

THE MIGRANT'S RIGHT TO VOTE

Relevant for: Indian Polity | Topic: Elections, Election Commission and the Electoral Reforms in India Incl. Political Parties

While the US granted universal adult franchise incrementally, India moved from a restrictive 15 per cent of Indians having (limited) voting rights to universal adult franchise, driven by the transformative impetus of the national movement and the ideals of equality and non-discrimination that it threw up.

When it came to voting rights, it was B R Ambedkar's clarity of vision that resulted in Article 326 of the Constitution, which not only provided that elections be held on the basis of universal adult franchise, but ensured that elitist notions of qualifications — such as property ownership — did not exclude individuals from either voting or standing for elections. Ambedkar had influenced public opinion on the matter for decades, giving evidence before the Southborough committee, which was recording evidence on designing representative institutions for the Indian Dominion in 1919. He emphasised that, ultimately, a democratic government was inseparable from the right to vote, and it was voting that would prove to be (one of) the harbinger(s) of political education.

The post [COVID-19](#) India needs to recall this rich history. It is the will of all the Indian people getting reflected in policy and the choices of parties of governance through the ballot that epitomises the very foundations of a representative democracy. With all attendant ills of unchecked money power in politics, class, caste and community interests overshadowing a modern and truly transparent electoral process, India cannot look itself in the eye and explain how such a large section of its population — simply by virtue of its work definition, which is being away from home — is excluded from this basic constitutional right.

India's gaze has, for the first time, been turned towards the "migrant labourer". For Indian democracy to learn the right lessons from the plight that a sudden lockdown caused this vast section of Indians, a condition that has been brought before the more settled and privileged sections, including politicians, one crucial element must surely be to secure to them the right and facility to vote.

The Constitution guarantees freedom of movement to every citizen and freedom to reside in any part of the country. According to the latest 2011 Census, the number of internal migrants stand at 450 million (45 crore), a 45 per cent surge from the 2001 census. Among these, 26 per cent of the migration, that is, 117 million (11.7 crore), occurs inter-district within the same state while 12 per cent of the migration, that is, 54 million (5.4 crore), occurs inter-state. Both official and independent experts admit that this number is underestimated. Circular migration accounts for those migrants who have not permanently relocated to host cities, and instead circulate between host and home cities. For instance, short-term and circular migration could itself amount to 60-65 million migrants (6-6.5 crore), which including family members could approach 100 million itself (10 crore). Half of these are inter-state migrants.

Migrant labourers mostly hail from most poverty-driven rural areas and from among the most marginalised sections (SC/STs and OBCs, and other minorities, including Muslims). They are mostly uneducated, and lack assets including land. As of 2011, Uttar Pradesh and Bihar were the largest source of inter-state migrants, with 83 lakh and 63 lakh migrants respectively.

Most migrant voters have voter cards for their home constituency. A 2012 study showed that 78 per cent of migrant labourers surveyed possessed voter ID cards and had names on voters lists in their home cities. Economic constraints disable a majority of them from voting as they cannot,

in the midst of harsh work cycles, commute to their home states on the polling day. One survey shows that only 48 per cent of those surveyed voted in the 2009 Lok Sabha elections, when the national average was 59.7 per cent. These patterns have stayed consistent. In the 2019 Lok Sabha polls, major sender states such as Bihar and UP had among the lowest voter turnout rates at 57.33 per cent and 59.21 per cent respectively, while the national average was 67.4 per cent.

Given the nature of migration being circular and seasonal, migrants are not permanent/long-term residents in host cities and do not satisfy the requirements of being an “ordinary resident” under Section 20 of the Representation of People Act, (RP Act), in the host state, to obtain voter cards. They are, therefore, unable to transfer their constituency. Only 10 per cent of migrant labourers surveyed possessed voter IDs in their host cities.

The Election Commission of India has under Section 60(c) of the RP Act the power to notify a certain class of persons to vote via postal ballot. The ECI’s much-proclaimed mission to ensure “no voters are left behind” has resulted in attempts to ensure a secure system of postal ballots. In the 2019 Lok Sabha elections, more than 28 lakh votes were received via postal ballots. The Indian migrant worker deserves the secured right to have access to vote through a similar system.

The Supreme Court has interpreted the right to vote as an extension of the fundamental right of the freedom of expression. This brings with it a positive obligation on the ECI to ensure optimal conditions for the exercise of this freedom. Ensuring this fundamental freedom to the Indian migrant worker, regardless of caste, gender, creed, ethnicity or faith, therefore, is a constitutional obligation of the ECI. The failure to ensure that this “class of Indians” is legitimately allowed to exercise its franchise is tantamount to invisibilising their security, dignity and overall well-being from the political discourse of the country.

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