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ENABLING ELECTIONS

MAKING THE 2014 GENERAL ELECTIONS
IN INDIA PARTICIPATORY AND ACCESSIBLE
FOR VOTERS WITH DISABILITIES



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ENABLING ELECTIONS: "Making the 2014 General Elections in India Participatory and Accessible for Voters with Disabilities"

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ENABLING ELECTIONS

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EXECUTIVE SUMMARY

In light of the upcoming 2014 Lok-Sabha elections, this report addresses the barriers that people with disabilities face during elections and recommends solutions for the same.

The report examines three main areas:

- the barriers that people with disabilities face at the time of elections;
- the legal framework around this issue and
- the measures which need to be taken to eliminate the barriers in the pre-voting phase, during voting phase and also post-voting phase, so as to enhance the participation of voters with disabilities.

Access to the public sphere and full political participation is a matter of right for persons with disabilities and the state is constitutionally mandated to enforce this right. The rights of voters with disabilities are examined under the constitutional provisions, the Representation of People's Act 1951, the relevant directions of the Supreme Court and the international conventions. This report also considers international best practices while making recommendations, to the extent that they are suitable and practical in the Indian context.

This report looks at Electoral Participation in two dimensions-

- (a) "Pre-electoral Participation" and
- (b) "Actual Electoral Participation"

The report then goes on to make recommendations for enhancing accessibility in both these categories.

On Pre-electoral Participation, the report inter alia recommends the following:

- opportunities for people with disabilities to participate in public consultations;
- immediate outreach programs for higher voter registrations;
- making election material and candidate guides available in different formats such as large print, Braille and audio formats upon request so that voters can have full knowledge of the candidate they want to vote for;
- providing information for voters about locations which have special access, wheelchair facilities, technological assistance for visually impaired etc.

On Actual Electoral Participation, we inter alia recommend the following:

- accessible polling sites,
 - training election staff to be sensitive to diverse needs of voters;
 - enabling privacy and independent voting by persons with disabilities;
 - arranging for mobile polling booths;
 - making EVM's compatible and accessible such as by providing for Braille, large print, tactile buttons, 'sip and puff' and audio devices.
- The report also recommends the need to monitor participation of voters with disabilities in the forthcoming elections. There is a need to collect data, surveys and studies in the pre-election, election and post-election phases.



I. INTRODUCTION

The 58th round of the National Sample Survey reported 18.5 million persons with disabilities¹ while the Census of India reported 21.9 million persons with disabilities in 2001². The official figures are low due to massive under-reporting as other sources have estimated the numbers to be as high as 60-80 million persons with disability.³ Socio-politically, persons with disabilities in India are a marginalized and disadvantaged group. Their conditions are mired in a physical environment which is largely inaccessible and a political environment which is predominantly apathetic and indifferent to them. Lacking full participation, they remain largely disenfranchised and unable to participate in the political life of the country. There is little or no attempt to ensure that persons with disabilities have access to election related information and processes such as information about candidates, campaign publicity materials such as manifestos of political parties, voter registration information, access to voting booths, electronic voting machines (EVMs) to cast their votes and standing for elections. Despite orders from the Supreme Court to make elections accessible to persons with disabilities, the state elections in the capital New Delhi disclosed numerous barriers hindering the access of persons with disabilities to the electoral process.⁴ These barriers include attitudinal barriers in failing to recognize the rights of persons with disabilities to be included in political processes, the lack of information on the part of election officials towards their needs, *physical inaccessibility of polling sites* (e.g., pathways to and inside polling sites), *inaccessibility of campaign materials* (e.g., information about public meetings, political parties, candidates), lack of transportation to polling stations and alternate means of casting votes, difficulty in obtaining electoral cards and information about polling booth, inaccessible ballots and Electronic Voting Machines. Electoral participation is not just about infrastructure, rules and procedures and voting techniques but is also a culture of electoral democracy, access to public sphere, public attitudes and policies, creating the conditions for free and fair elections which are inclusive and maintain diverse interests.

With the General Elections coming up in April / May 2014, there is an urgent need to address this issue to ensure that persons with disabilities, which form a sizable percentage of the Indian population, are able to vote and that elections are conducted in a participatory and inclusive manner.

While the Election Commission of India (“ECI”) focuses on a narrow understanding of representative democracy by governing political parties, funding, delimitation of constituencies etc., it fails to acknowledge the experiences of democracy in India and to ensure for example that voters with disabilities are fully included in the election process. Understanding electoral participation of persons with disability is not just about infrastructure and voting technologies which are compatible, although this is crucial, but it is also about an inclusion into every aspect of political activity and being accommodated.

Conceptually, in understanding disability, this report attempts to depart from a medical model and instead sees disability from a social model or a rights model. Under the medical model, disability is seen as being caused by a disease or abnormality in health condition that requires medical treatment and rehabilitation.⁵ However, disability is not merely a corporeal problem of the body, but should instead be seen as a politically and socially constructed problem of discrimination and barriers faced by people with disabilities.⁶ The United Nations Convention on the Rights of Persons with Disabilities (“UNCRPD”) takes this approach where, in the Preamble it states that “*disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others*”. This Report therefore re-asserts the claim that access to elections and voting for persons with disabilities is a matter of right and the State is constitutionally mandated to provide for and enhance full political participation for persons with disabilities.



II. ELECTORS WITH DISABILITY AND THE RIGHT TO VOTE

The rights of persons with disabilities are covered under the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (PWD Act). The PWD Act under Section 2(t) defines a person with disability as a person having more than 40 per cent of the seven disabilities listed under the PWD Act – blindness, low vision, hearing impairment, locomotor disability, leprosy, mental illness and mental retardation.⁷ This is a very outdated and restrictive definition of disability. Current disability studies have moved beyond such a medical definition of disability, suggesting that a law on disability discrimination should be much broader and inclusive and this definition under the PWD Act leaves out persons with so many different kinds of disabilities such as HIV/AIDS, thalassemia, etc. The PWD Act however does not address issues of elections or voting rights of persons with disabilities.

It is Article 326 of the Constitution that provides the overarching framework for the qualifications and disqualifications for being a voter in the General and Assembly Elections. It provides that elections to the House of People and the Legislative Assemblies shall be on the basis of universal adult suffrage, and every person who is citizen of India, above the age of eighteen years of age and not otherwise disqualified under the Constitution or any law made by the appropriate legislature on the ground of non-residence, *unsoundness of mind*, crime, or corrupt and illegal practice shall be entitled to be registered as a voter at any such election. Thus Article 326 lays down the exhaustive list of grounds on which a person may be disqualified from being a voter. This list of grounds includes “unsoundness of mind”.

In addition to Article 326 of the constitution, the Representation of People’s Act 1951 (“RP Act”) provides the specific framework within which elections in India are to be carried out. Section 2(1) (e) of the RP Act defines an elector as “a person whose name is entered in the electoral roll of that constituency for the time being in force and *who is not subject to any of the disqualifications mentioned in Section 16 of the Act.*” Section 16(1) (b) of this Act disqualifies a person from being registered in an electoral roll if he or she is of *unsound mind*, *and is found to be so by a Competent Court*. Further, Section 16(2) provides that the name of a person who becomes so disqualified after registration shall forthwith be struck off the electoral roll in which it is included.

i) Persons with Intellectual and Psycho-social Disabilities

The term “unsoundness of mind” in Article 326 of the constitution and under the RP Act is vague and undefined. There is no objective criterion laid down to guide the “competent court” in the determination of what constitutes unsoundness of mind. The danger in this is that the term is construed broadly and in an over-inclusive manner, as a result of which often all persons with disabilities having any kind of intellectual, developmental or psycho-social disabilities are excluded and disenfranchised.⁹ People with intellectual or psycho-social disabilities are not given the right to vote even if their impairment in no way interferes with their ability to understand the positions of candidates and to make a choice. It is often the family members or the staff at long-term care institutions and nursing homes who decide if they get to vote. While there are people who are too mentally ill to vote, the lingering stigma of mental illness and retardation — as well as stereotypes about the mentally ill— may still be denying many people their right to participate in elections.¹⁰ Here, it is essential to keep in mind that not all forms of intellectual and mental disability will automatically translate to incapacity to participate in the electoral process as they may still retain the cognitive ability to make an informed choice with regard to such matters. It is very obvious that not enough critical attention has been paid to such disability based exclusions. Therefore, persons with intellectual and developmental and psycho-social disabilities cannot be excluded from



exercising their voting rights because such exclusion amounts to a denial of full citizenship. All efforts to enable persons with disabilities in participating and voting in the general elections, must therefore necessarily take into account the participation of persons with intellectual and psycho-social disabilities.

ii) The Right To Vote

In India, democracy which includes universal adult suffrage and free and fair elections are considered as part of the basic structure of the Constitution.¹¹ Section 79(d) of RP Act states that an “electoral right” means the “right of a person to...vote or refrain from voting at an election”. Section 128 of RP Act provides for the “Maintenance of secrecy of voting”. As per the Rules drafted under the RP Act, Rule 49M(3)(b) states that the elector has to vote without undue delay and that no other elector will be allowed inside when another elector is inside the voting compartment. Strict voting procedures are mentioned in the Rules and as per Rule 49 M(6), the presiding officer can disallow such persons from voting if these procedures are violated. In the context of persons with disabilities, this right is often violated in practice because the presiding officer, clerks or agents are usually present and physically assisting them in the voting.

A fine distinction has been drawn by the Supreme Court between ‘right to vote’ and ‘freedom of voting as a species of freedom of expression’. The freedom of voting is a fundamental right read under Article 19 of the Constitution of India.¹² In this report, our concern is that the freedom to participate in voting and elections is being restricted due to the lack of access, infrastructure and a participatory political environment for inclusion of persons with disabilities.

The right to vote is not only guaranteed in India under the RP Act, it is also a human right recognized in international law. It is enshrined in the Universal Declaration of Human Rights, 1948,¹³ which states as follows:

Article 21(3) “The will of the people shall be the basis of the authority of government; this shall be expressed in periodic and genuine elections which shall be the universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures”

Article 25 “Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions ...(b) to vote and to be elected at genuine periodic elections which shall be held by secret ballot, guaranteeing the free expression of the will of the electors.

The International Convention on Civil and Political Rights, 1996 also reiterates the right to vote in free and fair elections.¹⁴ In the context of disability, the UN Convention on the Rights of Persons with Disabilities (CRPD)¹⁵ in Article 29 states as follows:-

Article 29. Participation in political and public life:

States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and undertake to:

a) Ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, inter alia, by:



- i) Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;
- ii) Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums, without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate;
- iii) Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice;

III. ELECTORAL PARTICIPATION

The Constitution in Article 324 provides for the creation of the Election Commission of India (“ECI”) and the general powers of the Commission regarding ‘superintendence, direction and control’ of all elections to the Parliament and Legislature of States.¹⁶ The ECI plays a constitutional role in maintaining the legitimacy of a democracy by upholding the electoral process. However, the Election Commission has not adequately focused at the rights of electors with disability.

Electoral participation is not only about the rights of persons with disabilities to cast their vote, but also includes access to voter registration process, access to electoral campaign materials, information about voting and all pre-voting related information. Unfortunately there has been no emphasis given to this aspect for electors with disabilities by the ECI. The ECI maintains no records of voters with disabilities,¹⁷ the website of the ECI as well as websites of political parties and candidates do not conform to standards of accessibility. The ECI has made no provision for having electoral speeches and debates of candidates being available to persons with disabilities in alternate formats such as audio or with captioning/ subtitling.¹⁸ The ECI should also be concerned about voter registration and increasing the voter turn-out of persons with disabilities, but there is no evidence that it has taken any significant steps in this regard.

Electoral participation is about creating an inclusive and accommodative space for deliberative democracies and the ECI needs to undertake campaigns to promote this. In this aspect, the ECI should play a threefold role in any representative democracy:

- a. *first*, to promote public awareness of the election process, higher voter registrations and available voting options;
- b. *second*, to bolster public confidence in electoral process;
- c. *three*, foster participative democracy and a culture of effective, free and fair voting. This requires proactive outreach activities that extend beyond technical administrative questions such as monitoring party’s election expenditures or enforcing voting laws, conduct of parties etc.

i) Barriers faced by Electors with Disabilities

In order to examine some of the barriers faced by electors with disabilities, for analytical purposes it is useful to separate electoral participation into two distinct categories:

a) Pre-Voting Electoral Participation:

It is not only the voting process that indicates participation of persons with disabilities in elections. Free and fair electoral participation means access to electoral awareness programs and campaigns, participation of electors with disabilities in the political campaigns of the candidates and political parties, making campaign materials and speeches accessible, ensuring that websites of the ECI, the various political parties and candidates are accessible,



creating awareness about voter registration, and making voter registration accessible for persons with disabilities. The Centre for Internet & Society recently conducted a test to determine the accessibility of websites of the Election Commission of India, the Parliament and some key political parties in India.¹⁹ They 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”).

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 so that he/she can take a rational decision of expressing herself in exercising the statutory right to vote. The voters have a fundamental right to know the background of the candidates and this right is independent of and different from the right to vote itself. Thus electors with disabilities have a fundamental right in getting information about the backgrounds of candidates and parties in a format that is accessible. Unless such materials are available, a person will not be able to exercise his or her right to vote. Some of the main barriers faced by persons with disabilities in the pre-voting stage are attitudinal barriers such as skepticism about the decision-making ability of persons with disabilities, lack of accessible information about candidates, political parties, public meetings and consultations and the low number of voter registrations as most electors do not know how to get themselves registered as voters, do not get information about it and voter registration sites are not physically accessible.

Communication is perhaps the most important aspect to be addressed while reaching out to persons with disabilities. This could be complicated since different disabilities require different modes for communication. For instance persons with blindness or low vision would require an audio/ tactile output, large print and electronic texts which are not image files so that their technology can read it out to them. People with hearing impairment would require textual or picture based forms of communication. This would also be useful for people who cannot read. For persons with physical, motor, cognitive and other kinds of disabilities also similarly, there is need to have a combination or multiple formats to suit their choice. These different formats which can be used by persons with disabilities are termed as ‘accessible formats’, since they can be accessed by them. 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. 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.

b) Actual Electoral Voting

This is the actual act of electoral voting which must be ensured, so as to enable free and fair elections. The infrastructure, voting booths, voting machines etc. must be accessible and inclusive, to ensure that all persons with disabilities can fully participate in the voting process.

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 *KuldipNayar* 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.”²² 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*.²³ But in the context of electors 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 and there should be other measures taken, including technological measures brought into the system in order to include the disabled in the voting process and uphold their right to vote freely and in secrecy.

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 elector with disability.

Often polling can be so intimidating that a voter with disability or an elderly voter 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. The disability community consistently feels uncomfortable about assistance, and many advocates call for successful independent access to voting.²⁴ Depending on poll officers to cast votes violates the dignity of the persons. Coercion and cheating are also concerns. As far as possible, the aim has to be to allow for independent casting of votes by electors with disability, and this is possible by the right use of technology and innovative use of resources.

EVM's- The predominant voting technology in India is the Electronic Voting Machine (EVM). It consists of two units- a Control Unit and a Balloting Unit, joined by a five meter cable. The Control Unit is with the Presiding Officer while the Balloting Unit is in the polling compartment. The voter is first identified in the voter list and records her presence by a signature or thumb impression. The Presiding Officer then presses the “Ballot” button on the Control Unit permitting one vote. The voter then proceeds to the polling cubicle and after perusing the ballot papers with the candidate name and the party symbol on the Ballot Unit, presses the key against the candidate of her choice. When the key is pressed, a red light glows, indicating to the voter that her vote has been cast in favor of that candidate and simultaneously beeps in the Control Unit indicating to the Presiding Officer that a vote has been cast. Given this system, there are many possible reasons why this is inaccessible for the elector with disability. For example- sometimes the Balloting Unit is too high for persons who are too aged and unable to stand erect, or for persons on wheelchairs; there is a possibility of fraud or coercion at the point of identification of the elector in the voter list; the EVM requires the pressing of buttons in order to vote, this could be difficult for persons with physical, motor and visual impairments. Hence, there is a need to study the compatibility of the EVM's with the different disabilities that people may have and to introduce reforms accordingly.

Some of the other barriers during the voting stage are that the infrastructure of voting sites is often a physical barrier, such as buildings without ramps, or polling booth counters that are too high, voting machines that are unusable for the blind etc. Poorly trained election workers not sensitized to the diverse needs of electors with disabilities can create a hostile environment.

There is a complete lack of alternative voting mechanisms, devices or even mobile polling booths.

Thus, electoral reforms pertaining to electors with disabilities will therefore have to respond to both these dimensions of electoral participation.



IV. MAKING ELECTIONS ACCESSIBLE - THE 2004 EXPERIENCE

The first time any serious effort was made to include voters with disabilities in the election process was during the general elections in 2004. In 2004, based on a letter received from an NGO the “Disability Rights Group” complaining about the lack of access to voting for persons with disabilities, the Supreme Court in *Disabled Rights Group v. Chief Election Commissioner & Anr.*²⁵ registered it as a writ petition in public interest. In this case the Supreme Court gave directions to the Election Commission to implement the concerns raised by the petitioners which included putting wooden ramps at polling stations to enable disabled persons access; numbers in EVMs to be written in Braille, separate queues and special arrangements for persons with disability at polling stations; polling station personnel to be courteous and render necessary assistance to enable persons with disability to exercise their franchise with least inconvenience. It directed that advance and sufficient publicity should be given in print and electronic media about the availability of the facilities for the electors with disabilities to exercise their franchise.

The Chief Election Commissioner did forward these directions to the States Governments and Union Territories. Responding to the directions of the Supreme Court, the ECI in 2005 urged the Government/Local authorities to take action in executing the order at the earliest.²⁶ The ECI issued a Circular of guidelines to the state and local election authorities and ordered for strict compliance with instructions such as:

- The personnel at the polling station have to ensure that electors with disabilities are given priority for entering polling stations, without having to wait in the queue for other electors;
- Full facility should be provided for such electors to take their wheel chair inside the polling station. If ramps are not present inside the polling stations, temporary ramps must accordingly be arranged for.
- The polling personnel should be specifically briefed about the provisions of Rule 49N of 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.
- At the training classes for the polling personnel, they should be sensitized about the specific needs of the disabled, for courteous behavior towards them and for providing necessary support to them at the polling station; and
- Electors with speech and hearing impairment should also be given special care as in the case of other disabled persons.

The implementation of these directions was not satisfactory and the participation of electors with disabilities was not adequate in the 2004 elections. The Supreme Court directions and the Election Commission’s guidelines were preliminary in nature as the directions largely focused on infrastructural needs such as putting up ramps or providing wheelchairs, apart from training of presiding officers only for the actual voting process. Access for the pre-voting stage was not address and this did not ensure greater participation in the entire election process itself.

V. RECOMMENDATIONS

Despite having the above Supreme Court and ECI directions, the 2004 elections did not adequately include voters with disabilities. In order to make the upcoming 2014 elections, it is therefore crucial that the ECI makes it a priority to take up disability concerns and takes up accessibility for electors with disabilities seriously. The ECI should identify 'Inclusion' as the theme of the upcoming elections and announce that inclusion of electors with disabilities in the elections will be a priority.



Based on many of the barriers faced by persons with disabilities as outlined in the sections above, we therefore make the following recommendations for inclusion of electors with disabilities:

i) Enabling Registration of Voters with Disabilities

- a. Providing registration information on the website in an accessible manner and upon request providing this in Braille, large print and other formats and dedicating a web page to this information.
- b. Providing a facility where voter registration officials can visit the residence care facilities to complete registration formalities of persons with disabilities.
- c. Ensuring that there is a record of all voters with disabilities registered in each constituency and recording their specific needs and ensuring that special efforts are made to facilitate their voting.
- d. Using communication such as text messaging, e-mails, phone calls and letters to direct all election communication to persons with disabilities since they may not be abreast of news on mainstream communication channels and encourage voter registration.
- e. Keeping a flexible time for registration of persons with disabilities- i.e., they can register all year round. Alternatively, have a fixed one month period twice a year when registration of persons with disabilities can be carried out and widely communicate this so the process is made easy for both the voters, as well as registration officials.
- f. Allocating specific dates for carrying out special registration drives for persons with disabilities in the premises of select disability organisations around the city.
- g. Ensuring that officials are sensitized to communicate with persons with disabilities and are competent to address their needs.
- h. Making necessary structural modifications to registration centres to make them accessible for persons using wheelchairs or other support.
- i. Disseminating public information over radio and television in the final weeks of the elections encouraging people with disabilities to participate in voter registration and voting and to inform people with disabilities about facilities which will be provided, such as priority status at the registration lines and polling booths.
- j. Prior to the elections, information must be given to electors about locations for polling stations, locations which have special access, wheelchair facilities, technological assistance etc

ii) Communication and Use of Technology

- a. All election material must be made available in large print, Braille, audio and other accessible formats upon request. Candidate Guides must be made available so that the electors with disabilities can have full knowledge of the candidates they want to vote for.
- b. Standards for accessibility must be adopted in all domains, such as the Web Content Accessibility Guidelines (WCAG 2.0) for web accessibility to ensure that all communication is rendered accessible.
- c. 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.
- d. 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 or dial in service where persons can call and find out all election related information.
- e. A toll free help line may be made available throughout the country to assist voters with disabilities.



- f. All political parties and media houses must be directed to follow guidelines for accessible communication which may be issued by the Election Commission.
- g. No election related advertisement or communication should adversely depict persons with disabilities.

iii) Making Voting Accessible

- a. All polling sites and buildings should be accessible, preferably without multiple levels and with ramps and lifts. If there are steps or a narrow entrance etc., persons using wheelchairs cannot access them. Similarly if the table on which the EVMs/ ballot papers is too high or there is a booth, which is very narrow, then they cannot navigate or access it.
- b. EVMs themselves can be inaccessible and there should be audio/tactile outputs.
- c. Disability organisations should be involved in testing and training in the use of EVMs and measures should be taken to make them accessible. Persons with disabilities may be allowed to try using them before the actual day of voting.
- d. Voters with disabilities who cannot travel to polling booths or who are in care homes may be given an option to cast their votes by mail or by availing of mobile voting facility.
- e. Persons with disabilities should be given priority at queues and not made to wait.
- f. Officials should be asked to permit voters with disabilities a choice of technology use or human assistance. In the former case, voting technologies must hence be fully accessible.
- g. The ECI may also consider allocating a special time for persons with disabilities to cast their vote, along with postal ballots.
- h. Provisions may be made at reception centres of polling stations/ voter assistance booths on the poll day to provide live assistance to disabled voters.
- i. ECI may consider posting a disabled election officer at each polling station/ designating one contact person from any Disabled Persons Organisation (DPO) to assist with votes.
- j. Blanket disqualification on the grounds of unsoundness of mind is not to be permitted.
- k. A demonstration voting machine for voters to practice on before they enter a voting station would also be beneficial. Sample ballots and machines have long been recognized as “best practices,” and yet they are often missing from sites or ineffectively presented.
- l. Mobile Polling Booths: As the EVM is a portable device, mobile polling booths can easily be provided in a number of hospitals, care-homes, institutions etc. This ensures that patients and persons with severe disabilities and people in old age homes etc. can vote as well. The date and time of the mobile polling can be advertised at the venues.
- m. Provision of transportation to voters requiring assistance in traveling to voting sites.

iv) Training and Sensitization

- a. All election officials, including presiding officers, sector magistrates and staff at voter registration sites and polling sites should necessarily undergo a sensitization training to meet the diverse needs of persons with disabilities- this should include communication, physical and electronic accessibility requirements. This should be integrated into the Comprehensive Resource of Human Resource Management prepared by the election commission for all levels of management.
- b. Officer responsibilities should include knowing how many voters with disabilities are there in their jurisdiction as part of their voter contact program, to ensure that all voting and physical and electronic machinery is made accessible to them and the voters with disabilities are given directions in advance on the use of the voting machines.
- c. Specially designed outreach and public information efforts should be made.



- d. Provide information to administrators and staff of health care and residential facilities of their role in supporting the rights of electors with disabilities in their care. These initiatives should also be directed at family members in the lives of residents in nursing homes and similar care facilities.

v) Election Observation and Monitoring

- a. A sub-committee may be delegated with the task of implementing accessibility and to this end may develop/ identify accessibility standards and guidelines for registration offices, procedures and polling centres.
- b. There should be a complaint redressal mechanism to address grievances and needs of voters with disabilities.
- c. There may be a small reckoner/manual for persons with disabilities in multiple formats which informs about the various facilities and options available to them and efforts should be made to widely publicize the contents of this reckoner to all persons with disabilities across the country through print and electronic media, websites and personal interaction.
- d. DPOs should be involved in the committee on accessibility, as well as at various stages of the election process, such as training and sensitization, voter assistance, developing manuals/ guidelines and election monitoring and observation.
- e. New technologies may be used for monitoring and gathering data on accessible polling stations and data on disabled voter access. Accessibility should also be identified as key criteria for evaluating polling booths in the observer manuals or other relevant instructions.
- f. There is a need to develop election monitoring methods in order to collect data, surveys and studies to understand the involvement of persons with disabilities. The ECI needs to engage and test pilot projects across the nation in order to device best practices which includes pre-election, electionday and post-election observation. Implementing these recommendations will significantly improve the participation of electors with disabilities in the elections.
- g. Persons with disabilities should be involved in the elections process by having them serve as officers or staff at polling stations, wherever possible, in collaboration with disability groups and NGOs.²⁷
- h. Pre and Post-election reviews with electors with disabilities are necessary. This can be done through consultations, evaluations, surveys that focus on whether the voter needs and expectations were met and how best to overcome the difficulties in future.
- i. Conduct voter education and information programs for youth with disabilities among other possible groups of electors with disabilities
- j. ECI must approach and consult with major political parties at national level to ensure, all candidate meetings are accessible in matters of location, meeting, advertising and assistance services.
- k. ECI must review all its electoral policies, model code of conduct, administrative rules and practices in order to comply with UNCRPD.



1. India- Survey of Disabled People, NSS 58th Round (July 2002-December, 2002) available at http://mail.mospi.gov.in/index.php/catalog/118/related_materials (last accessed on 20th March, 2014)
2. Census data available on <http://censusindia.gov.in/2011-common/censusdataonline.html> (last accessed 20th March, 2014); for further discussion on the census of persons with disability, See; A.K. Mishra and Ruchika Gupta "Disability Index: A measure of Deprivation among Disabled" in EPW (Vol. 41, no. 38, 2006) 4026-4029. Also See; Sophie Mitra and UshaSambamoorthi "Disability Estimates in India: What the Census and NSS Tell Us" in EPW (Vol. 41, No. 38, 2006) 4022-4026
3. As per estimates of The World Health Organisation, 15% of every population is disabled and it estimates India to have around 150 million persons with disabilities.
4. GauravVivekBhatnagar "Not a Disabled Friendly Electoral System" (The Hindu, 5th December, 2013)
5. B. M. Altman 'Disability Definitions, Models, Classification Schemes and Applications' in G L Albrecht, K D Seelman, M Bury (eds) Handbook of Disability Studies (Sage, 2001)
6. Alan Roulstone, Carol Thomas and Nick Watson "The Changing Terrain of Disability Studies" in Hand book of Disability Studies (Routledge, 2012)
7. Sec. 2(t), Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995
8. Article 326, Constitution of India 1950; :-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 or 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.
9. Jayna Kothari "The Future of Disability Law in India" (OUP, 2012) prescribes a definition based on a social model so as to incorporate persons who may not have disability themselves but who are still discriminated on 'ground of disability'
10. Nina A. Kohn "Preserving Voting Rights in Long-Term Care Institutions: Facilitating Resident Voting while Maintaining Election Integrity" in McGeorge Law Review (38, 2007) 1065
11. Indira Gandhi v. Raj Narain 1975 Supp 1 SCC 198, reiterated in (1978)1 SCC 405 and 1992 (Supp)2SCC 651
12. PUCL v. Union of India WP(Civil) No. 161 of 2004 decided on 27th September, 2013
13. Universal Declaration of Human Rights, available in:-
http://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf
(last accessed on 20th March, 2014)
14. See Article 25, International Covenant on Civil and Political Rights, available in
http://ec.europa.eu/justice/policies/privacy/docs/16-12-1996_en.pdf
(last accessed 20th March, 2014)
15. UN Convention on the Rights of Persons with Disabilities, available in the India website
<http://uncrpdindia.org/>
16. Constitution of India, 1950, Article 324. "Superintendence, direction and control of elections to be vested in an Election Commission" (1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to Parliament and to the Legislature of every State and of elections to the offices of President and Vice President held under this Constitution shall be vested in a Commission (referred to in this Constitution as the Election Commission)
17. "Polls near, but no data of voters with disabilities" Times of India 27th January, 2014
18. "Polls near, but no data of voters with disabilities" Times of India 27th January, 2014
19. Report: "Accessibility of Political Parties Websites in India" (CIS, March, 2014) available in
<http://cis-india.org/accessibility/blog/accessibility-of-political-parties-websites-in-india>
(last accessed 24th March, 2014)
20. (2002) 5 SCC 294
21. (2003) 4 SCC 399
22. (2006) 7 SCC 1
23. (2009) 3 SCC 200
24. T. Selker "The Technology of Access: Allowing People of Age to Vote for Themselves" in McGeorge Law Review (38, 2007) 1113
25. W.P (Civil) No. 187 of 2004 (19th April, 2004)
26. Letters of the Election Commission (7th April, 2004), 576/3/2004/JS-1 II
27. An advisory committee was set-up by the National Electoral Commission in Sierra Leone, which focused on how to integrate people with disabilities in the election process by having them serve as registrars, returning officers and officers at polling stations. They initiated strong voter education and public outreach programs, distributing promotional material in alternative forms such as cassette tapes and Braille etc.



