



Persons with Disabilities in India - Accessible and Inclusive 2019 Elections

*¹B.Ganapathi and ²P.Arjun

^{*1} Post-Doctoral Fellow Department of Social Work, Andhra University, Visakhapatnam, Andhra Pradesh, India

²Professor Department of Social Work, Andhra University, Visakhapatnam, Andhra Pradesh, India.

*Note: * Indicates corresponding author*

ARTICLE DETAILS	ABSTRACT
<p>Article History: Received Date: 08/06/2019 Revised Date: 12/06/2019 Accepted Date: 18/6/2019 e-First: 28/06/2019</p> <hr/> <p>Keywords Accessible Elections, Accessibility, PWDs, PWD Voters, Disabled Voters</p> <hr/> <p>*Corresponding Author (B.Ganapathi)</p>	<p>Perhaps, India is the highest disabled populated democratic Country. But Persons with Disabilities in India are marginalized and disadvantaged group for Centuries together in all aspects of their lives. Predominantly political environment is pathetic, apathetic and inaccessible to them even 7 decades after attaining independence. They remain largely disenfranchised and unable to participate in the political life of the country due to attitudinal and physical barriers and similar factors. In this frustrating scenario, the current paper addresses the conceptual understanding of disability and accessible elections, legal framework for accessible elections, initiatives of ECI for accessible elections, Barriers for accessible voting of PWDs and recommendations for effective participation and inclusion of PWDs in the electoral process during 2019 Lok sabha and subsequent State assembly elections.</p>

1. Introduction

The union and state governments are striving for political development of socially and economically disabled sections of the society. But Persons with Disabilities (hear afterwards read as PWDs) totally neglected particularly in political affairs. As per the 2011 Census only 26,810,557 (2.21 per cent) of Indian population is suffering from 8 categories of severe disabilities (Census of India, 2019). In fact, other sources have estimated the numbers to be as high as 6 to 8 Crore PWDs residing in Indian sub-continent (Centre for Law and Policy Research, 2019).

However, PWDs in India are marginalized and disadvantaged group for Centuries together in all aspects of their lives. Predominantly political environment is pathetic, apathetic and inaccessible to them even 7 decades after attaining independence. They remain largely disenfranchised and unable to participate in the political life of the country. They cannot vote independently. (Alan Roulstone, 2012). There was no attempt to ensure that PWDs have access to election related information and processes such as voter registration process, information relating to contesting candidates and their campaign materials, manifestos of political parties, obtaining electoral cards, alternate means of casting votes, transportation to polling stations, access to voting booths, electronic voting machines to cast their votes (Centre for Law and Policy Research, 2019).

Despite orders from the Supreme Court of India during 2004 to make elections accessible to PWDs (Pandey, 2005) the Election Commission of India disclosed numerous barriers hindering the access of persons with disabilities to the electoral process. The general elections for Lok-sabha schedule announced recently, there is an urgent need to address this issue to ensure that all categories of persons with Disabilities are able to vote and that elections are conducted in a participatory and inclusive manner.

In the light of upcoming 2019 Lok-sabha and 4 State Assembly elections the current paper addresses the conceptual understanding of disability and accessible elections, legal framework for accessible elections, initiatives of ECI for accessible elections, Barriers for accessible voting of PWDs, and recommendations for effective participation and inclusion of PWDs in the electoral process.

2. Methodology

The current paper is prepared using secondary sources such as policy documents, magazines, journals, books, online resources and other encyclopedic works.

3. Conceptual Understanding of Disability

Persons with deformities in the Indian subcontinent have been variously defined and categorized in different periods in the history. But the official understanding of disability entered Indian circles only as late as the second part of 1990s with the introduction of landmark legislation of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (Naidu, 2012). The Rights of Persons with Disabilities Act, 2016 was notified on December 28 2016 to make it compliant with the UNCRPD and has replaced the Persons with Disabilities Act, 1995 (Naidu, 2018). The Act defined disability based on an evolving and dynamic concept. Disability as a person with long term physical, mental, intellectual or sensory impairment which, in interaction with barriers, hinders his full and effective participation in society equally with others. A person with not less than forty per cent of a specified disability certified by the certifying authority is defined as a person with benchmark disability and only persons so defined will be eligible to the benefits/services made available by the state. The Act recognized 21 categories of disabilities namely Blindness, Low vision, Leprosy-cured, Hearing impairment, Loco motor disability, Mental retardation, Mental illness, cerebral palsy, dwarfism, muscular dystrophy, acid attack victims, hard of hearing, speech and language disability, specific learning disabilities, autism spectrum disorders, chronic neurological disorders such as multiple sclerosis and Parkinson's disease, blood disorders such as haemophilia, thalassemia, and sickle cell anemia, and multiple disabilities. The Act lays stress on non-discrimination, full and effective participation and inclusion of PWDs in society, equality of opportunity, accessibility, equality between men and women. The principle reflects a paradigm shift in thinking about disability from a social welfare concern to a human rights issue (Ministry for Law and Social Justice, 2016).

4. Accessible Elections and Persons With Disabilities

Voters having any one among the 21 disabilities mentioned above are termed as voters with disabilities. Every Indian citizen with disability who has attained the age of 18 years on the qualifying date i.e. first day of January of the year of revision of electoral roll is eligible to be registered as a voter in the roll of the polling area of the constituency of which he/she is a resident. An eligible person with disability can get enrolled in electoral roll on par with their non-disabled counterparts. access to elections and voting for PWDs is a matter of right and the State is constitutionally mandated to provide and enhance full political participation for them (Election Commission of India, 2019).

5. Legal Protections for Right to Vote of PWDs

There are several legal provisions for removal of attitudinal and physical barriers for PWD voters. In fact, The Disability Rights Group (DRG), an apolitical association of individuals and organisations of PWDs, sent a letter to the Chief Justice of India praying for his intervention to make polling booths and stations accessible, with Braille signages on the electronic voting machines (EVMs), interpreters for the deaf and ramps for wheel-chair users.

The Supreme Court of India converted the letter in to PIL and Harish N. Salve was appointed as Amicus Curiae to assist the Court in the proceedings. Interim orders of the Court directed that efforts be made to ensure accessibility, across the country. Strategically combining the constitutional right to political participation of every citizen to vote with dignity and in secrecy, with the non-discrimination clause of the act. Further, The Court was pleased to direct the Chief Secretaries of respective States to ensure that wooden ramps were made available for elections in April 2004 in all polling stations - at least in the cities and urban areas - to enable PWD voters to reach the polling stations and cast their votes. A similar order was obtained by the same group in the Bombay High Court for their state assembly elections also (Pandey, 2005).

According to the Bombay and other high court orders every polling booth should have ramps, Braille for visually impaired to cast their votes. PWD voters need not required to stand in queues, disabled voters will be allowed facility of a companion of their choice to assist them in entering the booth and in casting their vote and assistance should be provided by the staff on duty to escort the voter on a wheel chair inside the booth. Subsequently, the Election Commissioner had given an assurance to the Supreme Court during 2007 that all the necessary arrangements will be made as per the directions of the Court (Centre for the Law and Society, 2019). In addition to above legal protections, section 11 of Rights of Persons with Disabilities Act 2016 mandates the Election Commission of India to ensure that all polling stations and all materials related to the electoral process are easily understandable and accessible to them (Ministry for Law and Social justice, 2016).

6. Initiatives of ECI for Political Participation and Inclusion of PWDs in Elections

The Election Commission has identified that the greater participation of PWDs in the electoral process is as one of the core objectives under the EC's Strategic Plan 2016-2025 and initiated several measures for effective inclusion of PWDs in political participation and Nation building process.

1. The ECI had conducted district, State and National level consultations across the country to identify the barriers, challenges and to find out possible solutions for effective participation of PWD voters.
2. The ECI has resolved to booth-wise mapping of PwDs, accessibility enhancements at polling stations, PwD friendly websites and awareness programmes, registration and sensitisation camps, partnering with PwDs as icons, collaboration with NGOs and sensitisation of the election machinery during the National consultations (The Hindu, 2018).
3. The ECI has also organised International conference on 'inclusion of Persons with disabilities in electoral processes' during 24-01-2018 in New Delhi (International Conference reader, 2019).
4. The ECI has realized the special needs of PWDs and designed and developed its website with accessibility features comply with the international standards. The website is particularly made screen reader accessible to enable the visually impaired to access the content with JAWS, NVDA and other similar screen readers.
5. The EC had declared "Accessible Elections" as the theme for the National Voters Day for this year and observed on January 25 and conducted various competitions to create awareness among the students issues relating to inclusion of PWDs in polling process.
6. The EC has released the paper "Breaking the Barriers: Making Elections Accessible", no voter is left behind and noted that data of persons with disabilities should not be displayed on website, nor shared, to maintain their privacy.
7. The Election Commission HAS launched a systematic voter education and electoral participation portal on July 3 2018 with a section dedicated to the PWDs (The Hindu, 2018), (SVEEP., 2019).
8. The programme on "Inclusion of Persons with Disabilities in the Electoral Process" is being organized with a view to come up with a national policy on the issue.
9. The Commission plans to employ technology to overcome the challenges in effective communication with PWDs. Apart from preparing publicity material in sign language and Braille script in regional languages, it is stressing on developing audio applications like voice SMS (web or mobile) for their registration.

7. Strategic Framework on Accessible Elections

ECI has announced to provide Printing of EPIC (Electors Photo Identity Card) with Braille for visually impaired, Accessible Communication Awareness Materials, A Mobile Application to motivate and educate PWD voters, Appointment of Disability Coordinators at AC, District and State Level, Cascaded training on Accessibility to Poll officials, arrangement of Auxiliary Polling Stations, Accessible Photo Voter Slips, Sign Language window in all the audio visual training and advertisement content material, Free Transport Facility for PwDs and their Assistants and other series of strategic measures for facilitation of PWD voters (India International Institute of Democracy and Electoral Management, 2019).

8. Directions and Guide Lines of ECI for Conduct of Accessible Elections

The ECI has recently issued Directions and Guidelines in Election Management and Planning for conducting accessible elections such as Identification of polling station wise PWDs, provision for filling up voter registration forms, Assured Minimum Facilities at Polling Stations, Involvement of NGOs, CSOs/DPOs, RWAs, System Sensitization and Training, Use of technology to provide help to PWDs, Cooperation of Political Parties, Building a comprehensive Statistical Data Base, Utilising the services of volunteers, Training and Sensitization of Officials handling the work relating to PwDs and other broad areas (Election Commission of India, 2019).

9. Basic Voting Facilities for PWD Voters at Polling Stations

The ECI has been providing several basic facilities to encourage voters with disabilities to franchise their votes without any discrimination on par with their non-disabled counterparts. Further, the ECI has been extending various services to overcome the limitations of their disabilities while voting. Voters with high support needs may request the ECI for a volunteer or for a wheel chair or any other facility with the support of PWD android mobile application prior to the voting day. Prior booking of parking facility and free transport facilities are also available in some constituencies.

Assured Minimum Facilities such as signage, help desk, polling booth at ground floor, obstacle free wide leveled pathway from entrance to voting compartment, Ramp as per GOI standards, Accessible Toilets, Drinking

Water, separate Entry and Exit, Lighting, accessible furniture, Braille ballot guide, adjustable Braille embossed EVMs, wheel chairs, booth volunteers and display of accessible posters on information pertaining to voting are also available in the polling stations (Election commission of India, 2019).

Free transport facility is also be made available to all PWDs and their companions in local public transport system. The ECI provides dedicated parking system for vehicles of voters with disabilities. Priority entry is provided to voters with disabilities without having to wait in queue at polling booths. Voters with visual disabilities can bring their companion to assist them in casting their votes. Alternatively, a voter with disability may take the assistance of booth volunteer / presiding officer as well. Trained & sensitised Polling personnel on special needs of PWDs are available in polling stations (Conference Reader of the International Conference on Inclusion of Persons with Disabilities in Electoral Processes, 2019).

The Election Commission had conducted 14th, 15th and 16th Lok-sabha elections and two to three State assembly elections in every State soon after the pronouncement of the judgment of the Supreme court. A series of PwD-friendly measures were taken in recent elections held in States such as Assam, Delhi, Goa, Kerala, Karnataka, Bihar, Assam, Mizoram, Himachal Pradesh, Bihar, Chhattisgarh, Maharashtra, Rajasthan, Uttarakhand, Madhya Pradesh and Telangana. The ECI has made inclusive elections a key priority of the upcoming national election. All efforts are being made to ensure people with disabilities who are eligible to vote, do so in a free and fair manner (Punarbhava, 2019). The Commission has completed a thorough mapping of PwD voters up to Assembly constituency level in various states. The commission has recently developed PWD android application to enable to reach the PWD voters directly. They can register for pick up and drop facilities to polling booths and to provide other necessary services (Play store, 2019). Further, the ECI ensures to provide dummy ballot papers in Braille to create awareness about elections amongst visually impaired people also. There is no doubt that the ECI is moving in the right direction but lots more needs to be done.

But there is a huge gap for formulation of guide lines and programmes and their implementation with regard to PWD voters. The initiatives of the ECI are not reaching to the common disabled voters. The ECI revealed to an RTI query that the EC has not acted upon any of the recommendations specific to persons with intellectual and psycho-social disabilities across the country (Mithun MK., 2019).

10. Barriers for Electoral Participation of PWDs:

Even though there are existing legal provisions voters with disabilities are still facing both attitudinal and physical barriers. The political parties have attitudinal barriers like skepticism about the decision-making ability of PWDs. Moreover, poorly trained polling personnel not sensitized to the diverse needs of voters with disabilities can create a hostile environment.

Registration for right to vote through offline or online mode is not accessible to all categories of PWDs. Electoral awareness programs and campaigns, campaign materials and speeches are not accessible to all categories of PWDs. participation of voters with disabilities in the political campaigns is not possible. The websites of ECI, Parliament and various political parties are still inaccessible to screen reader users. Consequently, Centre for Internet & Society conducted a test during 2014 to determine the accessibility of websites of the Election Commission of India, Parliament and some key political parties in India and observed that almost 39 out of the 41 websites failed the test of accessibility and were not in compliance with the Web Content Accessibility Guidelines ("WCAG") (Center for Internet and Society, 2019). . Accordingly the educated visually impaired voters are excluded from availing information. News, announcements, voter education information, campaign communication and election updates made over television are not accompanied by sign language/ subtitling/ captioning, so deaf persons are completely excluded from getting this information. The infrastructure, voting booths and voting machines are inaccessible. The infrastructure of voting sites is often a physical barrier, such as buildings without ramps, or polling booth counters that are too high to vote from wheel chair and pressing buttons on the Electronic voting missions are some of the barriers for the voters with locomotor disabled persons.

Communication is perhaps the most important aspect to be addressed while reaching out to PWDs. Persons with blindness or low vision would require an audio/ tactile output, large print and electronic texts. So that their technology can read it out to them. People with hearing impairment would require textual or picture based forms of communication. Whereas, Persons with physical, motor, cognitive and other kinds of disabilities would require a combination or multiple formats to suit their choice of communication. Since communication takes place over different forms of media and for a variety of purposes at different stages of the election process, between multiple

stakeholders such as the Government, political parties, media houses etc., it is critical that attention is given to standardizing accessible communication across the board to ensure easy and effective communication for all PWDs (GauravVivekBhatnagar, 2013).

The Association for Democratic Reforms case²⁰ and the PUCL case²¹ reiterate that the right to know the background of a candidate is a fundamental right of a voter (PUCLv., 2013). Thus voters with disabilities have a fundamental right in getting information about the backgrounds of candidates and parties in an accessible format. Unless such materials are available, a person will not be able to exercise his right to vote in proper direction.

Voting is a personal act often done in secrecy. It is an autonomous act of choice, which is political in nature. The Constitutional bench of the Supreme Court in KuidipNayar case held that "In a general election, the electors have to vote in a secret manner without fear that their votes would be disclosed to anyone or would result in victimization. The right to secrecy in voting has been upheld and strengthened by the Supreme Court in the 2009 case of PUCL v. Union of India (PUCL v. 2013). But in the context of voters with disabilities, this right is often diluted and directions are given to voting officials to allow disabled voters to take in family members or others to assist them. While this is seen as a measure to enable access, it is in fact a deprivation of the right of electors with disabilities to vote independently.

The ECI still refers to the Conduct of Elections Rules, 1961 which provides for "permitting a companion to accompany a blind/infirm elector to assist him/her to cast the vote." This outdated provision infringes upon the autonomy and right to secrecy of the voter with disability (Pandey, 2005).

Often polling can be so intimidating that a voter with disability will bring a friend or family member to assist them. The presence of another person in the voting booth leads to the question of who is actually deciding the ballot selections. Whenever assisted voting occurs, coercion is a concern. Depending on poll officers to cast votes violates the dignity of the persons. Coercion and cheating are also concerns (Centre for Internet and Society 2019). There is a complete lack of alternative voting mechanisms, devices or even mobile polling booths. The list is only illustrative but in effect it means discouraging PwDs from exercise of their right to franchise. Despite that there are several barriers preventing participation of voters with disabilities in the electoral process. Barriers do dissuade PWDs from voting (Vikaspedia, 2019).

11. Conclusions and Recommendations

Despite having the Supreme Court directions and ECI guide lines, the disabled voter is left over even after conducting 16 Lok Sabha and several State assembly elections in this so called great democratic country. In this frustrating scenario, the ECI needs to implement the following recommendations for effective political participation of PWD voters 2019 general and subsequent assembly elections and inclusion of PWDs in the main stream of Indian democracy.

- All election officials should necessarily undergo a sensitization training to meet the diverse needs of PWDs.
- The ECI should ensure that officials involved in elections are sensitized to communicate with PWDs and address their special needs.
- Disabled Persons Organisations should be involved in the committee on accessibility, as well as at various stages of the election process.
- The ECI should conduct voter education and information awareness programs for young voters with disabilities.
- PWD voters with high support needs can be registered at their residence and voter IDs also be handed over to them.
- PWDs can be permitted to register their vote all over the year and ECI should conduct special voter registration drives in the premises of disability organizations.
- Voter registration centers should be accessible to all categories of PWDs particularly wheel-chair users.
- The ECI can disseminate public information over radio and television in the final weeks of the elections encouraging PWDs to participate in voter registration and voting.
- Registered PWD voters information should be provided in a website in an accessible format.
- The ECI should ensure that there is a record of all registered voters with disabilities in each constituency along with their specific needs.
- ECI should use text messaging, e-mails, phone calls and letters to communicate locations of polling stations and facilities available to them and other all election related communication to PWD voters directly.

- Communication must be made available in multiple formats and over different media such as print, television and websites to ensure that persons with different disabilities are able to access information in one way or another.
- The mobile phone must be recognized and used as a key tool for communicating election related information- both through voice calls, as well as through messaging.
- The PWD android mobile app should be redesigned as per the specific needs of all categories of voters with disabilities and similar apps can be developed in IOS, windows and other operating systems.
- A toll free help line may be made available throughout the country to assist voters with disabilities.
- All election material, manifestoes and contesting candidates information must be made available in large print, Braille, audio and other accessible formats upon request to a disabled voter.
- The ECI must direct All political parties and media houses to follow accessible communication guidelines and all websites relating to elections follow Web Content Accessibility Guidelines.
- No election related advertisement or communication should adversely depict PWD voters.
- Voters with high support needs who cannot travel to polling booths may be permitted to cast their votes through postal ballots.
- Mobile polling booths can be provided in hospitals, care-homes, institutions etc. in case of patients and persons with severe disabilities and elderly persons with prior intimation.
- Reception centers of polling stations provide live assistance on the poll day to PWD voters.
- The ECI should provide free transportation to polling stations and to return to their homes after casting their votes.
- ECI may consider providing volunteers at each polling station to assist PWD and elderly voters.
- Sign language interpreters should be appointed to help the hearing impaired voters where ever their population is high.
- A demonstration voting machine for voters with disabilities to practice on before they enter a voting station would also be beneficial.
- All polling sites and buildings should be made accessible with ramps, lifts and necessary infrastructural modifications.
- Disabled voters should be given priority for voting and not made to wait in queues.
- Disability organisations should be involved in testing and training in the use of EVMs and mobile applications.
- EVMs can be accessible and there should be audio/tactile outputs.
- Poling personnel should permit voters with disabilities to use access technology or human assistance for voting as per their choice.
- New technologies may be used for monitoring and gathering data on accessible polling stations and data on disabled voter access.
- The election personnel should necessarily conduct Pre and Post-election reviews with voters with disabilities.
- There should be a complaint redressed mechanism to address grievances and special needs of voters with disabilities.
- ECI must review all its electoral policies, model code of conduct, administrative rules and practices in order to comply with Rights of Persons with Disabilities Act 2016.

Implementing these recommendations will significantly improve the participation of electors with disabilities in the elections. But the Indrajit Gupta Report, the Dinesh Goswami Report, the 170th Report of the Law Commission of India on Electoral Reforms and the bulky recommendations of the National Commission to Review the Working of the Constitution (NCRWC) 2002 did not touch the issue of need for disabled friendly electoral system. The election commission should implement subsequent judgments of supreme courts and high courts and create disabled friendly atmosphere in the electoral process. It is the responsibility of the Government to recognize the political rights of the disabled persons, honor their self-respect and encourage their political participation for the successful implementation of parliamentary democracy in India.

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