusion in, or to claim to be included in a special, electoral roll on grounds of religion, race, caste or sex." The article provides for the preparation of one general electoral roll for each constituency, for election to both the houses of Parliament. Whereas Adult Suffrage is the right to vote given to every adult citizens of India, who is above 18 years of age, with the vision of maximum

participation and providing an opportunity to the youth to select their leaders.

India is a culture specific country and it is the second largest country in the world in terms of its population. To have maximum participation of citizens in the political process, it is apt to decide a minimum age of casting vote. Article 326 of the Indian Constitution grants the right to vote to “every person who is a citizen of India and who is not less than 18 years of age.” Article 326 declares that “Elections to the House of the People and to the Legislative Assemblies of States to be on the basis of Adult Suffrage” (Pandey,2015). The elections to the House of the People and to the Legislative Assembly of every State shall be on the basis of adult suffrage ;that is to say every person who is a citizen of India and who is not less than eighteen years of age on such date as may be fixed in that behalf by of 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.

There has been distinction between right to vote and the act of voting as was mentioned in Supreme Court judgment like ***PUCL Vs Union of India (2004)***. Right to vote is a statutory right under section 79(d) of Representation of People Act. While the act of voting is a derived right from article 19(1)(a) of Indian Constitution as it is a form of expression of one individual. A Fundamental right is something that is bestowed upon a person for his well-being by virtue of being an Indian. However, the same virtue of just being an Indian does not grant him voting rights. One need to be 18 years old or more to be able to vote as per the Constitution of India. Hence, it is a Constitutional right.

THE RIGHT TO VOTE: A BASIC HUMAN RIGHT

Human Rights Advocates ("HRA") has submitted several reports to the Commission on Human Rights and to the Human Rights Council concerning the right to vote. It seeks to ensure that the right to vote is guaranteed to all citizens as mandated by international law. The right to vote is a basic human right that empowers citizens to influence governmental decision-making and to safeguard their other human rights. Free and fair elections help to prevent war and bloodshed by allowing for peaceful transfers of power. By the same token, the derogation of voting rights may provoke violence and civil unrest. Despite consensus on the importance of the right to vote, its inclusion in many international human rights instruments, and its significance in protecting other human rights, derogations of voting rights remain widespread. (HRA 2007)

With strategies of electoral process, every citizen of the country would have right to know, inquire and ensure the particulars of the candidate who is to represent them in the Parliament. A voter casts his vote in the hope that he will get good roads, security, education, health services, jobs, agricultural facilities, loan facilities etc. in return, as voter ship is promised in the manifesto of different political parties during the state election or in parliament election.

The right to vote and the right to public participation in government is asserted in Article 21 of the Universal Declaration of Human Rights ("UDHR"). It provides that:

- 1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
- 2) Everyone has the right of equal access to public service in his country.
- 3) The will of the people shall be the basis of the authority of government; this will shall be

expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.(UDHR,1948)

Article 25 of the International Covenant on Civil and Political Rights ("ICCPR") codifies these rights, requiring that:

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- (c) To have access, on general terms of equality, to public service in his country.(ICCPR,1966)

Furthermore, the right to vote is protected under several regional human rights instruments, including Article 13 of the African Commission on Human and People's Rights ("ACHPR"), Article 23 of the American Convention on Human Rights ("ACHR"), and Protocol One of the European Convention on Human Rights ("ECHR").

UNIVERSAL AND EQUAL SUFFRAGE

Article 25 of the ICCPR explicitly extends the right to vote to "every citizen," and calls for "universal and equal suffrage" (ICCPR,1966) . To further define the right to vote, the Human Rights Committee adopted General Comment 25 to the ICCPR. It explains that, "Article 25 of the Covenant recognizes and protects the right of every citizen to take part in the conduct

of public affairs, the right to vote and to be elected and the right to have access to public service." (HRC 1966) Furthermore, General Comment 25 to the ICCPR emphasizes that "no distinctions are permitted between citizens in the enjoyment of these rights on the grounds of race, colour, sex, . . . or other status" (HRC,1966). Nevertheless, in some countries, certain citizens are denied their voting rights as a matter of law, based on a past criminal conviction, based on their gender, or based on their race or ethnicity.

DISENFRANCHISEMENT BASED ON CRIMINAL CONVICTION

Article 25 of the ICCPR requires that "every citizen" be given the right to vote. General Comment 25 to the ICCPR clarifies that "If conviction for an offence is a basis for suspending the right to vote, the period of such suspension should be proportionate to the offence and the sentence." (HRC 1966)

DISENFRANCHISEMENT BASED ON GENDER

Article 7 of the Convention on the Elimination of All Forms of Discrimination Against Women ("CEDAW") protects the right of women to vote on an equal basis with men. In particular, Article 7 of CEDAW provides that "State Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right to vote in all elections." However, even in some countries that have ratified CEDAW, women face considerable obstacles to meaningful participation in elections as voters and as candidates.(CEDAW 1979)

DISENFRANCHISEMENT BASED ON RACE

Article 5 of the international Convention on the Elimination of All Forms of Racial Discrimination ("CERD") requires States "to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, political rights, in particular the right to participate in elections-to vote and to stand for election-on the basis of universal and equal suffrage" (CERD 1965). Paragraph 3 of the General Comment to the ICCPR also emphasizes that under ICCPR Article 25, "every citizen" is guaranteed the right to vote, and that "no distinctions are permitted between citizens in the enjoyment of these rights on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." (ICCPR 1966)

ELECTION ADMINISTRATION - ELECTRONIC VOTING

Independent and impartial election administration is critical to the right to vote. To avoid fake voting, booth capturing, Election Commission has adopted technical devices to minimize the corrupt practices in the politics of India. India a village bound country and more than 75% of its population is living in more than six lakh villages across the country. Everywhere arrangement of proper security with police personnel is not possible. The lack of proper security arrangements promote countermanding of elections, bogus voting, illegal voting etc. A person who does not cast his vote, is even marked as person who has already cast his vote. Sometimes names of genuine voters are missing from the voter's list. In manual counting of votes a lots of irregularities are noticed. Hence, to avoid all these malpractices nowadays Electronic Voting Machines are used in election process.

But, even these electronic voting machines used in the elections are often unreliable and insecure, and pose new challenges to conducting fair and transparent elections. There have been complaints that electronic voting systems have failed during elections by losing votes, registering votes for one candidate when the voter was trying to vote for

another candidate, counting votes twice, failing to print "zero tapes" as they are supposed to, reporting more votes than voters, or reporting significantly fewer votes than voters, etc. (Voter Action 2008)

The software of these electronic voting systems is confidential; it is not even disclosed to the election officials who purchase the machines (Joseph Hall 2007). Furthermore, many of these machines provide no paper record of the votes, so there is no way to ensure that the computer records are being accurately tallied. To make matters worse, electronic voting machines can be easily hacked into in as little as seven minutes, and the vote count can be manipulated without leaving any sort of trace (Associated Press 2008).

HRA urges all nations to take necessary legislative measures to comply with all relevant international instruments mandating the protection of the right to vote, including the UDHR, ICCPR, CERD, CEDAW, ACHR, ACHPR, and ECHR. HRA also urges the Council to appoint a Special Rapporteur to investigate derogations of the right to vote. HRA also urges the Council to include in the mandate a study of election-related norms, in order to define meaningful parameters for commitments, principles, and best practices for protecting the right to vote.

VOTERS' RIGHTS IN INDIA

Election is that time of the year when the entire country is given the opportunity to scrutinize the policy makers, put them on test and practice democracy in its true spirit. Mahatma Gandhi once said that "*My Notion of Democracy is that under it, the weakest should have the same opportunity as the strongest*". The right to vote is the very tool which removes all the possible discrimination in our country.

'Kuldip Nayar v Union of India' (2006) was the landmark judgment which went on to establish the fact that the right to vote is a statutory/legal and not a fundamental right. There is a remarkable difference between *fundamental rights and legal rights*. Fundamental rights include legal rights but

legal rights do not include fundamental rights. Legal rights are to be derived by a person by way of certain provisions of law, by way of indenture i.e. deeds which confers a title upon a person & also by way of status, whereas fundamental rights in India are said to be the birth rights i.e. the rights than an Indian citizen is naturally entitled to with certain reasonable restrictions. It seems that it also involves some kind of politics in not recognizing right to vote as fundamental right.

WHO CAN VOTE

It is a general rule that only Indian Citizens who are above the age of 18 and whose names are registered in the electoral roll are entitled to exercise their right to vote. Electors Photo Identity Card is given by the Election Commission to each voter. It is the primary proof to the holder of the card that he is a voter to that constituency. Section 16 of the Conduct of Election Rules, 1961 says that all electors voting shall do so in person at the polling station.

It is not an easy task to conduct election in a huge country like India, where proof of age is most difficult to find. Indian politics and political parties as well take advantage of this drawback. So irrespective of age any person even less than 18 years of age can cast his vote due to unavailability of proper documents of age verification. In India literates are increasing but not educated ones. To tackle this problem birth registration has become mandatory in this country and electronic photo identity cards are issued to every voter who has attained the age of 18, so as to minimize dirty politics eventually.

VOTE BY POST

In a parliamentary or assembly constituency, special voters, service voters, voters on election duty and electors subject to preventive detention are entitled to vote by post. At an election in Council Constituency; voters on election duty electors subjected to preventive detention and electors in the whole or any specified parts, of the constituency if directed by the Election Commission in this behalf

under clause (b) of rule 68 are entitled to the special power At an election by assembly members, electors subjected to preventive detention; and all electors if directed by the Election Commission in this behalf under clause (a) of rule 68.

DISQUALIFICATION FROM VOTING

If any person has committed an offence under 171E or section 171F of the Indian Penal Code (45 of 1860) (Reddi2014), or under section 125 or section 135 or clause (a) of sub-section (2) of section 136 of the People's Representation Act then under section 11 A he is disqualified from voting owing to corrupt practices. The same section also says that he/she may be disqualified on the orders of the President of the country. Section 62 of the People's Representations Act establishes that no person shall be permitted to vote in more than one constituency in the same election and no person shall vote more than once in the same constituency. If that is the case then the vote of the particular person shall be considered void.

ASSISTANCE TO ILLITERATE OR INFIRM VOTERS

Since the time of independence, no effort was made for voters specially who are illiterate or infirm. National or state parties took advantage of illiteracy of people to cast their votes in favour of their parties. A person who likes party 'A' casts his vote for party 'B' due to illiteracy. Such corruption came in light only due to awareness of technological knowledge and now a person has right to know where he is giving his vote. Section 24 of the Conduct of Elections Rules, 1961 says that if an elector is unable through illiteracy, blindness or other physical infirmity to record his vote on a postal ballot paper and sign the declaration, he shall take the ballot paper, together with declaration and the covers received by him to an officer competent to attest his signature under sub-rule (2) of rule 24 and request the officer to record his vote and sign his declaration on his behalf.

RIGHT TO KNOW

It is the fundamental right of any voter under Article 19 of the Indian Constitution of India to know about the candidates they are to vote for. The right includes information of the assets and liabilities as well as criminal past of the candidate.

A voter assesses policies and programmes of a party, which it declares in its manifesto and relying on the promises given in manifesto, casts his vote for that particular party for next five years. But a voter feels cheated due to non compliance of promises given in the manifesto of a given political party. A voter may decide not to cast his vote in favour of any existing parties at state or central level to show his protest against its dirty politics.

RIGHT NOT TO VOTE

Rule 49-O is a rule in The Conduct of Elections Rules, 1961 of India, which governs elections in the country. It describes the procedure to be followed when a valid voter decides not to cast his vote, and decides to record this fact. The apparent purpose of this section is to prevent the election fraud or the misuse of votes. But that's not true. It's similar to a person not willing to cast a vote, only it's recorded in this case. But to supersede this, the provision of "NONE OF THE ABOVE" has been now incorporated during voting. The 'None Of The Above' (NOTA) option that will be exercised for the first time in India will be printed in pink color in EVMs/ballot papers in the forthcoming Assembly polls in five states, while it will be in white in the next Parliamentary election. Voters will opt not to vote for any candidate in the fray for a particular seat without their right to maintaining secrecy over their decision being violated.

But even after using NOTA option one can't track a candidate or party from the election. NOTA is taken only as opinion and not as decision which could make any effect on the election result. For example in a constituency most of the voters think that a particular party has not performed as per promise in its manifesto and they don't cast their

vote to any candidate or party but still result will be declared and winner will be announced, even if among 100 voters 51 voters adopt NOTA option. It is clear that politics has not given any significant role to voter.

TENDERED VOTES

If a person representing himself to be a particular elector seeks to vote after another person has already voted as such elector, he shall, on satisfactorily answering such questions related to his identity supplied with a tender ballot paper which shall be of such design and the particulars of which shall be in such language as the Election Commission may specify.

RIGHTS OF NRIS AND PRISONERS

The centre in 2010 issued a notification allowing NRIs to vote in India. The new law after that allowed an Indian citizen residing abroad to enroll in voter's list and exercise his franchise even if he or she remained away from place of residence in India for more than six months owing to employment, education or otherwise. Till now prisoners have not received the privilege to vote in elections according to section 62(5) of the Representation of the People Act, 1951 (Rath Shweta 2013).

Right to vote is a legal right not a fundamental right under Part III of the Indian Constitution. It is most significant observation that voting right is a legal right instead of a fundamental right of Indian constitution. Right to life, Right to education, right to health, right to shelter, right to dignity, right to liberty, right to equality etc are ensured as fundamental right in Indian constitution but constituent assembly did not acknowledge voting right as fundamental right. All rights may be ensured when strong fundamental voting right would be in existence. Here it is also remarkable that any government in the state or centre belong to a political party and every party has its own interest which may construct rule and regulation according

to its benefits in future. It seems that it is electoral politics, because of which voting right has not been defined as fundamental right. The possible reasons why it has not been classified as a fundamental right could be:

- ❖ The Constitution of India was adopted on 26 November 1949 and came into effect on 26 January 1950. While the first elections were held in 1952 after the passage of Representation of People Act 1950 and 1951. Clearly the mechanisms and other provisions regarding the conduct of elections, criteria of voters and candidates etc was not worked out. That's why it did not find a place in the Constitution.
- ❖ A fundamental right if it has to be changed needs constitutional amendment which is a tedious process. Had right to vote been a fundamental right, 1986 when the voting age was reduced to 18 years from earlier 21 years would have been much more difficult.
- ❖ If we see the tenor of all the fundamental rights, they emphasize upon equality, freedom etc which are the basic tenets of universal rights. Right to vote is a political right which might not fit in properly.
- ❖ The fundamental right like Article 14 ie right to equality amply covers the right to vote if denied on the basis of caste, race, gender etc. Thus no need to explicitly include it in Part III as a fundamental right.
- ❖ India is a large country with a huge population. Many a times, voters are unable to vote due to numerous reasons like:
 - ❖ When in police custody
 - ❖ When on national duty like armed forces
 - ❖ When working away from home town

Now if right to vote had been a fundamental right, a

person who is employed with a private firm could have gone to the Supreme Court seeking remedy when his employer might have denied him leave to go to his home state to vote. Many such cases could have come up. Based on practicalities this is a wise categorization as a legal right. Legal rights can have remedies from courts. So right to vote is clearly well protected as well.

Importance of Voting in India- voting right is the backbone of a country's strength. It is the simplest way to connect a citizen with country affairs and he could have so many queries for a nation like India. Voting right makes a party more accountable for people instead of own interest when voter gets voting rights he tries to know about party and its function and more than that he tries to know that a particular party which has done for his welfare in last five years . This awakening itself is a proof of importance of voting right . if a party works as it committed , it survives again for next five years and if not follows its words it goes behind the curtain and new party comes in power so voting right is a way to regulate and accelerate a party and its word in manifesto which somehow checks dirty politics in some extent.

VOTING RIGHTS FOR NRI AND UNDER TRIALS

The government introduced e-voting for the over 11 million NRIs pursuant to the recent Supreme Court order in ***Nagender Chindam vs Union of India (2014)***, directing the Central government to facilitate e-ballot voting for NRIs. The government, the court and the Election Commission, all were on board with extending voting rights to a greater class of Indian citizens.

Should this right also be extended to another, albeit different, class of Indian citizens, namely, undertrial prisoners? Should the likes of Binayak Sen, or even Pappu Yadav, Mohammad Shahabuddin and Liaquat Shah have been allowed to vote when they were in jail, pending trial? The law is clear: under trials

cannot vote. This means more than 7,200 under trials (based on the **NCRB** data, **2013**) were unable to exercise their right to vote in the Delhi assembly election. But this position of law is incorrect. Regardless of the nature of the alleged offence, under trials should not be denied voting rights.

Section 62(5) of the Representation of the People Act, 1951 governing the “right to vote”, stipulates that no person shall vote in any election if they are confined in a prison “under a sentence of imprisonment or transportation or otherwise” or are in the “lawful custody” of the police. Chapter 43 of the Reference Handbook on the General Elections, 2014 also makes it clear that “under trial prisoners” are not eligible to vote, even if their names are on the electoral rolls.

Under trial prisoners are persons who have not been convicted of the charge(s) for which they have been detained, and are presumed innocent in law. NCRB’s latest figures reveal there are 2,78,503 under trials in prison today, constituting more than two-thirds (67.6 per cent) of our prison population. Depriving such a large class of Indian citizens of this important civil and political right is flawed for many reasons.

First, Article 326 of the Constitution only permits the disqualification of a voter under the Constitution or a law on the grounds of “non-residence, unsoundness of mind, crime or corrupt or illegal practice”. It would be a stretch to suggest that “crime” includes suspicion of a crime and/ or undergoing trial in respect of a crime. Therefore, the current practice of conflating under trials with convicted prisoners in depriving them of voting rights is clearly incorrect. Besides, as the Reference Handbook clarifies, the disenfranchisement is limited to under trials in prison, and does not extend to persons who are out on bail while awaiting trial. When we consider that many under trial prisoners remain in jail because of their inability to pay the requisite bail bond, access legal aid, their ignorance about their rights, or simply because they have been forgotten, the current practice is also patently unreasonable.

Second, we need to re-examine the aims being pursued by disenfranchising under trials. We unquestioningly believe that prisoners (and under trials) follow a different rights regime, which reflects the existing realities of prison administration because “a person who is in prison as a result of his own conduct and is, therefore, deprived of his liberty during the period of his imprisonment cannot claim equal freedom of movement, speech and expression with the others who are not in prison” (**Anukul Chandra Pradhan vs UOI, 1997**).

Age restrictions on voting are justified on the basis of the electorate’s capacity of independent decision-making and residence/ citizenship requirements are explained by the requirement of community membership or bonds. What explains restrictions based on one’s status as an undertrial? The reasons that justify pretrial incarceration cannot justify withdrawing undertrials’ right to vote. Pretrial detention is premised on the perceived dangerousness of the accused or the likelihood of interference with trial. However, given that provisions can be made to facilitate voting from prisons, these reasons are not good enough to disenfranchise under trials.

Third, excluding under trials from political participation and treating them as secondary citizens negates their civic capacity and revokes their social status. The symbolic separation of under trials, as disenfranchised members of society, in addition to their physical separation from the community only serves to alienate them, and identify further with their fellow convicted inmates.

Finally, practical arguments, such as “resource crunch” or administrative inconvenience allow us to sidestep the principled arguments for disenfranchising under trials. Just as there are logistical problems and expenses involved in extending the franchise to NRIs via e-ballot voting or conducting elections in remote villages, there will, of course, be similar issues with under trial voting. The right to vote imposes a positive obligation on the

state to make proper arrangements to ensure its effective exercise. Under trials should not be disenfranchised merely because their imprisonment makes it easier to ignore them. Thus it is clear that there are legitimate justifications for depriving under trials of their right to vote (Bhandari 2015).

It is a good example of politics in India where indirectly elected members in Rajya Sabha play a vital role. When a bill or legislature is put before them, if the number of ruling party is not appropriate in Rajya Sabha, it becomes hard to give final shape to a proposed bill because members come in Rajyasabha according to strength of a party in State and Centre. Most of the time when a Bill is put before the Lok Sabha, it is nullified due to politics and different majority of members in both the houses. Presently GST Bill, Land Acquisition Bill etc are facing such politics in Parliament. Mushrooming of political parties across the country is self sufficient to exhibit this idea that people are more enchanted by politics instead of a hard earned job. Increasing number of regional parties show that political parties are well aware of different Indian caste, religion, region, language etc. Parties are winning due to strong regional base, and they use their power in manipulating or fulfilling their vested interests in Assembly or Parliament by its winning members. Religion is also playing an important role to get reign of power in Parliament, which is visible as intolerance across the country. Due to politics of voting, none of the parties are worried about explosion of population in the country. Parties are seeing them as vote banks of a specific religion which could make it stable in the Parliament. So instead of using bullets parties are trying to capture this country's reign by the ballots.

It is also remarkable that fundamental right of equality before law as ensured under article 14 of Indian constitution is not meaningful. A job seeker should be candid and free from all charges when he applies for a job, but an under trial or imprisoned person can contest election and can get all facilities like remuneration, pension etc. Today, politics has become a lucrative business, it is generating interest

of nationals in politics. Political parties are not accountable for what they have said in their manifestos. No one approaches Court to say that it is a matter of breach of trust. Due to unaccountability, all political parties announce many such promises and policies in their manifestos, which can never see the light of the day. Political Will is negligible to apply NOTA in reality, when percentage of NOTA voters are more than non NOTA, election should be cancelled in that particular constituency but it is not so. It really gives a set back to the idea of representative government. What is the meaning of democracy when majority of people do not have any say in the governance of the country.

IMPORTANCE OF VOTING: EVERY VOTE COUNTS

Voting in India is a Constitutional right if one is a citizen over 18 years of age. However, that also makes it optional. It has been a tendency among voters, especially in the urban areas, to treat the voting day as a day of rest. While skipping the vote may not seem to cause any harm, the long-term consequences are disastrous. Little drops of water and little parts of sand, make a mighty ocean and a pleasant land. These lines are self sufficient to show the importance of each vote. Large scale voting makes a clear difference in election and also in working pattern of a party if it comes in power. In a country so populous, a voter might feel that a single vote does not make any difference. However, the balance tilts when this becomes a national attitude and lakhs—perhaps crores—of votes are not cast. By casting their vote, citizens may not necessarily be able to get the best candidate elected—politics being what it is—but by avoiding casting their vote they improve the chances of the unsuitable ones winning the polls. At the end, it is only the voter who has to suffer through poor governance.

A person who is trying to get a job in India, should not have any criminal record. Because if he is convicted in any criminal case he will be barred from having any government job forever. But if an

imprisoned person or under trail individual wants to contest an election, he may contest and may also cast his vote. It seems to be discriminatory and derogatory. one person is suspended in the contemplation of an enquiry and other one is under trail. Both suspended and under trail persons can't join any job without his revocation of suspension or acquittal from charges but he may contest election. It might be an example of dirty politics in India. A person can't get a piece of bread for his survival under a process of job because he is suspended but he may contest an election and he may be parliament member with all facilities. Right to life, right to food may be affected in India which is ensured as fundamental right in Indian constitution. But voting right and right to contest election can't be withhold, because it is a legal rights and it is amazing that legal rights are more protected than fundamental rights. It is clear grey politics in India which puts a line between a person who wants to be a leader and who wants a job. This discrimination is in existence due to politics and political approach of India. This approach forces people of India to be a leader instead of a job seeker. It is clear that Indian politics emphasizes more on the rights of under trials and criminals rather than talking about the rights of educated persons in India.

POLITICS IN THE IMPLEMENTATION OF DEMOCRATIC TOOLS

Education and information are two strong tools through which democratic ideals given in the preamble of Indian Constitution can be realized. But here also politics is being played. So far as Right to Information Act (RTI), 2005 is concerned, it was enacted with the objective of ensuring transparent, participatory and responsive governance. Its section 6 demands only a simple application for seeking information but nothing is like that. Section 7 says about time limit but government officials are not following time frame, a case gets its place after 3 to 4 months of its filling. Respondents come with pity excuses and commission gives them space. A case which should be closed within 90 days including the

time of seeking information, it runs two to three years due to politics. Every political party wants to appoint its obedient fellow as Information commissioner who does not know anything about the Right to Information Act. They behave like a judge and the essence of this act is losing its sheen day by day. An act which could be a strong tool to establish good governance and strong democracy is proving worthless due to politics in India.

Another example of politics in India is Right to Education Act (RTE), 2009 which ensures a poor child to access education in a premier school without having financial hindrance. Here also due to politics children between 6 to 14 year of age are not getting their dues as guaranteed under Article 21 A². One fundamental right is diminished in its significance by another fundamental right (Article 29 & 30)³ which ensures that a minority community can run their own schools. This Act says that all types of schools should give at least 25 percent admissions to ST, SC and Socially and Educationally Backwards without taking any fees. Minority institutions are approaching Courts to keep them outside the purview of the Act. Even Courts are deciding in their favour. Under Article 14 everyone is equal before law and moreover children of a country should not be discriminated on the basis of caste and religion. Besides courts have not explained how many minority schools should be there in a locality?

The policy makers who are responsible for framing law never give a thought to the correlation of different fundamental rights and that is why when one fundamental right is protected many others are violated. Here also it appears that politicians never want citizens to take advantage of their fundamental rights to the fullest. Thus due to poor political Will and deliberate politics both these important legislations have lost their values.

CONCLUSION

Voting is basic point or characteristic of democracy, which decides the fate of a political party, but a voter gets nothing against the casting of his vote. A voter must get safe road, security, education, jobs, house, safe drinking water, clean environment, food

security etc. but it is not so. In the absence of government's accountability no government or political party declares any voter ship scheme (when after getting vote a person gets all status like M.P./MLA perks, pass, pension etc., a voter should also get some amount in the capacity of his voting right. It is also because many safe guards are provided to politicians in comparison to a common man. Manifesto of a political party should be taken as contract between a voter and a party. If promises made in a manifesto are not realized, it should be taken as breach of contract and that party making the promises and its concerned person/ candidate should be made liable. Many voices have been raised for the right of voters, but no political Will has come forward on this issue. It seems politics is too insensitive to respond to woes of its voters. In spite of various safeguards given in Indian constitution for the enforcement of rights, due to hard survival, delayed justice and inappropriate knowledge of concerning authority, a voter never tries to make any effort to raise his voice against the malpractice of political parties. Unaccountable politicians continue to exploit voters for their petty interests. Due to poor level of education and lack of political consciousness a voter rarely raises his voice against the rotten system of governance.

Voting is as much a responsibility as it is a right. The whole edifice of Indian democracy is built on the foundation of voting. If citizens are not careful about casting their vote or if they skip their vote altogether—it will jeopardize the existence of our democratic Republic. It can't be denied that the recent democratic experience in India has not been encouraging. For the past several years, India has been struggling with rampant corruption, unsure economy, and unclear foreign policy. Election after election has seen ineffective governments come to power that have done more harm than good. However, not casting one's vote will only worsen the condition. In spite of politics of political parties, it is our duty as responsible citizens of India to make informed decisions and choose the best candidate from those presented. Moreover, with reforms like Right to reject gaining wider support, it wouldn't be

long before the system of elections is improved. Voting is the agent of change. If the people of India think that the ruling government is not performing its duties satisfactorily, they can show it the door by voting against it. Refraining from doing so can result in the same party, or a worse one, being elected for the next five years. The time has come when every voter should ask for the rights against his vote, so that participatory governance can be ensured and real democracy can be realized.

“Elections belong to the people. It's their decision. If they decide to turn their back on the fire and burn their behinds, then they will just have to sit on their blisters.”

— Abraham Lincoln

NOTES

1. First-past-the-post system or winner-takes-all, election is one that is won by the candidate receiving more votes than any others. It is a common, but not universal, feature of electoral systems with single-member legislative districts. Large countries widely using FPTP include India, United States, United Kingdom and Canada.
2. **Article 21 A** Inserted by the Constitution (Eighty-sixth Amendment) Act, 2002 “The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine”.
3. **Article 29.**
 - (1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.
 - (2) No citizen shall be denied admission into any educational institution maintained by

the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.

4. Article 30.

(1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

(2) The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.

REFERENCES

- ✚ Anukul Chandra Pradhan vs Union Of India (Supreme Court), Decided on 9 July 1997
- ✚ Associated Press, October 17, 2008 Report: *NJ Voting Machines Easily Hacked*, CBS3, <http://cbs3.com/local/new.jersey.elections.2.842765.html>
- ✚ Bhandari, Vrinda, 2015 <http://indianexpress.com/article/opinion/columns/denial-of-a-right/#sthash.6ofsq3K4.dpuf>
- ✚ CERD, 1965 Dec. 21, 660 U.N.T.S. 195, Art. 5
- ✚ Conduct of Elections Rules, 1961
- ✚ Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13.
- ✚ HRA report, 2007 right to vote <http://daccess-ods.un.org/TMP/2428683.html>
- ✚ HRC, 1966, General Comment 25, para. 1, U.N. Doc. CCPR/C/21/Rev.1/Add.7
- ✚ HRC, 1966, General Comment 25, para. 3, U.N. Doc. CCPR/C/21/Rev.1/Add.7.
- ✚ HRC, 1966, Paragraph 14 of the Human Rights Committee's General Comment 25 provides that restriction on the right should be proportionate to the offense and sentence. HRC Gen. Comment 25, U.N. doc. CCPR/C/21/Rev.1/Add.7.
- ✚ <http://indianexpress.com/article/opinion/columns/denial-of-a-right/#sthash.6ofsq3K4.dpuf>
- ✚ ICCPR, 1966, HRA General Comment 25, para 14, U.N. Doc. CCPR/C/21/Rev.1/Add.7 (1996).
- ✚ ICCPR, Dec. 16, 1966, 999 U.N.T.S. 171
- ✚ ICCPR, Dec. 16, 1966, 999 U.N.T.S. 171
- ✚ Joseph Hall, *Contractual Barriers to Transparency in Electronic Voting*, April 22, 2007. http://josephhall.org/papers/jhall_evt07.pdf
- ✚ Kuldip Nayar vs Union of India, Writ Petition (civil) 217 of 2004, decided on 22 August 2006
- ✚ Nagender Chindam vs Union of India, Writ Petition (Civil) No. 265 Of 2014
- ✚ Pandey, J.N., *The Constitutional Law of India*, Central Law Agency, Allahabad, 2014
- ✚ People's Union for Civil Liberties vs Union of India, Writ Petition (Civil) No. 161 of 2004
- ✚ Rath Shweta, 2013, *Voters Rights in India*, <http://modelgovernance.com/voters-rights-in-india/>
- ✚ Reddi, P.R., *Indian Penal Code*, 1860, Asia Law House, Hyderabad, 2014
- ✚ UDHR, 1948 G.A. Res. 217A(III), U.N. Doc. A/810
- ✚ Voter Action, *Pennsylvania State Supreme Court Allows Voting Rights Case to Proceed*, December 19, 2008, http://www.votetrustusa.org/index.php?option=com_content&task=view&id=3000&Itemid=113

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