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Silent Ballots: Unravelling the Denial of Representation faced by Migrant Workers

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Covid – 19 Pandemic laid bare the arduous hardships and struggles that circular migrants in our country face. This article, it is examines how they are systematically deprived of their constitutional right to vote by their employers and their precarious working conditions, which have been overlooked by the government and its agencies for far too long. This article also points out how current statutory legislations and rules do not address and take into consideration the unique predicament and relationship that migrants share with their native place, which further deprives them of political agency and underlines the persistent apathy and disenfranchisement faced them throughout the country. It also takes a look at proposals put forth by the Election Commission of India, its intricacies, and how they envision it being implemented in the future. Furthermore, the article also examines the implications these proposals would entail for migrant workers and the challenges they might pose.

Keywords: *migrants, voting, democracy, ballots, election, vote.*

INTRODUCTION

In the last general elections held in our nation, an alarming number of over 219 million eligible voters did not exercise their right to vote. The reasons for that vary from voter apathy to having other engagements or simply not being concerned with it. However, a large section of voters

were not able to cast their votes simply due to the current rules and regulations stipulating them to present physically at their constituency on the date of the election.¹ For years there have been discussions, proposals, and even bills to allow non-resident Indians to vote through a proxy, however, it is ironic that citizens who live in their own country are not afforded the same privilege if they just live in a different constituency.

DOMESTIC MIGRATION IN INDIA

Migration in India has a varied and diverse past, stretching back centuries. People have moved across the nation for different reasons, from environmental shocks to political persecution. However, in recent years advancements in technologies, liberalization of different sectors of the economy to unprecedented growth of mobility have led to massive migrant influxes in different states of India. Sectors like construction, small industries and hospitality have benefited tremendously from the increased migrant flow, which has contributed to their increased growth and progress.² However, this growth has been lopsided and unequal, leading to migrants from less developed and backward states like Bihar, Uttar Pradesh, and Madhya Pradesh moving to more industrial and economically developed states like Gujrat, Maharashtra and Delhi.³

A study spanning fifteen locations across almost five states to learn more about migrant voting habits and their political inclusion, found that even though seventy-eight percent of respondents reported having voter IDs, almost sixty percent of respondents had missed voting at least once due to being away from their home constituency while earning their livelihood.⁴

The migrants researched in this study are circular migrants whose circumstances and experiences are much different compared to permanent long-term migrants. They are by and

¹ 'Lost Votes' (*The Times of India*, 26 February 2023)

<<https://timesofindia.indiatimes.com/Lost-Votes/campaignlanding/67346592.cms?from=mdr>> accessed 23 July 2023

² Naila Kabeer, 'Poverty, Social Exclusion and the MDGs: The Challenge of 'Durable Inequalities' in the Asian Context (2006) 37(3) IDS Bulletin <<https://doi.org/10.1111/j.1759-5436.2006.tb00270.x>> accessed 23 July 2023

³ Priya Deshingkar and Shaheen Akter, 'Migration and Human Development in India' (*UNDP*, 2009) <<https://hdr.undp.org/content/migration-and-human-development-india>> accessed 23 July 2023

⁴ Amrita Sharma et al., 'Political Inclusion of Seasonal Migrant Workers in India: Perceptions, Realities and Challenges' (*Café Dissensus*, 01 August 2014) <<https://cafedissensus.com/2014/08/01/political-inclusion-of-seasonal-migrant-workers-in-india-perceptions-realities-and-challenges>> accessed 23 July 2023

large characterized as unskilled or semi-skilled, self-employed, and largely consisting of Scheduled Caste, Scheduled Tribes, and Other Backward Castes.⁵

The Covid 19 pandemic brought to the consciousness of the nation, the challenging and precarious lives these migrants live and the tough challenges and vulnerability they face while working away from their homes. An issue that was highlighted and talked about a lot was the lack of voting access and disenfranchisement these migrant laborers face. They are very rarely allowed to take breaks to go back to their home constituency to cast their ballot, which denies them the opportunity to make their voice heard and their opinion count. This is a serious violation of their constitutional *right to vote*⁶ and it needs to be addressed as such.

DENIAL OF REPRESENTATION AND CHALLENGES FACED

According to current statutory provisions, a person can only be registered in one constituency.⁷ He can cast his vote for parliamentary or regional elections only in the constituency where his name appears in the voting and cannot exercise his voting right at any other place, he may be residing due to his occupation, service, or work. Even though there are provisions for changing one's constituency after they have been living or residing in another place for a considerable time,⁸ it is very difficult for circular migrant workers to avail of this provision. Most of them live in temporarily constructed homes, do not have the legal documents required to prove their residency like rent agreements, or utility bills, and at the same time return to their hometown for a quiet long time.⁹ Similarly, the issue of bondage workers has proved to be one of the biggest reasons the political inclusion of domestic migrants is all the more necessary. These workers are described as 'footloose workers' and circulate from one place to another with no intention of settling down in one place, but returning to their native place once their working season comes

⁵ Ravi Srivastava, 'Covid-19 and Circular Migration in India' (2020) 10(1) Review of Agrarian Studies <https://ras.org.in/covid_19_and_circular_migration_in_india> accessed 21 July 2023

⁶ *PUC v Union of India* (2003) 4 SCC 399

⁷ Representation of the People Act 1950, s 17

⁸ Representation of the People Act 1950, s 20

⁹ Radhika Goyal and Sharvari Kothawade, 'Migrant, Mobility and the Missing Vote' (*The Wire*, 20 September 2020) <<https://thewire.in/rights/migrants-mobility-missing-vote>> accessed 21 July 2023

to work.¹⁰ There have been many studies that have highlighted the substantial prevalence of bondage labor in industries such as stone quarries and crushers, and marble and slate mines. These incidents have also been documented in handlooms and power looms in different parts of the country, especially in Tamil Nadu and Andhra Pradesh. Furthermore, the National Human Rights Commission of India had also warned the states of Andhra Pradesh, Tamil Nadu and Karnataka over the widespread incidence of bondage laborers in the brick mining industry.¹¹

On top of the frequent hassle and hardships they face in finding employment and securing their livelihood, they are denied the opportunity to return to their native place to cast their vote and make their voices heard. There have been initiatives taken by the Election Commission to provide voter IDs to people who lack a permanent home and live in temporary dwellings, however, this particular initiative would not be preferred by migrants because of the unique relationship they maintain with their native place.

A DEEP CONNECTION WITH THEIR HOME

Circular migrants maintain a close, personal, and intimate relationship with their native hometown even after they have been away from it for a considerable time. They are far more invested in their local politics and exhibit a keener and more active engagement with it. According to a study by the Aajeevika Bureau, only sixty-five percent of migrants had voted in their previous Panchayat elections compared to just forty-eight percent who voted in the Lok Sabha elections. The difference even becomes more profound when short-term distance movements are replaced, with Panchayat election participation ranging from fifty-nine percent and Lok Sabha elections falling to a dismal thirty-one percent.¹²

The reason attributed to this difference was the social pressure they faced from their families and relatives, wherein a close relative or a member of the family was contesting elections to help

¹⁰ Tata Institute of Social Sciences, Mumbai, *Inclusive Elections in India: A Study on Domestic Migration and Issues in Electoral Participation* (ECI, 2015)

¹¹ Umi Daniel, 'Elections, migrant workers and vote?' (*Odisha Migration*, 22 March 2014)

<<http://orissamigration.blogspot.com/search/label/migrant%20workers%20and%20vote>> accessed 23 July 2023

¹² Sharma (n 4)

in canvassing, voting and as an obligation and duty toward the family. Similarly, candidates took various measures and initiatives to persuade them to return home to cast their votes as Panchayat and other local elections frequently come down to just a few votes, so any number of individuals might help in turning the needle towards their favor. Even further incentives were provided, with around fifty percent of migrants saying they were either fully compensated for their journey back or were provided with full transportation up to the destination in Jeeps or buses. Similarly, many were even provided with cash and liquor as further sweeteners.¹³

However, their story is not all flowers and roses as they also face discrimination and hostility from the opposition candidates. A lot of them have faced instances where they were declared dead, and their names struck off the voter rolls. The names were struck off arbitrarily and without assigning any specific reason. A lot of times when migrants have proven to be the decisive factor in deciding elections, it has made the opposition candidates apprehensive and wary of their influence and they have sought to strike their names off the voter base. This is why they always try and make it a point to vote in their local elections to protect themselves from facing elimination from the voter rolls by proving they are not dead, while at the same time they can avail of government welfare schemes and other benefits.¹⁴

Therefore, there needs to be a tailored and unique solution that takes into consideration the familial and local pressure that looms over them but at the same time provides them with the opportunity to make their voice heard.

PROPOSALS

ETPBS and Ballot Voting: Section 60(c) of the Representation of People Act, 1951 allows persons belonging to specific groups earmarked in consultation with the government to be allowed to give their vote via postal ballot in another constituency than their native place subject to fulfillment of requirements as specified.¹⁵

¹³ Representation of the People Act 1950, s 17

¹⁴ Goyal (n 9)

¹⁵ Representation of the People Act 1951, s 60(c)

Once they are notified under this provision, they can be allowed to vote using the technology that almost eleven lakh people used in this country to vote in 2019 called the Electronically Transmitted Postal Ballot System (ETPBS). ETPBS is a one-way electronic encrypted ballot system in which postal ballots are mailed to the respective voters, who then cast their vote and send it to their respective returning officers by post. This system is highly secured and has a lot of checks and balances along the way which helps in ensuring a smooth, seamless experience for the voters.¹⁶

The system works in this way. The Returning officer i.e. the supervising officer of the voter back in his home constituency, electronically generates an e-ballot that contains the names of all the candidates with their party names. This list is then encrypted and saved in the system while being automatically sent to the respective voter's constituency. The unit officer in the other place then downloads the list, which is password protected, and assigns it to the concerned voter, who is the only one provided with the requisite credentials.¹⁷

This system has undergone many security checks to ensure the best quality service is provided to those availing it. Currently, all defense personnel situated anywhere in the country, people with disabilities, and those over the age of eight can avail of this service. This system seamlessly aligns with the needs of migrants as it would not force them to take the long and expensive journey back home for a few days just to vote and at the same time provide them with a political agency and make sure their concerns are not gone unheard.¹⁸

REMOTE ELECTRONIC VOTING MACHINE

The Election Commission of India has taken cognizance of the problems faced by the migrants, with its Chief Election Commissioner, himself undertaking an eighteen-kilometer arduous trek to a remote and hilly region in Uttarakhand to gain a first experience of the cumbersome journey

¹⁶ Goyal (n 9)

¹⁷ *Ibid*

¹⁸ 'ETPBS' (Election Commission of India, 18 February 2018)

< <https://eci.gov.in/it-applications/web-applications/etpbs-r7/> > accessed 21 July 2023

they have to make.¹⁹ Therefore, in December last year after multiple rounds of talks with all the stakeholders and concerned parties and exploring different alternatives, the ECI decided to go ahead with the option of trialing the Multi Constituency Remote Electronic Voting Machine (RVM). The RVM is a modified and improvised version of the tried and tested M3 EVMs which are used for voting throughout the country. It has similar characteristics to the postal ballot proposal just explained above with the voter first having to pre-register with his home constituency for availing the facility of remote voting.²⁰ It is a standalone machine that is distinct from the normal EVMS and can cater to up to seventy-two constituencies in its database. The machine has an electronic ballot display system compared to the usual fixed ballot paper set. Once the voter, scans his constituency card, all the candidates and their party names are displayed in his specific constituency. The machine itself calculates and stores the votes of each candidate of the particular constituency.²¹

CHALLENGES

However, there do remain a lot of legal, political, and technological challenges which have to be addressed going forward. Legislations like the Representation of People Act 1950 and 1951 will have to be amended to represent changes made in definitions of ‘ordinary residents’ or ‘temporary absence’. Similarly, a more robust and precise definition of ‘who is a migrant voter’ will need to be clarified to ensure it retains its distinctiveness as a unique option and which can be extended as an optional facility to be extended every election.²² There are also logistical issues

¹⁹ ‘ECI ready to pilot remote voting for domestic migrants; migrant voter need not travel back to home state to vote’ (*Press Information Bureau*, 29 December 2022)

<<https://pib.gov.in/PressReleasePage.aspx?PRID=1887248>> accessed 21 July 2023

²⁰ Jagdeep S. Chokkar, ‘Why the Proposal to Have Remote Voting Machines Could Be Concealing More Than It Reveals’ (*The Wire*, 31 January 2023)

<<https://thewire.in/government/remote-voting-machines-election-election-commission>> accessed 22 July 2023

²¹ ‘Remote voting for migrants: What’s remote electronic voting machine, how RVM works’ (*The Economic Times*, 18 January 2023)

<<https://economictimes.indiatimes.com/news/how-to/remote-voting-for-migrants-whats-remote-electronic-voting-machine-how-rvm-works/articleshow/97089820.cms>> accessed 22 July 2023

²² Bharti Jain, ‘How EC plans to let migrants vote outside their home state’ (*The Times of India*, 10 January 2023)

<<https://timesofindia.indiatimes.com/india/how-ec-plans-to-let-migrants-vote-outside-their-home-state/articleshow/96869065.cms>> accessed 22 July 2023

of how to provide a controlled environment to ensure the secrecy of voting and how many booths should be set up and who should be appointed as polling personnel.

Similarly, technological and administrative concerns also persist. Questions over how to provide polling agents to candidates for voting at such controlled locations and ensure proper identification of voters to root out and eliminate voter impersonation.²³

CONCLUSION

Voting is a sacred right and the most powerful weapon that a common man yields in this country. It is a fundamental pillar of our democracy and empowers individuals to make sure their voice matters and enables them to actively participate and make sure their concerns are addressed. There has been concentrated progress made by the Election Commission of India and other agencies of the government to remove barriers and ensure everyone has the unfettered opportunity to freely vote without facing any obstacles and hindrances. However, there is a still long way to go in ensuring everyone in this country has a fair and equitable opportunity to vote without facing any barriers and ensuring their full participation in this inclusive, diverse democracy.

²³ ECI ready to pilot remote voting for domestic migrants; migrant voter need not travel back to home state to vote (n 19)