

## Electoral exclusion of vulnerable populations in India

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The general election in India is the world's largest electoral exercise. As of 2018, the Election Commission reported that close to 900 million voters are eligible to vote. Let that number sink in. Every 5 years, a whopping 900 million people are eligible to participate in the democratic process. However, mere eligibility to vote does not translate into the ability to vote for a large section of vulnerable populations. Up to 15% of the total electorate of around 130 million adult citizens is missing from the electoral rolls. Some studies suggested a disproportionate exclusion of Muslims among marginalised groups<sup>1</sup> but although the conclusions were not incontrovertible, these pointed to the possibility of exclusion of otherwise disadvantaged groups, socially, economically, politically and culturally.

The various forms of historical marginalisation and socio-economic discrimination of Adivasis, Dalits, women, sexual minorities, etc, play out in the lives of vulnerable populations in a multitude of ways, and surely all contribute to exclusion from the electoral rolls. There are, however, some very particular circumstances that lead to exclusion from electoral rolls for each vulnerable group. This paper seeks to bring to light some of the particularities for each group that might render them more likely to be excluded from electoral rolls. The data for this paper has been collected through phone interviews<sup>2</sup> conducted between February and March 2020, with various activists, researchers, social workers and academics who work with or on each group as well as secondary data sources.

The right of citizens to participate in elections, according to the principle of adult franchise, is central to their citizenship status. The paper attempts to bring out the various nuances and complexities of each group to expose how one of the most basic tenants of citizenship is systematically denied to a large section of India's population. We recognise that the particular histories, discrimination, systems of exclusion and lived realities of all of these groups, and individuals within these groups is vast and varied. The paper does not seek to explain these complexities in any comprehensive manner, it merely aims to expose some of the factors that might render persons belonging to these groups more vulnerable to exclusion from electoral rolls.

The dependence for the integrity and completeness of the electoral rolls hinges a great deal on the role of electoral officers. This excessive reliance on relatively junior executives without adequate checks and balances is what makes members of powerless and stigmatised groups susceptible to exclusion. There is scope for arbitrary decision making, and even possibly corruption; and these

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<sup>1</sup> Abdullah, K, Shariff, A & Bhat, M A (2018) "Up to 15% of voters left out of rolls, without even a fair hearing" *Times of India* (4<sup>th</sup> November). Available at: <https://timesofindia.indiatimes.com/blogs/toi-edit-page/up-to-15-of-voters-left-out-of-rolls-without-even-a-fair-hearing/> (Accessed 15<sup>th</sup> July 2020)

<sup>2</sup> This form of interview and research was imposed by the limitations of the lockdown. Telephonic interviews were conducted with 10 respondents, all members of civil society who work with different organisations.

officials may themselves imbibe many of the stereotypes and systems of discrimination that impact many groups. For example, many of those persons we interviewed report that those entrusted with preparing the voters list frequently merely go to a chauraha [crossroads], point at homes and ask who their owners are. Normally, the name of the person heading the household is noted and the other members left out. They do not always and reliably conduct a house-by-house survey. Guiding the “enrolment officer” is often a person from a dominant social group, probably belonging to an advantaged caste, who might carry prejudice and stigma towards Dalits, religious minorities, single women, sex workers or trans-people etc. This reliance on electoral officers and their implicit biases forms the context within which further interrogation into electoral exclusion must take place.

### **Circular migrants**

The quantum of internal movement in India is large. While the official estimates provided by the Ministry of Statistics and Programme Implementation (MOSPI) suggest a number of 30 million per year (NSS 64th round), sector wise employment estimates show that more than 100 million people move every year from rural areas in search of livelihood. Quite often these migrant workers are away from home at the time of elections. The current voting regulation does not allow them to send their votes through postal ballots. A majority of such migrants work in the informal/unorganised sector; a large number are daily wagers and very few have any form of a valid identity card, given their transient existence. It has been repeatedly noted by researchers and organisations who work on issues of migration that “urban growth has been exclusionary and exploitative leading to the reproduction of poverty and socio-economic inequalities at the work destinations.”<sup>3</sup>

Working in the informal unorganized sector of the Indian economy and earning meagre wages, migrants find it difficult to make a trip home only to cast their votes. In cities where they go to work, they lack voting rights. Stuck in between, migrants miss out on participating in the only institutional mechanism in the country, the elections, to raise their political views/concerns. They also fail to carry with them the basic entitlements guaranteed by the state such as access to low cost food, health, subsidized education and shelter<sup>4</sup>.

Priyanka Jain of the Centre for Migration and Labour Studies housed at Aajeevika Bureau says that even though migrants tend to get excluded from electoral rolls as a function of their movement, she has found that they are not infrequently very politically conscious. The political consciousness amongst migrants however, does not reside in their cities of work, but rather in their place of origin. The host destination is not where their imagination is triggered, where their activism works. They

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<sup>3</sup> Aajeevika Bureau (2020) “Unlocking the Urban: Reimagining migrant lives in Cities Post Covid-19”. Available at: <http://www.aajeevika.org/assets/pdfs/Unlocking%20the%20Urban.pdf> (Accessed 10<sup>th</sup> July 2020)

<sup>4</sup> Aajeevika Bureau (2012) “Political Inclusion of Seasonal Migrant Workers in India: Perceptions, Realities and Challenges” *Aajeevika Bureau Resources*. Available at: <http://www.aajeevika.org/assets/pdfs/Political%20Inclusion%20of%20Migrant%20Workers%20in%20India.pdf> (Accessed 15<sup>th</sup> July 2020)

are unlikely to know local leaders, politicians, policy etc in their cities of work, but they are aware and engaged in the political processes in their places of origin. Ironic that in locations where migrants spend most of their working life, they are excluded from electoral rolls because they don't 'belong' there but are unable to participate in the electoral processes of the place they actually do 'belong' to as a result of their need to migrate for work.

Priyanka adds that the term 'migrants' is falsely homogenous. It doesn't convey the nuances and differences within migrating populations like caste, gender, reason for migration, place of origin, ownership of land, longevity of migration etc. The reality of migration intersects in the lives of almost all vulnerable groups in some way or the other. Therefore, when understanding electoral exclusion, one must include the reality of migration and the vulnerabilities that come along with it, in our understanding of each group.

The Election Commission of India (ECI) has in the past made efforts to increase voter participation of internal migrants, but only in exceptional cases. In 1996, 1998 and 1999 Lok Sabha elections, the ECI introduced postal ballots for Kashmiris staying in transit camps for an indefinite period and made special provisions for communities displaced due to violent conflicts — Reang voters in Mizoram in 1999, and Jammu's Talwara migrants in 2014<sup>5</sup>. However, no additional measures were taken in the 2019 elections to address inclusion of the millions of migrants in India who are constantly disenfranchised. The most recent report by the Working Group on Migration<sup>6</sup> of the Ministry of Urban Housing and Poverty Alleviation released in January 2017 even acknowledges the lack of voting rights of migrants, however makes no recommendations for changing this.

### **Urban homeless persons**

Officially, there are around 60,000 homeless people living on the streets of New Delhi, however according to organisations and activists who work with them these numbers are grossly underestimated. It is generally considered that 1% of a city's population (in large cities) are homeless. The urban homeless already live on the margins of society, neglected, without much by way of state support. Exclusion from electoral rolls further heightens their vulnerabilities by not having a platform to express their concerns.

According to Armaan Alkazi of the Centre for Equity Studies, which works with Delhi's homeless people, documents are extremely important to the urban homeless. People tend to prioritize at least some form of documentation, which often serves as their only identification and opens up access to other services and entitlements. Although voter ids are one of the more common documents

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<sup>5</sup> Mishra, K (2019) 'India's internal migrants had no say in 2019 polls. They probably won't in 2024 either' *The Print* (22<sup>nd</sup> May). Available at: <https://theprint.in/opinion/indias-internal-migrants-had-no-say-in-2019-polls-they-probably-wont-in-2024-either/238516/> (Accessed 31 July 2020)

<sup>6</sup> Report of the Working Group on Migration, January 2017. Available at: <http://www.mohua.gov.in/upload/uploadfiles/files/1566.pdf> (Accessed 31 July 2020)

urban homeless people have, it is mainly acquired for identification to access bank accounts, mobile services, to get ration cards etc.

Despite this need among the urban homeless to get voter ids, they are most often excluded from electoral rolls. In order to acquire a voter id and be registered in the electoral rolls, the following three documents are required:

1. Proof of Name: For this one might need a birth certificate. Alternatively, self-attested declarations have worked in some districts, but these are reliant on sympathetic or sensitive officers to handle the case in order to be accepted
2. Proof of address: Homeless people either live on the streets, in homeless shelters or at their place of work if they are employed and therefore do not have permanent addresses. In this case, the Block Level Officer (BLO) must find the same person at the same address for three consecutive nights which can serve as proof of address. However, this is often unachievable. For example, a person is at a shelter on night one, but finds work the next day and sleeps at the place of work on night 2 and 3 will be disqualified and have to begin the process again. Furthermore, this is dependent on the BLO performing this task at all!
3. Proof of age: Generally a birth certificate would work for this but most homeless people do not possess birth certificates. Therefore, the BLO can say that this person is above 18 years of age just by looking at them and attest to this. Again, this would depend on whether the BLO is inclined to do this or not.

It becomes clear that even though there is a process in place that accounts for the lives of homeless people, in that it allows the BLO to make judgements on age and provide proof of residence, and the Supreme Court has held that the address of a homeless person in official records can legitimately be a pavement in front of a building with an address, in reality this is rarely practiced. Armaan reports that organisations working with the homeless run voter id and electoral education drives to register people. However, with the numbers of urban homeless increasing, and the intense barriers to their accessing the necessary documentation, it becomes extremely difficult to account for all, leaving many excluded.

### **Trans people**

In 2014, a landmark Supreme Court judgement enabled people to vote under the ‘third gender’ for the first time. This was aimed at paving the way for transgendered persons to access voting rights. “It is the right of every human being to choose their gender” it said in granting rights to those who

identify themselves as neither male nor female<sup>7</sup>. Yet, the 2019 voter turnout of transgendered people was extremely low<sup>8</sup>.

Trans people have faced many levels of discrimination, stigmatisation and marginalisation for centuries. They have been victims of extreme physical and structural violence. The most recent evidence of this is the 2019 Transgender Persons (Protection and Rights) Bill. “The Bill, ostensibly aiming to protect transgender persons’ rights, has been drafted hastily, with no real understanding of gender identity and expression. This was made amply clear in the original draft, with the offensive and unscientific definition of a transgender person as someone who is “neither wholly male nor wholly female”<sup>9</sup>. After much protest, the definition was rectified to be more inclusive of gender identities but reflects the States’ basic lack of understanding and empathy towards the trans-community.

“Inclusion in the electoral roll hinges on acquiring a voter id, which is extremely challenging and traumatic for the trans community” says Ajita Banerjie who has worked with the LGBTQ community for many years. Much of the fight for trans-people has been their gender identification and the structural violence that is embedded in filling official forms. When registering for voter id’s there are only three gender options, male, female and ‘other’. People who refuse to identify within the ‘other’ category would therefore not be included in this process.

The 2019 Bill further accentuates this trauma. According to the Bill, a transgender person “may make an application to the District Magistrate for a certificate of identity indicating the gender as ‘transgender’” and a revised certificate may be obtained “if a transgender person undergoes surgery to change gender either as a male or female”<sup>10</sup>. Therefore, in the eyes of the State, and to acquire a document that correctly identifies their gender, trans people must go through a medical procedure which is costly, painful and potentially risky or risk exclusion altogether.

Furthermore, most Trans people are forced to leave their families due to social stigmatization and live together in communities under the guidance of a guru, a spiritual teacher in gharanas. The members of gharanas become their new families. However, *gharanas* can’t be used as permanent addresses as proof of address for voter ids, unless a formal rental documents is produced which is unlikely. Neither can family members in the gharanas be designated as legal guardians for the

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<sup>7</sup> BBC (2014) ‘India court recognises transgender people as third gender’ *BBC* (15<sup>th</sup> April). Available at: <https://www.bbc.com/news/world-asia-india-27031180> (Accessed 31st July 2020)

<sup>8</sup> Ghosh, S (2019) ‘Lok Sabha elections 2019: Just 23% of eligible transgender persons voted in Delhi’ *The Indian Express* (17<sup>th</sup> May). Available at: <https://www.newindianexpress.com/cities/delhi/2019/may/17/lok-sabha-elections-2019-just-23-of-eligible-transgender-persons-voted-in-delhi-1978084.html> (Accessed 31st July 2020)

<sup>9</sup> Banerjie, A (2018) “Against the mandate for inclusion: the Transgender Persons Bill 2018” *The Hindu* (21<sup>st</sup> December). Available at: <https://www.thehindu.com/opinion/op-ed/against-the-mandate-for-inclusion/article25791080.ece> (Accessed 15th July 2020)

<sup>10</sup> Banerjie, A (2019) “Transgender Persons Bill has let down the community’s long struggle for self respect” *The Indian Express* (21<sup>st</sup> December). Available at: <https://indianexpress.com/article/opinion/columns/transgenders-rights-bill-parliament-winter-session-6145980/> (Accessed 15<sup>th</sup> July 2020)

purposes of acquiring IDs. For Trans people who often have to leave their homes, *gharanas* and the community are their family and support. This is however completely invisible to the State making exclusion of Trans people from electoral rolls a reality.

### **Women (especially single women, widowed, divorced women)**

While universal suffrage has been a reality in India since independence – granting the right to vote legally is one matter and ensuring it in practical reality is another. The 2011 census data reveals that 97.2% women are 18 years and above, as of 2019, entitling them to vote. A juxtaposition of this number with the number of women who were registered to vote in the 2019 elections is disconcerting – only 92.7% women are registered voters. The 4.5% gap does not seem so jarring at first glance. But converting this percentage into its actual numbers reveals that a staggering 21 million women will not be voting in 2019<sup>11</sup>”

The reasons for these exclusions lie in conditions of patriarchy, in which women are often not treated as equal members of a household, and their agency including political agency embodied in voting maybe willfully denied. If unlettered and marries before 18 years, she lacks any documentation like a school certificate. But the greatest danger of exclusion is of single-women headed households. Widows, divorced, abandoned women, people who are not married beyond a certain age, cover a large spectrum of single women. These typically battle grave social prejudice and barriers. If abandoned and divorced, they are often stripped of any kind of documentation.

But what binds them all together is the absence of male ‘protection’, ‘security’ and eventually control. This erodes their social status in our largely patriarchal society, the recognition of their individual identity and rights as a citizen of independent and full agency and rights. 6.9 per cent of women in India are widows, while 0.5 per cent are divorced or separated. Further, another 1.4 per cent of all women above the age of 30 are unmarried (0.5 per cent of all women) and can also be considered to belong to the category of ‘single women’. In total, at least 7.5 per cent of Indian women are single<sup>12</sup>.

Economists acknowledge a phenomenon of what is described as the “feminisation of poverty”, i.e., poverty among women is rising faster than poverty among men. It has many related faces: women have a higher incidence of poverty than men; women’s poverty is more severe than that of men; and that there is a trend to greater poverty among women, particularly associated with rising rates of female headship of household. This poverty is also associated with the difficulty of accessing official documents necessary for inclusion in voters’ lists, as well as the powerlessness of political assertion.

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<sup>11</sup> Pallavi (2019) “Why Are 21 Million Women Voters Missing From The Electoral Rolls?” *Feminism in India* (29<sup>th</sup> April). Available at: <https://feminisminindia.com/2019/04/09/women-voters-missing-2019/> (Accessed 15<sup>th</sup> July 2020)

<sup>12</sup> Singh, K (2013) “Separated and Divorced Women in India: Economic Rights and Entitlements” *International Development Research Centre and Sage*. Available at: <https://www.idrc.ca/sites/default/files/openbooks/051-3/index.html> (Accessed 15<sup>th</sup> July 2020)

## **Sex workers**

“What will their votes do? Do their votes even matter?” clearly describes the attitude of State authorities towards sex workers says Kusum Devi, the president of the All Indian Network of Sex Workers (AINSW) in Delhi. Sex workers have been treated with apathy and stigma from society and state systems for many years. In fact, one of the longest fights of sex workers in India is of visibility and recognition, of state entitlements and dignity of work. After so long, and very little change, sex workers are pursuing the electoral route to make their voices heard.

Sex workers often migrate from smaller towns of villages to cities in search of work, are trafficked into this work at a very young age or are children of sex workers and have grown up in red light districts. In all these situations, access to documents needed to register for a voter id such as birth certificates, proof of address or age is unlikely. The stigma attached to their work makes accessing these documents even more. Kusum says that although some sex workers might have voter ids and be registered in their place of origin, the stigma attached to their work and excommunication from the family or community make going back there to vote impossible. Often, brothels don't serve as permanent residences for sex workers when registering for documents and the apathy, sometimes disgust and abuse with which state officials treat sex workers hinders them for approaching the state to acquire documents.

The situation is improving through the work of collectives like AINSW and many others which have run large-scale voter registration drives across the country and educated sex workers on the importance of voting. However, Kusum Devi reports that in red-light districts like GB Road in Delhi or Sonagachi in Kolkata, when sex workers go to polling booth, they are treated differently by polling booth officers. When sex workers stand in line to vote, “*aankhon se bhi baladkar hota hai*”, they are violated, made to feel very uncomfortable and unwelcome through the looks that people give them. Therefore, even though some sex workers might have voter ids, their participation in the electoral process is limited.

## **Highly stigmatised caste groups (Manual scavengers)**

Manual scavengers and septic tank cleaners, both in rural and urban areas, have long been invisible to the state and society at large. Even though manual scavenging has been outlawed, thousands of people continue to engage in this work without dignity or any option to leave. Having faced centuries of discrimination and marginalisation, without access to education, it is no surprise that manual scavengers are excluded from electoral rolls as well.

Manual scavengers are entirely dependent on state officials for access to documents. In a system where caste discrimination is so seeped into people's everyday lives, when manual scavengers interact with agents of the state, they are treated badly, abused, or merely not interested in providing for manual scavengers.

From field research conducted with manual scavengers in Dhanbad, Jharkhand in February 2020 by researchers from Centre For Equity Studies, it was noted that their applications are not taken seriously in the government offices, even when they visit these offices, they are mostly asked to come many times and are made to run pillar to post. There is enduring corruption, even if they receive residence certificate, they are only given ‘asthayi’ (temporary certificate) which requires renewal often. They have to pay bribes to the local officials to apply/take the documents. Only people who can afford to pay these bribes upfront can even remotely think of getting documents. Many reported that they were intimidated to approach government officers for anything.

The situation of manual scavengers and other highly stigmatised caste groups is so dire that prior to the 2019 elections, the Safai Karmchari Aandolan (SKA), a movement for the complete elimination of manual scavenging, released a manifesto of their own demanding safety and dignity for manual scavengers. Bezwada Wilson, national convener of the SKA says every member of the community should ask politicians to first commit to these demands before asking for their vote<sup>13</sup>.

### **Adivasis (Including PVTG’s (particularly vulnerable tribal groups) and DNT’s (De-notified Tribes))**

Adivasis constitute 8.6 percent of the total population. Indigenous Peoples in India have been facing countless attacks and threats against their rights – especially to land, self-determination and autonomy – for centuries. Forest-dwelling communities have faced a long-lost battle with displacement for the sake of development. Displacement and migration are a reality for many tribal groups around India. However, for those designated PVTG’s (particularly vulnerable tribal groups), the situation is worse. According to reports, these groups are either so invisible to the State or are so heavily discriminated against that accessing any documents is a major challenge.

Fifteen crore individuals, better known as the Denotified Tribes (DNT)<sup>14</sup> of India, continue to be considered ‘criminal by birth’. Nomadic and semi-nomadic communities continued to face harassment at the hands of law enforcement agencies. The mere repeal of the Criminal Tribes Act (CTA) after independence could not change the mindset of government officials or members of society reflecting the colonial hangover in the treatment of DNT’s. Given their centuries-old tradition of constant movement, they often do not possess any residential proof, which leaves them

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<sup>13</sup> Baruah, S (2019) ‘Manual scavengers want govt to clean up the mess this polls’ *The Federal* (5<sup>th</sup> April). Available at: <https://thefederal.com/elections-2019/manual-scavengers-want-govt-to-clean-up-the-mess-this-polls/> (Accessed 31<sup>st</sup> July 2020)

<sup>14</sup> Denotified Tribes (DNTs), also known as Vimukta Jati, are the tribes that were listed originally under the Criminal Tribes Act of 1871, as Criminal Tribes and "addicted to the systematic commission of non-bailable offences." Once a tribe became "notified" as criminal, all its members were required to register with the local magistrate, failing which they would be charged with a "crime" under the Indian Penal Code. The Criminal Tribes Act of 1952 repealed the notification, i.e. 'de-notified' the tribal communities. This Act, however, was replaced by a series of Habitual Offenders Acts, that asked police to investigate a "suspect's" "criminal tendencies" and whether their occupation is "conducive to settled way of life." The denotified tribes were reclassified as "habitual offenders" in 1959.



out of the majority of the government's developmental schemes as well as with no proof of address to register to vote<sup>15</sup>.

“These people are constantly migrating from one place to another. Because even the name of their village has been removed, it has disappeared. It is not in the system anymore. Even if they name the village, where is it? Which district? This is a major issue<sup>16</sup>” Says Aloka Kujur, Jharkhand-based Adivasi rights activist.

## Muslims

In the recent 2019 elections, activists estimated that 40 million Muslims and 30 million Dalits are excluded from electoral rolls<sup>17</sup>. Although these estimates have been challenged, due to the high levels of discrimination, especially accentuated over the past few years due to the rise of Hindu nationalism, Muslims have come to feel that they have been deliberately politically marginalized. For instance, the Bharatiya Janata Party has not fielded a single Muslim candidate in many recent elections. It also says it does not want Muslim votes<sup>18</sup>. This kind of discourse discourages or holds back Muslims from enrolling themselves in the voters list. This could very well be the psychology of other marginalised groups too<sup>19</sup>. There could be a systemic bias against Muslims, a bias so strong that leads to the exclusion of an entire locality or area in a constituency.

## Persons with disabilities

In every village and town across the length and breadth of the country, frequently hidden way behind the walls of homes and institutions, unsuspectedly large numbers of these disabled women and men, boys and girls subsist. Rarely do we encounter disabled people in schools, farms, factories, playgrounds, cinemas, streets, markets, temples, mosques, churches, or in family celebrations. Arguably more than any other large dispossessed social group, people with disabilities are invisible also in political agendas, in human rights struggles, in development strategies, and in social science research. Disabled people are disproportionately numerous amongst the poorest of the poor across the world as they struggle to achieve their potential of a

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<sup>15</sup> Reddy, A P (2018) “End this long trauma” *The Hindu* (8<sup>th</sup> December). Available at:

<https://www.thehindu.com/opinion/op-ed/end-this-long-trauma/article25692853.ece> (Accessed 15<sup>th</sup> July 2020)

<sup>16</sup> Singh, A (2019) “How will the CAA/NRC Affect India's Tribal Population” *The Citizen* (31<sup>st</sup> December). Available at: <https://www.thecitizen.in/index.php/en/NewsDetail/index/9/18101/How-Will-CAA-and-NRC-Affect-Indias-Tribal-Population> (Accessed 15<sup>th</sup> July 2020).

<sup>17</sup> Malhotra, A (2019) “Allegations of mass voter exclusion cast shadow on India election” *Al Jazeera* (30<sup>th</sup> April). Available at: <https://www.aljazeera.com/news/2019/04/allegations-mass-voter-exclusion-cast-shadow-india-election-190427103455251.html> (Accessed 15<sup>th</sup> July 2020)

<sup>18</sup> Zee News (2018) “Don't want Muslim votes, would mean ignoring their crimes: Rajasthan BJP MLA” *Zee News* (10<sup>th</sup> April). Available at: <https://zeenews.india.com/india/don-t-want-muslim-votes-would-mean-ignoring-their-crimes-rajasthan-bjp-mla-2098369.html> (Accessed 15<sup>th</sup> July 2020)

<sup>19</sup> Ashraf, A (2018) “Interview: Sachar Committee researcher claims 20% Muslim voters may be missing from Karnataka rolls” *Scroll* (10<sup>th</sup> May). Available at: <https://scroll.in/article/875765/interview-sachar-committee-researcher-claims-13-3-voters-missing-in-karnataka-electoral-rolls> (Accessed 15<sup>th</sup> July 2020)

fulfilled, dignified and useful life, they are most frequently victims of extreme, even savage, social prejudice and ostracism.

For disabled persons who also belong to traditionally socially discriminated categories such as females, backward castes, tribals, and minorities, social ostracism is likely to be further greatly enhanced. Since the exclusion that disabled persons face is mediated by social prejudices, a person who is disabled because of leprosy may be much more stigmatised than a moderately mentally slow person, and a woman more than a man. When a Dalit woman, a homeless man or a tribal child also suffer from disability, they have to contend with vulnerabilities from all extremes. The discrimination is often so strong that it forces them to live in extremely inhuman conditions.

People with disabilities are also more likely to be illiterate. They also constitute a lower proportion of students in school and higher education<sup>20</sup>. In July 2018, the Election Commission (EC) held a two-day National Consultation on Accessible Elections, aiming to make voting more accessible for people with disabilities. It failed to act on recommendations concerning people with intellectual and psycho-social disabilities. Many activists who work with persons with disabilities claimed that the entire campaign was limited to providing physical access. However, it is imperative to provide both physical access like ramps and other structures, but also attitudinal access. “The election staff needs to be trained in disability etiquettes. They need to be patient, should know how to deal with strange requests of persons with disabilities, and told to never call them names like ‘langda’ or ‘lula’<sup>21</sup>” claims activist Ratnaboli Ray

In these many ways, invisible, considered people without independent agency, poorly educated and denied livelihoods, large numbers of persons with disability, particularly those in rural and slum households, in impoverished families, are among the most vulnerable to exclusion from government listings, including of voters’ lists.

### **Persons with mental illnesses**

Answering the first question is easy. Section 16 of the Representation of the People Act, 1950 deals with ‘Disqualification for Registration in electoral roll’. Under Section 16 (b) a person may be disqualified as a voter if the person, ‘is of unsound mind and stands so declared by a competent court’. The two conditions that have to be satisfied for a person to be disqualified from being enrolled as a voter. First, the person should be of ‘unsound mind’ and second, a competent court

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<sup>20</sup> Salve, P & Yadawar, S (2017) “Why nearly half of India’s disabled population is illiterate” *Scroll* (8<sup>th</sup> April). Available at: <https://scroll.in/article/833784/why-12-1-million-45-indians-with-special-needs-are-illiterate> (Accessed 15<sup>th</sup> July 2020)

<sup>21</sup> Bhatnagar, G (2018) “Were Assembly Polls Accessible to Voters with Disabilities?” *The Wire* (20<sup>th</sup> December). Available at: <https://thewire.in/rights/ec-fell-short-on-making-2018-elections-accessible-to-persons-with-disabilities> (Accessed 15<sup>th</sup> July 2020)

must arrive at this finding. But the term ‘unsound mind’ has not been defined anywhere in any Indian law or in the constitution<sup>22</sup>.

An electoral officer cannot refuse to enter a person’s name in the electoral register solely on the grounds that they have a mental illness. The electoral officer would have to prove that the person is of ‘unsound mind’ and get a declaration to that effect from a court. The onus of proving that a person is of unsound mind is on the electoral officer and not on the person concerned. This is the law, however the implementation of this is extremely flawed. In practice it is likely to not be implemented.

The main argument made for disallowing persons with mental health from voting is the need to maintain the integrity of the electoral process which requires a certain level of informed choice by individuals who have the capacity to make such choices. It is presumed that persons with mental health problems lack the capacity and, hence, should not be allowed to participate in the electoral process. This clearly demonstrates a lack of understanding of the spectrum of mental illnesses people suffer from. Although research and many experts who work with persons with mental health illnesses corroborate that this is not true, this seeps into the mentality and attitude towards people with mental illnesses.

This was evidenced by a recent statement by the Institute of Mental Health (IMH). “We took up the task of assessing our inmates for their decision-making capacity. We wanted to see if they understood the process of voting. To our surprise, many of them were up-to-date with information on political parties. They have access to news on television channels in wards and newspapers. As of now, we have enrolled patients who have improved after treatment. We may continue the campaign and intensify our assessment for those who were left out<sup>23</sup>.”

### **Old people without care**

Age and the lack of care in old age brings poverty and dependency. For the elderly, the unnecessary process, which is sometimes arbitrary complexities on the ground are not addressed. There is a sense that old people have ‘given what they can to society and are not of use any more’, there is a question on the logic of their survival. If the registration officer believes, this then he is unlikely to include old people in the registration process.

Their material deprivation is exacerbated by their powerlessness and marginalisation, and ultimately their social dispensability. They end up being more vulnerable to risks than the general population, even when they might be technically ‘above the poverty line’ constructed by planners and economists. The mere process of ageing - the continuous decline of functional ability of the

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<sup>22</sup> Pathare, S (2019) “Does Indian Law Disqualify People With Mental Illnesses From Voting?” *The Wire* (5<sup>th</sup> April). Available at: <https://thewire.in/health/mental-illness-right-to-vote> (Accessed 15<sup>th</sup> July 2020).

<sup>23</sup> Josephine, S (2019) “129 patients of IMH enrolled in voter’s list” *The Hindu* (20<sup>th</sup> February). Available at: <https://www.thehindu.com/news/cities/chennai/129-patients-of-imh-enrolled-in-voters-list/article26315469.ece> (Accessed 15<sup>th</sup> July 2020)

body and to a point the mind, over time – often creates and exacerbates intra and inter-household inequalities. Visual impairment, hearing problems, difficulty in walking and speech are the most common forms of disability among elderly. Senility and neurosis are also common. If without familial or institutional support, these added disadvantages seriously affect their ability to survive and fend for themselves. They become invisible to the state, and therefore vulnerable to exclusion of voting rights.

Digitisation itself has created problems for the elderly who might not have access of knowledge to access these facilities. This was evidenced during the immense problems faced in the Aadhar/UID process.

### **Recommendations to the Election Commission:**

It is the responsibility of the Election Commission of India (EC) to ensure that every citizen who is eligible to vote in India is registered in the electoral roll and has access to voting systems. In a country of almost 1.3 billion people, this is a mammoth task, especially given the already existing economic, social, cultural divides in the country. Nonetheless, for the enactment of a holistic democratic process, it is imperative that the Election Commission take special note of the many ways in which various vulnerable communities are systematically left out of the election process as illustrated in this paper.

The EC has taken some steps to account for the complexities in registering vulnerable communities in the electoral rolls, although these programs have been limited to local elections. For example, the ‘address proof’ required to register voters was adjusted in Delhi in 2012 in a drive to include the city’s homeless population in the rolls. “The problem in registering homeless people was that they had no identity proof. This year, officers from the election commission will visit the homeless shelter three times and if the person is there, the card will be made” said Vijay Dev, chief electoral officer, Delhi Election commission<sup>24</sup>. In 2013, the Delhi Election Commission also held a special drive to include more sex workers in the rolls by ensuring more female officers present in order to create safer environments for sex workers, and women generally<sup>25</sup>.

However, on the whole there has been little concerted effort to recognise and correct for the systemic exclusion of vulnerable groups. In 2015, the Election Commission launched the National Electoral Roll Purification and Authentication Programme (NERPAP)<sup>26</sup> with the intention of

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<sup>24</sup> Joshi, M (2012) ‘Delhi’s homeless to get voter ID cards’ *Hindustan Times* (20<sup>th</sup> November). Available at: <https://www.hindustantimes.com/delhi/delhi-s-homeless-to-get-voter-id-cards/story-4BQwnztvSMwjs00y2r1OyO.html> (Accessed 25<sup>th</sup> July 2020)

<sup>25</sup> Pandey, N (2013) EC’s special drive to enrol sex workers in voters’ list’ *Hindustan Times* (8<sup>th</sup> April). Available at: <https://www.hindustantimes.com/delhi/ec-s-special-drive-to-enrol-sex-workers-in-voters-list/story-ljn9NOXABgHK5zWuMhYggP.html> (Accessed 27<sup>th</sup> July 2020)

<sup>26</sup> The NERPAP was later stalled due to security concerns related to linking of Aadhar cards to the electoral roll. Read more: The Indian Express (2020) Election Commission proposal to link electoral roll with Aadhaar under examination: Law Ministry (5<sup>th</sup> March). Available at: <https://www.newindianexpress.com/nation/2020/mar/05/election-commission-proposal-to-link-electoral-roll-with-aadhaar-under-examination-law-ministry-2112754.html> (Accessed 27<sup>th</sup> July 2020)

detecting and correcting the 70,000-odd errors that might have crept in to the electoral rolls. As this paper has shown, millions of Indians are systematically excluded from the electoral rolls without much chance of registering. Seems quite ironic that at a time where the Election Commission should be focusing on how to ‘include’ more into the rolls, their focus is on ‘correction and removal of mistakes’.

It is therefore imperative that the EC take strong and consistent measures to understand the ground realities that lead to exclusion of different groups. Although policies often work on macro levels, it is important to delve into the complexities of each vulnerable group and their lived realities to expose the various ways exclusion occurs. In order to address this, we recommend, a regular and long-term system of sensitivity training is also necessary for electoral officials at all levels. Since the deep-rooted caste, class, gender and other biases are bound to play a role in how each officer undertakes their duties, training in how to handle different kinds of cases is of utmost importance. The ECI has needs to put inclusion of people into the rolls at the forefront of their agenda, and this will only happen if it pays attention to the various ways exclusion occurs.