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BALLOT WITHOUT BARRIERS: REENVISIONING ELECTORAL RIGHTS FOR PERSON WITH DISABILITIES

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➤ **Abstract**

Voting is the foundation of democratic participation, but countless citizens with disabilities still face multiple obstacles that prevent them from exercising this right fully. Although Article 326 of the Indian Constitution ensures universal suffrage and India has ratified the UNCRPD, persons with disabilities remain excluded due to inaccessible infrastructure, discriminatory laws, and persistent social prejudice. The paper explores electoral rights of persons with disabilities by analyzing five dimensions: barriers in law and practice, voting as a matter of equality, the promise and pitfalls of digital democracy, the conflict between guardianship and citizenship, and the shift required from symbolic measures to genuine transformation. Through a framework of facts, challenges, and remedies, this article contends that accessible voting is not charity but a constitutional duty and a fundamental human right. In conclusion, democracy cannot be considered complete unless barriers are removed and persons with disabilities are guaranteed equal, dignified, and effective participation in the electoral process.

➤ **Introduction**

The legitimacy of a democratic system hinges on the inclusion of every citizen, yet systemic barriers often disenfranchise the disabled community. In India, the legal mandate for an accessible vote is derived from *Article 326*¹ and the United Nations Convention on the Rights of Persons with Disabilities (*UNCRPD*)². Statistics highlight the importance of this mission: though the 2011 Census identified *2.68 crore people with disabilities*³ (2.21% of the population), recent efforts by the Election Commission (2024) have successfully brought *88.4 lakh PwD voters into the formal electoral process*⁴, signalling a vital step toward total political integration.

¹Constitution of India, art. 326.

²United Nation Convention on The Rights of Person with Disability, art.29, adopted Dec.13,2006

³Office of the Registrar General & Census Commissioner, India, Census of India 2011: Data on Disability

⁴Election Commission of India, Electoral Roll Data, March 2024.

To make voting truly inclusive, the ECI has introduced strong measures under its program of “Accessible and Inclusive Elections.” A turning point came *in 2018, when the National Consultation on Accessible Elections was held in New Delhi*⁵ and the theme “Accessible Elections” was officially adopted. Since then, reforms have expanded steadily. *Electoral Photo Identity Cards now carry Braille features, polling stations must provide ramps, wheelchairs, and volunteer support, and the Saksham App helps PwD voters*⁶ register, request transport, and find booth information with voice assistance.

These steps matter because participation is not just about convenience but about dignity and equality. To reinforce this, the ECI also issued *ethical guidelines in 2023*⁷ that ban political parties from using derogatory or ableist language during campaigns, with penalties under the *Rights of Persons with Disabilities Act, 2016*⁸. Together, these reforms highlight India’s commitment to guaranteeing that persons with disabilities can vote freely, fairly, and with respect.

This article analyzes electoral rights of persons with disabilities across legal, social, and technological dimensions, and argues that accessible participation is a constitutional and human rights imperative.

➤ Analysis

1) Legal Barriers to Participation:

The Election Commission of India (ECI) recognizes as “disabled voters” those individuals who fall within the *21 categories of disability defined under the Rights of Persons with Disabilities Act, 2016 (RPWD Act)*⁹. In addition, the classification extends to persons experiencing restricted mobility due to age, illness, or temporary medical conditions. Such voters may require special arrangements, including *home-based voting facilities, wheelchair access, or assistance from companions*¹⁰ at polling stations.

⁵ Election Commission of India, Report on National Consultation on Accessible Elections, July 2018.

⁶ Election Commission of India, Handbook on Accessible Elections, 2018.

⁷ Election Commission of India, Guidelines on Political Campaigns and Disability Rights, 2023.

⁸ Rights of Persons with Disabilities Act, No. 49 of 2016, Gazette of India.

⁹ Rights of Person with Disability Act, No.49 of 2016, Gazette of India.

¹⁰ Election Commission of India, Handbook on Accessible Elections, 2018.

A) Expanded List of Disabilities under the RPWD Act, 2016

The RPWD Act *broadened the scope of recognized disabilities from the earlier seven categories to twenty-one distinct conditions*¹¹, thereby ensuring a more inclusive framework. These include: Blindness, Low Vision, Leprosy Cured, Hearing Impairment, Locomotor Disability, Dwarfism, Intellectual Disability, Mental Illness, Autism Spectrum Disorder, Cerebral Palsy, Muscular Dystrophy, Chronic Neurological Conditions, Specific Learning Disabilities, Multiple Sclerosis, Speech and Language Disability, Acid Attack Survivors, Parkinson’s Disease, Hemophilia, Thalassemia, Sickle Cell Disease, and Multiple Disabilities.

B) International Comparison

Globally, countries adopt varied approaches:

USA: *ADA mandates accessible polling places and voting systems*¹².

UK: *Provides tactile devices and companion assistance.*¹³

Sweden: *Allows postal and mobile voting*¹⁴.

South Africa: *Permits assisted voting under the Electoral Act*¹⁵.

Australia: *Offers telephone and electronic voting for blind voters.*¹⁶

India’s recognition of 21 disabilities is progressive, but implementation lags behind these international practices.

C) Comparative Analysis

India vs. Global Standards: India’s recognition of 21 disabilities is broader than many countries, but implementation remains inconsistent.

Technology Use: Countries like the U.S. and Australia have integrated electronic and telephonic voting, while India still relies heavily on physical polling stations.

Legal Capacity: International standards, especially the **UNCRPD (Article 29)**, emphasize universal legal capacity. India’s exclusion of persons deemed “unsound of mind” remains a significant gap.

¹¹ RPDW Act,2016, Section 2(s)

¹² Americans with Disability Act of 1990,42 U.S.C §12101

¹³ Representation of People Act, 1983(UK)

¹⁴ Swedish Election Act,2005

¹⁵ Electoral Act 73 of 1998(South Africa)

¹⁶ Australian Electoral Commission, Accessible Voting Guidelines

D) Case Law Reinforcing International Standards

Vikash Kumar v. UPSC (2021)¹⁷: Affirmed equal opportunity by mandating scribe facilities.

Rajive Raturi v. Union of India (2016)¹⁸: Linked accessibility to constitutional guarantees.

Election Commission v. Disabled Rights Group (2012)¹⁹: Mandated ramps and Braille EVMs, echoing global accessibility norms.

E) Solutions:

- Amend electoral laws to remove “unsound mind” exclusions.
- Enforce AMF standards uniformly.
- Ensure voter registration platforms are accessible with assistive technologies.

2) Right to Vote as Equality

The right to vote is more than a procedural entitlement; it is a *symbol of equality and dignity under Article 14 of the Constitution*²⁰. Excluding persons with disabilities (PwDs) from full participation undermines both justice and democracy.

A) Reinterpreting Suffrage through a Disability Rights Lens

Traditionally, *suffrage has been seen as a universal political right*²¹. However, when viewed through a **disability rights framework**, it becomes clear that voting is not just about access to the ballot but about dismantling systemic barriers. *The UNCRPD (Article 29) explicitly recognizes political participation as a disability right*²², obligating states to ensure accessibility. This interpretation shifts the focus from charity or accommodation to **justice and equal citizenship**, demanding proactive reforms in law, policy, and practice.

B) Judicial Support: Disabled Rights Group v. Union of India (2007)²³: Delhi High Court affirmed that equal electoral participation is a constitutional necessity.

¹⁷ Vikas Kumar v. UPSC, (2021) 5 SCC 370

¹⁸ Rajive Raturi v. Union of India (2016) 10 SCC 493

¹⁹ Election Commission of India v. Disabled Rights Group, W.P.(C) 186/2006, Delhi High Court

²⁰ Constitution of India, art.14

²¹ Universal Declaration of Human Rights, art. 21(1948)

²² UNCRPD, art.29, adopted Dec.13, 2006

²³ Disabled Right Group v. UOI W.P.(C) 186/2006, Delhi High Court (2007)

C) Solutions

- Provide campaign materials in **Braille, sign language, and easy-to-read formats**.
- Train polling staff to treat PwDs with **respect and dignity**, not paternalism.
- Embed accessibility into **every stage of election planning**, making it a constitutional mandate.
- Recognize suffrage explicitly as a **disability right**, ensuring reforms are framed as obligations, not favors.

3) Suffrage as a Disability Right

Traditionally, electoral participation has been perceived as a general civic entitlement available to all citizens; however, when examined through the lens of disability justice, this entitlement must be reconceptualized as a specific right of persons with disabilities that imposes affirmative obligations upon the State. Mere legal recognition of the right to vote does not guarantee genuine equality, as meaningful participation remains elusive unless structural, physical, and procedural impediments are actively dismantled. The Supreme Court of India, in **National Federation of the Blind v. Union of India**, *underscored that accessibility is intrinsic to equality and not a discretionary concession, a principle that directly informs the necessity of accessible electoral infrastructure*²⁴. Similarly, in **Vikash Kumar v. Union Public Service Commission**, the Court adopted a *rights-based and social model of disability and held that the denial of reasonable accommodation amounts to discrimination, thereby reinforcing the obligation of public authorities to proactively facilitate participation*²⁵. This judicial approach is consistent with international human rights norms under the Convention on the Rights of Persons with Disabilities, particularly **Article 29**, which recognizes *participation in political and public life as an essential component of disability rights rather than a peripheral civil privilege*²⁶. Furthermore, persons with disabilities often experience compounded exclusion arising from gender, caste, geographic location, and economic disadvantage, which collectively intensify barriers to democratic engagement. Addressing these intersecting forms of marginalization requires statutory reform to explicitly recognize electoral participation as a protected disability-based entitlement, the adoption of targeted and inclusive policy measures, and the establishment of independent oversight mechanisms to ensure accessibility,

²⁴ *Nat'l Fed'n of the Blind v. Union of India*, (2013) 10 S.C.C. 772 (India).

²⁵ *Vikash Kumar v. Union Pub. Serv. Comm'n*, (2021) 5 S.C.C. 370 (India).

²⁶ Convention on the Rights of Persons with Disabilities art. 29, Dec. 13, 2006, 2515 U.N.T.S. 3.

accountability, and effective realization of democratic rights.

4) Legal Capacity & Exclusion

One of the most controversial dimensions of electoral exclusion concerns the denial of voting rights to individuals with intellectual and psychosocial disabilities, a practice largely rooted in assumptions about their decision-making abilities. Modern human rights jurisprudence draws a crucial distinction between **legal capacity**, which signifies recognition as a rights-bearing person, and **mental capacity**, which relates to cognitive or intellectual functioning. *Treating mental capacity as a prerequisite for legal capacity, and consequently for political participation, contradicts the Convention on the Rights of Persons with Disabilities, which affirms that all individuals retain legal agency regardless of disability*²⁷. Within the Indian legal framework, however, electoral disqualifications based on “unsoundness of mind” have sometimes been interpreted expansively, resulting in the exclusion of persons with intellectual and psychosocial disabilities and reinforcing social stigma. Judicial thinking has increasingly challenged this approach. In **Suchita Srivastava v. Chandigarh Administration**, the Supreme Court held that *the presence of mental disability does not negate personal autonomy or decisional authority, thereby affirming that legal capacity cannot be withdrawn solely on the basis of cognitive impairment*²⁸. Further, in **Justice Sunanda Bhandare Foundation v. Union of India**, the Court emphasized *the State’s affirmative duty to facilitate political participation for persons with disabilities, reinforcing the principle that exclusion from democratic processes cannot be justified by generalized notions of incapacity*²⁹. Beyond formal legal barriers, persons with intellectual disabilities frequently encounter practical challenges, including difficulties in accessing understandable electoral information, navigating polling stations, and comprehending ballot procedures. Achieving genuine inclusion therefore requires statutory reform to unequivocally recognize universal legal capacity, the adoption of supported decision-making mechanisms—such as accessible voter education materials, mock ballots, and assistance chosen by the voter—and sustained public awareness initiatives aimed at dismantling stereotypes that equate intellectual disability with civic incompetence.

²⁷ Convention on the Rights of Person with Disability art. 12 & art. 29, Dec. 13,2006,2515 U.N.T.S. 3.

²⁸ Suchita Srivastava v. Chandigarh Administration, (2009) 9 S.C.C. 1

²⁹ Justice Sunanda Bhandare Found. v. Union of India, (2014) 14 S.C.C. 383

5) From Tokenism to Transformation

Although India has implemented multiple accessibility measures to broaden participation by persons with disabilities (PwDs), many of these interventions remain superficial, manifesting as ramps without proper gradients, inadequately trained polling personnel, or digital tools that lack full accessibility and functionality. Such tokenistic efforts fall short of the deep structural change required to ensure truly inclusive elections. From a constitutional perspective, accessibility cannot be treated as optional: Article 41 of the Indian Constitution imposes a directive obligation on the State to secure “public assistance and social welfare” for citizens, a principle that supports transforming formal electoral inclusion into substantive equality for PwDs. This constitutional imperative complements the guarantees of equality and universal adult suffrage under Articles 14 and 326, mandating that barriers to political participation must be systematically dismantled rather than merely acknowledged. The Supreme Court of India has reinforced this transformative vision; for example, in **Rajive Raturi v. Union of India**, the Court held *that accessibility is an integral aspect of the right to equality and democratic participation, rather than an administrative convenience*³⁰. Additional judicial and institutional guidance, such as the **Supreme Court Handbook on Disability Rights** (2024), *affirms universal legal capacity and underscores the right of persons with disabilities to vote as a core element of citizenship*³¹. Beyond policy prescriptions, the ECI has introduced significant technological and procedural reforms in recent years: for the 2024 Lok Sabha elections, over **88.4 lakh PwD electors were registered**, marking a **nearly two-fold increase** from 2019 figures and reflecting expanded outreach and registration efforts³². For the first time in national polls, the Commission provided an **optional vote-from-home facility** for voters aged 85 and above and PwDs with at least 40 % benchmark disability, enabling over **1.7 crore electors** to avail of this service and demonstrating a shift toward accessibility-oriented electoral logistics³³. Moreover, the ECI’s *Saksham App* has been downloaded more than **1.78 lakh times**, *connecting PwD voters with services such as wheelchair assistance, transport facilitation, and volunteer support at polling stations, while additional technological reforms include Braille-enabled EVMs and accessible voter guides*³⁴. These developments illustrate how technology,

³⁰ *Rajive Raturi v. Union of India*, (2016) 10 S.C.C. 729.

³¹ Sup. Ct. of India, *Handbook on Disability Rights* (2024).

³² 88.4 Lakh People with Disabilities Registered in the Electoral Roll: EC, PTI (Mar. 16, 2024).

³³ ELECTION COMM’N OF INDIA Press Note, Home Voting Facility for Elderly & PwD Voters in 18th Lok Sabha Election (Apr. 12, 2024).

³⁴ ELECTION COMM’N OF INDIA, *PwD Facilities & Technology* (2024) (noting 1.78 lakh+ Saksham downloads, Braille EVMs & dedicated services).

when combined with constitutional mandates and judicial oversight, can move electoral administration from tokenism toward transformation. Nevertheless, to solidify these gains, the ECI must continue strengthening digital accessibility standards, integrate multilingual and grievance-redress features into its platforms, and embed accessibility cells to monitor implementation across states.

➤ **Conclusion**

The right to vote for persons with disabilities must be seen as a core guarantee of equal citizenship, not a symbolic privilege. While reforms and innovations have opened new opportunities for participation, many measures remain superficial and fail to deliver genuine inclusion. When accessibility is treated as a mere formality—through poorly designed infrastructure or partially functional platforms—the democratic promise is weakened.

True inclusion requires a shift in perspective: suffrage must be understood through the lens of disability rights, where participation is not framed as accommodation but as an affirmation of dignity and equality. Practical steps such as accessible campaign materials, respectful treatment at polling stations, and decision-making support for persons with intellectual disabilities show that meaningful reform is both possible and effective.

The path forward lies in moving beyond token gestures toward transformative change. This demands sustained commitment, continuous refinement of technology, and a broader change in social attitudes. Only when accessibility is embedded at every stage of the electoral process will the participation of persons with disabilities stand as a genuine measure of the strength and legitimacy of democracy.

(a) **Future Directions**

India's movement toward inclusive electoral participation remains a work in progress. While recent initiatives reflect an increasing institutional commitment to accessibility, the persistence of fragmented and symbolic measures indicates that inclusion has not yet been fully embedded within the framework of electoral governance. Achieving substantive equality requires a shift from procedural accommodation to transformative reform, wherein accessibility is treated as a foundational democratic principle rather than a supplementary consideration. This transformation must be driven by a multi-pronged approach: expanding the deployment of

assistive and inclusive technologies such as voice-enabled digital platforms, tactile voting tools, and secure alternative voting mechanisms to ensure voter autonomy and secrecy; institutionalizing accountability through the establishment of dedicated accessibility cells within the Election Commission to oversee implementation, address grievances, and enforce uniform standards; and formally integrating supported decision-making mechanisms that enable persons with intellectual disabilities to exercise their electoral choices without undermining personal agency. Equally crucial is the need for sustained public awareness initiatives to challenge entrenched stigma and reframe disability inclusion as a constitutional and democratic obligation rather than an act of benevolence. Finally, India must engage in informed global learning by selectively adapting international best practices—such as postal ballots, electronic voting systems, and assisted voting models—while tailoring them to the country’s diverse social and electoral context. Through the adoption of these measures, India can move beyond symbolic compliance toward a genuinely transformative electoral system in which the political participation of persons with disabilities serves as a meaningful indicator of democratic legitimacy and constitutional fidelity.

