

Title: Further discussion on the motion for consideration of the Compulsory Voting Bill, 2009 moved by Shri J.P. Aggarwal on the 4th December, 2009 (Discussion not concluded).

MR. CHAIRMAN: Now, we will take item no. 48 – Compulsory Voting Bill for consideration and passing.

श्री जय प्रकाश अग्रवाल (उत्तर पूर्व दिल्ली): महोदय, पिछले सत्र में यह बिल इंट्रोड्यूज किया था। शायद जब मैंने इंट्रोड्यूज किया था उस समय मैंने इस सदन में कभी-कभी आधा घंटा अपनी बात को रखा था। मेरा मानना है कि जो व्यक्ति इस देश में रहता है, हमने जिसे कानूनी तौर पर अख्तियार दे रखा है कि वह वोट दे सकता है तो उसका वोट न देना शायद हमारे लिए खतरे की घंटी है। आज एक वक्त है जब इस पर लंबी बहस की जरूरत है कि क्या इस कानून की जरूरत है या नहीं? हम कानूनी तौर पर उस व्यक्ति को कहें कि तुम्हें वोट देना है। हालांकि मेरा मानना है कि जब हम कानून बनाते हैं तो वह जबरदस्ती होती है। हमने कांस्टीट्यूशन में वोट को फंडामेंटल राइट दिया है कि आप वोट दें क्योंकि इससे सरकारें बनती हैं। देश के भविष्य के लिए लोग पंचायत बनाते हैं और इस पंचायत में लोग चुनकर जाते हैं। जब वे चुनकर जाते हैं तो देश के भविष्य के लिए फैसला करते हैं। इस फैसले का असर उन लोगों पर पड़ता है जो लोग वोट देने नहीं जाते हैं। मैंने इसका बहुत विश्लेषण किया और बहुत जानकारी हासिल करने की कोशिश की तो मेरे सामने अजीब से तथ्य आए। मैं इसकी चर्चा थोड़ी देर बाद करूंगा। मैं इसमें से एक-आध उदाहरण के तौर पर सामने रखना चाहता हूँ। जब हम यह कहते हैं कि मैजोरिटी वोट होता है और वह फैसला माना जाता है, जब किसी चीज पर मैजोरिटी होती है। अगर पचास परसेंट से कम वोटिंग परसेंटेज रह जाता है तो इसका मतलब यह है कि पचास परसेंट से ज्यादा लोग उस चुनाव में हिस्सेदार नहीं हैं तो फिर वह फैसला लागू कैसे किया जा सकता है। फिर वह चुनाव संवैधानिक तौर पर कैसे जायज माना जाएगा। पचास परसेंट से ज्यादा लोग यह कह रहे हैं कि यह चुनाव सही नहीं है या हम इसमें हिस्सा नहीं लेते। मेरा मानना यह है कि जब संविधान के तहत हमने किसी को वोटिंग राइट दिया है और उस वोटिंग राइट में वह हिस्सा नहीं लेता तो उस चुनाव और सारी प्रक्रिया पर शायद एक बहुत बड़ा प्रश्नचिह्न उसके आगे लग जाता है और उस ओर हमें ध्यान देना चाहिए। साधारण सी बात है, वोट देने जाएं, नहीं देने जाएं, हम देश में रहते हैं, देश में रहते हुए हम कानूनी तौर पर बहुत सी चीजों की मांग भी करते हैं। लेकिन जब हम किसी चीज की मांग करते हैं तो उस समय हमें चुनाव में हिस्सा लेना चाहिए, तभी हमारा लोकतंत्र मजबूत हो पायेगा। यह मैंने उस दिन बुनियाद रखी थी और उसी को मैं चर्चा का विषय बनाकर आगे ले जाना चाहता हूँ।

एक बहुत साधारण सी बात कही जा सकती है, लेकिन एक वोट का इख्तियार कितना महत्वपूर्ण होता है, जब अमरीका में यह फैसला होना था कि उनकी लैंग्वेज कौन सी हो तो एक वोट से यह तय हुआ कि जर्मनी नहीं, इंग्लिश वहां की लैंग्वेज मानी जायेगी। इसी सदन में एक वोट के इख्तियार से एक सरकार गिरी, सरकार अल्पमत में आ गई और उन्हें यहां से गद्दी खोड़नी पड़ी। इसी तरह बहुत सारी जगह उन्होंने यह दिखाया है कि जो लोग किमिनट्स हैं, उन्हें चुनाव लड़ने का अधिकार नहीं है। कई जगह जो इंटरनेशनल ह्यूमन राइट्स लॉज है, वे उनके देश के कानून से ज्यादा संवैधानिक माने गये हैं और यह माना गया कि जो इंटरनेशनल ह्यूमन राइट कानून होंगे, वे ज्यादा जायज होंगे। मेरा मानना यह है कि यह एक लम्बी बहस का मुद्दा है। हर व्यक्ति और हर पार्टी को इस चर्चा में हिस्सा लेना चाहिए।

महोदय, मेरे बिल इंट्रोड्यूज करने के बाद और इस बहस के शुरू होने के बाद गुजरात में एकदम यह कहा गया कि वहां हम कमपलसरी वोटिंग राइट देकर चुनाव कराना चाहते हैं। मेरा मानना यह है कि वह फैसला सही नहीं है। वह क्यों सही नहीं है, उस पर बहस नहीं हुई, कोई चर्चा नहीं हुई। मैंने चाहा, चूंकि मैं मुख्य मंत्री हूँ, इसलिए मैंने उसे वहां लागू कर दिया। मैं जानना चाहता हूँ कि क्या इस पर नेशनल डिबेट हुई? क्या वहां अन्य पार्टियों के साथ बातचीत की गई? इसलिए मेरा जो मुद्दा है, वह उस मुद्दे से बिल्कुल फर्क है और मेरा मानना यह है कि अगर हम कोई चीज लागू करते हैं तो उसे लागू करने से पहले उस पर लोगों की राय ली जानी चाहिए, उस पर डिबेट होनी चाहिए। सब उस पर अपनी राय दें और यह देखें कि क्या यह बात सही है या नहीं। उसके बाद उसे लागू किया जाना चाहिए था। इसलिए मैं अपनी बात को ... (व्यवधान) जब आपको मौका मिलेगा तो आप भी कह देना, अभी मुझे अपनी बात कहने दो। मेरे को आपसे अलग करना है, इसलिए मैं अपनी बात को कह रहा हूँ। बात यह है कि यह देश किसी एक व्यक्ति या पार्टी का नहीं है। आज हम हैं, कल नहीं होंगे। आज साठ साल हुए हैं, कल छः सौ साल भी होंगे। यह आजादी चलेगी। लेकिन मायने यह रखता है कि हम कहां तक पहुंचें और क्या करके पहुंचें। हमें कितनी दूर जाना है। क्या आज के समय में हम जो कानून बनाते हैं, जो यहां चुनकर आते हैं, जो राजनीतिक पार्टियां हैं, उनका क्या उद्देश्य होना चाहिए।

सभापति महोदय, मैंने एक बात और रखी थी कि क्या वजह है कि उन लोगों को हम आकर्षित नहीं कर पाये। हम यह कहकर खुश हो जाते हैं कि साठ परसेंट लोगों ने वोट दे दिया, 62 परसेंट पोलिंग हो गई। लेकिन यह बात सही नहीं है। जो चात्सीस परसेंट लोगों की एक अच्छी-खासी मैजोरिटी है, जिन्होंने इस देश के भविष्य में हिस्सा लेने से मना किया तो क्या हम गुनहगार तो नहीं हैं। क्या हमारे व्यक्तित्व से लोग नाराज तो नहीं हैं? क्या हमारी बातों से उनके अंदर कोई ऐसा भेदभाव तो पैदा नहीं होता कि वह यह कहते कि ये लोग अच्छे नहीं हैं, इन्हें काम करने का सलीका नहीं है। मैं उसका उदाहरण पेश करना चाहता हूँ - जब हम यहां बैठते हैं, चुनाव लड़ते हैं और अगर उसमें दुर्भावना पैदा करते हैं तो उसके अंदर समाज बंटता है। हमारा काम है कि हम देशभक्ति पैदा करें और फिर लोगों से कहें कि आप हमारे साथ आने चाहिए, हम इस देश को आगे ले जाना चाहते हैं, आप हमारे साथ हिस्सेदार बनिए। इसके लिए जरूरी है कि हमारी बातचीत अच्छी हो, जो बातें हम जनता के सामने रखते हैं, वे सिर्फ वोट हासिल करने के लिए नहीं होनी चाहिए, सिर्फ इसलिए नहीं होनी चाहिए कि हमारी पार्टी जीत जाए। पार्टी हारे, पार्टी जीते कम से कम यह देश तो जिन्दा रहे। अगर हम लोगों के दिल में जख्म दे देंगे तो शायद हम अपने मकसद में कभी कामयाब नहीं हो सकते। हो सकता है कि हम किसी वक्त सरकार बना लें, हम जीतकर आ जाएं, लेकिन अगली बार क्या होगा? लोग 50, 100 साल बाद विश्लेषण करेंगे कि हमारे लपज अच्छे थे या नहीं थे, हमने जो रास्ता चुना वह रास्ता अच्छा था या नहीं था? मेरा मानना यह है कि हमें सांप्रदायिकता से दूर रहना चाहिए, दुर्भावना से दूर रहना चाहिए, कोई ऐसा काम नहीं करना चाहिए, जिससे हमारा समाज बंटता हो। माफ करिए, यह हिन्दुस्तान सबका है, हिन्दू, मुसलमान, सिख, इसाई, बौद्ध और भी हमारे बहुत सारे समाज हैं। अगर हम किसी एक समाज की बात करके या किसी दूसरे समाज के खिलाफ बोलकर वोट मांगते हैं तो शायद यह रास्ता सही नहीं होगा। यह हमने देखा है। इसी देश में भगवान राम के नाम से यात्राएं निकलीं, क्या वह यात्रा पूरे देश को एक-साथ लेकर चलने की थी? हमने राष्ट्रवादी रास्ते से हटकर धार्मिक रास्ता सरकार बनाने के लिए चुना। माफ करिए, शायद यह रास्ता अपने देश को मजबूत करने के लिए नहीं होगा। जब हम इस देश में रहने वाले एक कम्यूनिटी को दूर करना चाहते हैं, जब हम यह कहते हैं कि हम किसी एक धर्म के साथ, किसी एक समाज के साथ अपने को जोड़ना चाहते हैं तो वह क्या रास्ता है, क्या वह भेदभाव, क्या वह ऐसा जहर जो बहुत दिन तक लोगों के दिल में रहता है, वह नफरत, वह जोड़ने वाला नहीं रह सकता। हो सकता है कि जो लोग वोट देने नहीं आ रहे हैं, उन्हें यह लगा हो कि ये लोग तो बहुत घटिया बात करते हैं, ये लोग तो धार्मिक बात करते हैं, ये तो देश की बात नहीं करते हैं। अगर बात करनी है तो आप योजना की बात कीजिए, रोटी की बात कीजिए, कपड़े की बात कीजिए, मकान की बात कीजिए, गरीबी दूर करने की बात कीजिए। अगर धार्मिक मुद्दा लेकर चुनाव लड़े जाएं तो माफ कीजिए, वह रास्ता सही नहीं होगा। हो सकता है कि जो लोग वोट देने नहीं आ रहे हैं, वे इसलिए नहीं आ रहे हों कि हमने गलत रास्ता चुना। कुछ लोगों की वजह से दुर्भावना पैदा हुई और हमारा समाज बंट गया।

महोदय, मैं आपके सामने एक तथ्य और रखूंगा कि इतने साल बीतने के बाद भी जो मतदान का प्रतिशत आया है, वह बढ़ नहीं रहा है। मंत्री जी अभी जो डॉक्यूमेंट मैं आपके सामने रखने वाला हूँ, उसमें मतदान 54 परसेंट से शुरू हुआ। वर्ष 1952 में 61 परसेंट वोटिंग रही, वर्ष 1967 में 61 परसेंट, और उसके बाद वर्ष 1971 में 55 परसेंट वोटिंग लोक सभा के चुनाव में हुई। उसके बाद वर्ष 1980 में 56.92 परसेंट, उसके बाद वर्ष 1991 में 56 परसेंट, वर्ष 1996 में 57 परसेंट, वर्ष 1999 में 59 परसेंट और वर्ष 2004 में 48 परसेंट वोटिंग हुई। आपके यहां कानून है कि अगर किसी प्रत्याशी को 16 परसेंट से कम वोट पड़ते हैं तो जमानत जब्त हो जाएगी। गैर पास ऐसे कई उदाहरण हैं, जिन्हें 16 परसेंट से कम वोट मिले, वे चुनाव जीतकर जा रहे हैं, वे चुने हुए प्रत्याशी हैं, कई हाऊस के मेंबर हैं। यह कैसे हो गया? क्या हमारे कानून में कोई गड़बड़ है, हमारी टर्म्स और कंडीशंस में कोई गड़बड़ है कि अगर 16 परसेंट पर जमानत जब्त होती है तो उससे कम वाला प्रत्याशी जीतकर कैसे जा रहा है? हमारे यहां मल्टी पार्टीज सिस्टम है, चार पार्टियां चुनाव में खड़ी हैं, पांच या सात प्रत्याशी हैं और इस तरह वोट नहीं पड़े कि किसी एक को 16 परसेंट वोट पड़ जाएं। इस समय इसे देखने का वक्त है कि इसमें कोई तब्दीली हो, वह तब्दीली कैसे की जा सकती है?

16.00 hrs.

इसके बाद करीब 10 करोड़ रुपये से इलैक्शन कमीशन का खर्चा शुरू हुआ और आज वह बढ़कर 1200 करोड़ रुपये पर पहुँच गया। उसके बावजूद आधे लोग वोट नहीं दे रहे हैं। अगर 1200 करोड़ रुपये खर्च करने के बाद सिर्फ 50-60 प्रतिशत लोग वोट देते हैं तो जिस खर्च को आप आधा मान रहे हैं, वह डबल हो गया। आज 33 रुपये प्रति वोट आपको खर्च पड़ता है जो बहुत ज्यादा है। हमें यह देखना चाहिए कि हमारे यहां सौ फिसदी वोट पड़ें या नब्बे फिसदी वोट पड़ें। आप अगर कंपलसरी वोटिंग नहीं करेंगे तो यह होगा कि खर्च के अलावा भी लोगों की हिस्सेदारी नहीं रहेगी और सरकार का प्रति वोट खर्चा है, वह बहुत ज्यादा बढ़ता रहेगा।

16.01 hrs. (Dr. M. Thambidurai in the Chair)

मैं आपके सामने कुछ उदाहरण रखना चाहता हूँ कि दुनिया के करीब 32 देश ऐसे हैं जहाँ कंपलसरी वोटिंग है। एक देश ऐसा है जिसने 1892 या 1895 में अपने जहाँ कंपलसरी वोटिंग का कानून बनाया। एक ने 1905 में बनाया जिसका उल्लेख मैं अभी आपके सामने करूँगा। आस्ट्रेलिया में कंपलसरी वोटिंग है, ब्राज़ील में कंपलसरी वोटिंग है और वहाँ 90 प्रतिशत मतदान हुआ, एक जगह 80 प्रतिशत मतदान हुआ। सिंगापुर में कंपलसरी वोटिंग है, वहाँ 90 परसेंट पोलिंग है। अर्जेन्टीना में कंपलसरी वोटिंग है जहाँ तकरीबन 70 प्रतिशत से ऊपर पोलिंग है। इजिप्ट में कंपलसरी वोटिंग है। उसके बाद साइप्रस में कंपलसरी वोटिंग है जहाँ 90 प्रतिशत वोट पड़े। टर्की में कंपलसरी वोटिंग है। बोलीविया में 70 प्रतिशत वोटिंग हुई। इसके बाद कुछ देश ऐसे हैं जहाँ यह वालंट्री है। यूएसए है, यूके है, जर्मनी है, इटली है, फ्रांस है, आस्ट्रिया है। बेल्जियम में 1892 में कंपलसरी वोटिंग का कानून बना। आस्ट्रेलिया में 1924 में कंपलसरी वोटिंग का कानून बना। आज जब हमारी इतनी बड़ी डेमोक्रेसी है और हम 100 करोड़ के हिन्दुस्तान को लेकर चल रहे हैं तो शायद आज ज़रूरत है कि हम उन देशों से भी सीखें जिन देशों ने कंपलसरी वोटिंग की है। हम स्टडी करें, अपनी टीम भेजें, मालूम करें कि उसके प्रोज़ और कॉन्स क्या हैं, अच्छाइयाँ और बुराइयाँ क्या हैं और हम किस तरह इसमें और सुधार कर सकते हैं।

इसके बाद मैं आपके सामने वोट की कीमत रखना चाहता हूँ। मैंने इन दिनों बहुत सर्वेक्षण किया है और इसलिए मुझे ऐसा लगा था कि एक विषय ऐसा है जो इस देश के भविष्य के साथ जुड़ा रहेगा। आज माना जाए या न माना जाए, कल माना जाए, दस साल बाद, बीस साल बाद, पचास साल बाद किसी वक्त इस पर बहस होगी और बहस यह होगी कि आज ज़रूरत है इस बात की कि देश में कंपलसरी वोटिंग होनी चाहिए। तो वोट की कीमत क्या है, उसके चंद उदाहरण मैं आपके सामने रखना चाहता हूँ। Abraham Lincoln has defined democracy as a Government of the people, by the people, for the people. In a democracy, elections are biggest opportunity to bring about the changes and the vote is the biggest weapon for a change. 1776 में यूएसए ने एक वोट से जर्मनी के बजाय इंग्लिश को अपनी नेशनल लैंग्वेज बनाया। In England in 1649, one vote meant that the King Charles-I was executed of his head. In Germany in 1923, one vote made Adolf Hitler leader of the Nazi party. In the USA in 1850 one vote made California a State and in 1859 one vote made Oregon a State. In 1868, one vote saved President Johnson of USA from being removed from his office. In 1889, one vote made Washington a State. In 1714 in the UK one vote placed King George-I on the throne in England and restored the monarchy.

In 1844 in the USA, a farmer in Switzerland County, Indiana named Freeman Clark was seriously ill on the election day. He had his son carry him to the County seat so that he could vote for David Kelso for State Senator. Clark died on the way home from the polling place. David Kelso was elected State Senator by one vote. In our own country, in 1999 Vajpayee Government was voted out by one vote.

मेरा मानना है कि जो लोग वोट नहीं देते हैं, उनकी संख्या 40 से 45 प्रतिशत ही है। वे लोग वोट की कीमत नहीं समझ रहे हैं, जिसे हमें समझाना है। इस भविष्य के साथ उनका भविष्य इसमें जुड़ा हुआ है और यह बहुत ज़रूरी है। महोदय, अब मैं आपके सामने कुछ और तथ्य रखना चाहता हूँ।

A figure depicting the exact number of countries that practice compulsory voting is quite arbitrary. The simple presence or absence of mandatory voting laws in a Constitution is far too simplistic. It is more constructive to analyze compulsory voting as a spectrum ranging from a symbolic but basically ineffective law to a Government with systematic follow-up of each non-voting citizen and implement sanctions against them. जिसका मैं आगे जिक्र करूँगा।

This spectrum implies that some countries formally have compulsory voting laws but do not, and have no intention to, enforce them. There are a variety of possible reasons for this. Some laws are created to merely state the government's position regarding what the citizen's responsibility should be. Mandatory voting laws that do not include sanctions fall into this category.

Although a government may not enforce mandatory voting laws or even have formal sanctions in law for failing to vote, the law may have some effect upon the citizens. For example, in Austria voting is compulsory in only two regions with sanctions being weakly enforced. However, these regions tend to have a higher turnout average than the national average.

Other possible reasons for not enforcing the laws could be complexity and resources required for enforcement. Countries

with limited budgets may not place the enforcement of mandatory voting laws as a high priority. Still they hope that the presence of the law will encourage the citizens to participate.

Can a country be considered to practice compulsory voting if the mandatory voting laws are ignored and irrelevant to the voting habits of the electorate? Is a country practising compulsory voting, if there are no penalties for not voting? What if there are penalties for failing to vote but they are never or are scarcely enforced or if the penalty is negligible?

Many countries offer loopholes, intentionally and otherwise, which allow non-voters to go unpunished. For example, in many countries it is required to vote only if you are a registered voter, but it is not compulsory to register. People might then have incentives not to register.

In many cases, like Australia, an acceptable excuse for absence on election day will avoid sanctions. The diverse forms of compulsory voting has taken in different countries refocuses the perception of it to a study of the degree and manner in which the Government forces its citizens to participate. Most democratic governments consider participating in national elections a right of citizenship. Some consider that participation at elections is also a citizen's civic responsibility. In some countries where voting is considered a duty, voting at elections has been made compulsory and has been regulated in national Constitutions and electoral laws. Some countries go as far as to impose sanctions on non-voters.

Compulsory voting is not a new concept. Some of the first countries that introduced mandatory voting laws were Belgium in 1892, Argentina in 1914 and Australia in 1924. Australia is the only English-speaking country in the world that has made voting compulsory in federal and state elections.

The secret ballot box, which is so widely used in democracies these days, was first initiated in Victoria in 1856. Australia boasts of being home to the largest electoral area in the world, Kalgoorlie in Western Australia (22 lakh sq. km.). It had its first proclaimed election in 1901. Turn out in the last Parliament election here was 83.53 per cent.

There are also examples of countries such as Venezuela and the Netherlands which at one time in their history practised compulsory voting but have since abolished it.

Below is a table containing all the countries that have a law that provides for compulsory voting. The first column lists the name of the country, the second column the type of sanctions that the relevant country imposes against non-voters and the third column contains the information on to what extent the compulsory voting laws are enclosed in practice. There are currently 32 countries where voting is a Constitutional right. Of these 19 enforce it as a compulsory right. These countries are Argentina, Australia, Austria, Belgium, Brazil, Cyprus, Ecuador, Fiji, France, Italy, Luxemburg, Nauru, Netherlands, Paraguay, Peru, Philippines, Spain, Singapore, Switzerland, Turkey, Venezuela, and two others.

What are the points? Firstly, the explanations, the second fine and the third is the possible imprisonment. The non-voter faces a fine/sanctions and the amount varies between the countries. For example, three Swiss Francs in Switzerland, between 300 and 3,000 ATS in Austria, 200 Cyprus Pounds in Cyprus, 10-20 Argentinean Pesos in Argentina, 20 Soles in Peru, etc. In Turkey, according to law passed by Parliament in 1986, if an eligible voter does not cast a vote in the elections, he or she has to pay a fee of about 5 YTL (3 US \$). In Belgium, a fine of 50 Euros. If they do not pay those charges, then they have to go to jail.

Now, I come to infringements of civil rights or disenfranchisement. It is for example possible that the non-voter, after not voting in at least four elections within 15 years will be disenfranchised in Belgium. In Peru, the voter has to carry a stamped voting card for a number of months after the election as a proof of having voted. This stamp is required in order to obtain some services and goods from some public offices. Goods and services provided by public offices may be denied to those failing to vote in Peru and Greece. In Singapore, the voter is removed from the voter register until he/she reapplies to be included and submits a legitimate reason for not having voted. In Bolivia, the voter is given a card when he or she has voted so that he or she can give proof of participation. The voter would not be able to receive his or her salary from the bank if he or she cannot show the proof of voting.

In regard to other countries, for example, in Belgium, it might be difficult getting a job within the public sector if you are a non-voter. There are no formal sanctions in Mexico or Italy but possible arbitrary or social sanctions. This is called the 'innocuous sanction' in Italy, where it might, for example be difficult to get a day-care place for your child but this is not formalised in any way at all.

Now, I come to countries that do not enforce compulsory voting. The recommendations of Commissions and other groups for compulsory voting as a fundamental duty and other related electoral issues. In recent years, in full recognition of the problems like the creation of mal-formation of the electoral system, there have been many exercised aimed at reforming it. In the last 10 years, many Working Groups and Commissions including the Law Commission have given a host of

recommendations and suggestions to initiate long-due electoral and administrative reforms, some of which have been implemented and the rest are yet to be adopted. These would impact the voter turn out and participations. These are a must for Government formation. These are Goswami Committee on Electoral Reforms, 1990, Indrajit Gupta Committee on State Funding of Elections, 1998, the Law Commission Report on Reforms of Electoral Laws, 1999.

In addition, the Election Commission has also documented its own thoughts based on the recommendations of these three organizations as well as based on their own experience of ground realities. Some major Working groups and Commissions that deliberated the issue are many; the first being the National Commission to Review the Constitution.

This Commission undertook the exercise by starting from the findings of the aforesaid most recent official exercises already undertaken in this regard with similar objectives, that were taken prior to its being framed by the Government namely, the Goswami Committee, Indrajit Gupta Committee and the Law Commission. The Election Commission's comments on the recommendations of the above three and its own proposals based on experience of ground realities.

The Commission had dwelt upon and brought out a slew of measures that it believed have made the voter indifferent towards casting his vote like representative character of voting, criminalization of politics, role of money and muscle power, blatant misuse of caste and religion and other constitutional measures including the issue under debate compulsory voting. The recommendations of the Commission are more relevant today than ever before in view of the debate on negative trends that have persuaded our voters to stay away from, the electoral system.

Of these 58 recommendations involved amending the Constitution, while 86 involved legislative measures and the rest involve executive action. The necessary correctives could be achieved by ordinary legislation modifying the existing laws or, in many cases, merely by subordinate legislation. Besides others, the Commission had identified the problem areas to be as follows:

Increasing cost of elections leading to unethical, illegal and even mafia provided electoral funding, corruption, criminalization and black money generation in various forms. With the electorate having no role in the selection of candidates and with majority of candidates being elected by minority of votes under the first-past-the-post system, the representative character of the representatives itself becomes doubtful and their representational legitimacy is seriously eroded.

MR. CHAIRMAN: How much time do you want to take more?

SHRI JAI PRAKASH AGARWAL : There is no time limit.

MR. CHAIRMAN: Time allotted for this Bill is only two hours. There are other hon. Members who want to support you. You have already taken sufficient time. I just wanted to know how much time you want.

SHRI JAI PRAKASH AGARWAL: I have worked very hard to make it documented.

MR. CHAIRMAN: It is very nice! If you want, you can take. I am asking how much time you want to take more.

SHRI JAI PRAKASH AGARWAL : I do not know; I have just started.

MR. CHAIRMAN: The Minister is recommending your case for Ph.D. It seems you have done a lot of research on the subject.

SHRI JAI PRAKASH AGARWAL : You can make the time allotted as four hours instead of two hours. That is the only possibility.

In many cases, more votes are cast against the winning candidates than for them. One of the significant probable causes may be the mismatch between the majoritarian or first-past-the-post system and the multiplicity of parties and large number of independents.

Use of raw muscle power in the form of intimidation of voters either to vote against their will or not to vote at all, thus taking away the right of free voting from large sections of society and distorting the result thereby. Criminalization of the electoral process - increasing number of contestants with serious criminal antecedents. The visible presence of many criminals is in fact a very large factor in the loss of legitimacy for politicians as a whole.

This is also extremely dangerous for the country because apart from distorting the political culture of the country, criminal elements progressively get to influence leadership and governance. The spectacular success of some criminals in politics invites emulation. The signal to the society by such a process is that it is acceptable to muscle your way through

everything because in the last analysis the system rewards you. Divisive and disruptive tendencies including the misuse of religion and caste in the process of political mobilization of group identities on non-ideological lines. Fake and non-serious candidates who create major practical difficulties and are also used indirectly to subvert the electoral process.

Last but not least, loss of systemic legitimacy due to decay in the standards of political morality and decline in the spirit of service and sacrifice in public life.

On including the right to vote in fundamental duties the Commission said:

"While taking note of the dwindling base of the number of voting citizens, the Commission had recommended making voting compulsory under the heading "Fundamental Duties". It recommended inclusion of the following in article 51 A of the Constitution:

"Duty to vote at election, actively participate in the democratic process of governance and to pay taxes should be included in Article 51 A" "

On candidates winning by minority vote the Commission said:

The multiplicity of the political parties combined with our Westminster based first-past-the-post system results in a majority of legislators and parliamentarians getting elected on a minority vote.

This means that on an average, at the very least, two-third of our legislators all over India win on the basis of a minority vote.

In other words, they usually win by obtaining less than 50 per cent of the vote cast, that is with more votes cast against them than in their favour. There are States where 85 per cent to 90 per cent of the legislators have won on a minority vote by having obtained less than 50 per cent of the vote cast.

At the national level, the proportion of Members of Parliament who have won on a minority vote is over 67 per cent at an average for the last three Lok Sabha elections.

In extreme cases, some candidates have won even on the basis of 13 per cent of the vote polled as other contenders did not manage to get that many votes. (For relevant data see Tables in annexures to the Consultation Paper on the subject; Elections in India since Independence have proved that candidates with even less than 10 per cent votes in any electoral constituency can win a seat.

In the 2009 Parliament elections, according to a study by CERI, Campaign for Electoral Reforms in India, 145 out of 500 and odd elected Members won with less than 20 per cent votes. On an average an MP got only one-fourth of the vote share.

Again, according to the CERI, in the present Lok Sabha only five MPs, one each from Nagaland, Sikkim, West Bengal and two from Tripura got more than 50 per cent of the votes.

In pluralistic society such as ours some political parties have found it advantageous to develop a vested interest in progressively appealing to narrower and narrowing loyalties of caste and religion. Clearly, if a candidate can win on less than one-third share of the votes polled, he does not need to generate a wider appeal.

By making caste and community a factor in political power play, we have made the divide even wider and deeper in the Indian society and made it nearly impossible for Dr. Babasaheb Ambedkar's vision of a casteless and classless society ever coming true.

It is strange that most people of the constituency do not vote for the particular candidate who becomes their representative. Those representatives are such candidates when a majority of voters did not want them.

The seriousness of this issue has generated suggestions from many quarters, focused primarily on some possibilities. It has been suggested from several quarters that this principle of representative-ness will be fulfilled if the elected representatives win on the basis of 50 per cent plus-one-vote.

If in the first round nobody gets over 50 per cent of the votes polled then according to this view there should be a run-off contest held the very next day or soon thereafter between the top two candidates so that one of them will necessarily win on the basis of 50 per cent plus one vote polled. Several representatives from various organizations favoured this option to achieve the objective of better representative democracy.

The Chief Election Commissioner is reported to have confirmed that the task of run-off election can be managed the Commission is of the view that there are substantial advantages of following the policy of 50 per cent plus one vote. It can help in political parties and candidates adopting a universal tone as opposed to sectoral tone of the present day. With the need to be more broad-based in their appeal, issues that have to do with good governance rather than with cleavages and narrow identities might start to surface in the country.

In the circumstances, the Commission while recognizing the beneficial potential of this system for a more representative democracy, recommends that the Government and the Election Commission of India should examine this issue of prescribing a minimum of 50 per cent plus one vote for election in all its aspects, consult various political parties, and others that might consider themselves affected by this change and evaluate the acceptability and benefits of this system. The Commission recommends a careful and full examination of this issue by the Government and the Election Commission of India.

On the misuse of religious, cast or communal sentiments, the Commission said :

"Campaigns which are crafted to create or exacerbate tensions between communities and/or to incite feelings of hatred on the basis of caste, community, religion, race or language attract disqualification at present but effective implementation of laws is lacking."

मैं एक और चीज आपके सामने रखना चाहता हूँ जो मैंने पहले भी एक बार डिबेट में कहा था कि जब हम भगवान के नाम से वोट नहीं मांग सकते, तो फिर कोई भी राजनैतिक पार्टी भगवान के नाम पर रजिस्टर कैसे होती है? मैं अगर राम सेना बनाना चाहूँ तो क्या आप उसे एक राजनैतिक पार्टी मानकर उसका रजिस्ट्रेशन करेंगे? क्या मैं हनुमान सेना बना सकता हूँ? कुछ शब्द ऐसे होने चाहिए, जो आपके यहां डिबेट होने चाहिए, जिनका पोलिटिकल पार्टी के तौर पर चुनाव लड़ने के लिए रजिस्ट्रेशन नहीं होना चाहिए, माफी कीजिए, शिवसेना है। मैंने उस दिन भी कहा था, शिव भगवान का नाम है। भगवान के नाम से पार्टी कैसे बन गयी, अगर भगवान के नाम पर आप वोट नहीं मांग सकते? सेना, जो हमारी सेनाएं हैं, जिनका हम आदर करते हैं, जो हमारे लिए खून देते हैं, हमारे लिए सरहदों पर लड़ते हैं, आदमी का जज्बा होता है, रोंगटे खड़े हो जाते हैं, उनके नाम से। उस सेना के नाम से राजनैतिक पार्टी का रजिस्ट्रेशन होता है, फिर आप उनके कर्म देखिए, जो लोग वहां रोटी कमाने गए हैं, उनको मार रहे हैं, उनका खून कर रहे हैं, उनको दबा रहे हैं, डरा रहे हैं, उनको कह रहे हैं कि यहां से छोड़कर चले जाओ। हिन्दुस्तान में किसी को कहीं भी जाकर रहने और काम करने की आजादी है, कानूनी तौर पर है, तो फिर यह जो आतंकवादी तरीका है, उसमें और माओवादियों में क्या फर्क है? I think you will take notice of this and see that such parties do not get registered with these types of names, with the names of Gods and with the name of *Sena*.

On redefining the eligibility of criminals to contest elections the commission recommended :

"Any person convicted for any heinous crime like murder, rape, smuggling, dacoity, etc. should be permanently debarred from contesting for any political office."

On the proliferation of non-serious candidates the Commission said that out of 1900 independent candidates who contested the General Election in 1998, only six succeeded, 885 lost their deposits.

Likewise the figures given by the Indrajit Gupta Committee reveal that out of the 10,635 candidates, who contested the 1996 Lok-Sabha elections, only nine won and 10,603, lost their deposits. It is also known that most of these so-called independent candidates are in fact dummy candidates or defectors from their parties on being denied party tickets.

Similarly, there have been assembly constituencies with over 1000 candidates. There were 1033 candidates for one single assembly seat for the Modakkurichi assembly constituency in Tamil Nadu in 1996. The ballot paper was in the form of a booklet!

The Commission recommends that independent candidates be discouraged and only those who have a track record of having won any local election or who are nominated by, at least, twenty elected members of Panchayats, Municipalities or other local bodies spread out in majority of electoral districts in their constituency should be allowed to contest for Assembly or Parliament. In order to check the proliferation of the number of independent candidates and the malpractices that enter into the election process because of the influx of the independent candidates, the existing security deposits in respect of independent candidates may be doubled. Security deposit should be doubled progressively every year for those independents who fail to win and still keep contesting elections. If any independent candidate has failed to get at least five per cent of the total number of votes cast in his constituency, he/she should not be allowed to contest as independent candidate for the same office again at least for six years.

हमने देखा है कि पहले एक धरती पकड़ नाम के व्यक्ति थे। जो भी चुनाव होता था, वह लड़ते थे। कुछ लोगों ने चुनाव लड़ना एक शौक बना लिया, बजाय यह सोचने कि किस चीज का चुनाव है, किसके लिए लड़ रहे हैं। यह देश के भविष्य के साथ जुड़ा हुआ है। हमने उसे एक मखौल बना कर रख दिया। इसलिए इन लोगों

को डिस्क्रेज करने के लिए जरूरी है कि हम कुछ ऐसे कदम उठाएं।

An independent candidate who loses election three times consecutively for the same office as such candidate should be permanently debarred from contesting election to that office.

On vote percentage required for security forfeiture I would like to submit that the minimum number of valid votes polled should be increased to 25 per cent from the current 16 per cent as a condition for the deposit not being forfeited. This would further reduce the number of non-serious candidates.

There was the 170th Report of the Law Commission of India in May 1999 on electoral reforms and allied issues. Much before the recommendations of the National Commission to review the working of the Constitution, in May 1999, the 170th Report of the Law Commission of India in its working paper on electoral reforms set out the concept of "alternative method of election" and devised certain other reforms for adoption by Parliament with almost similar aims and objectives of cleansing the electoral system of its present ills. While preparing the working paper and the accompanying Bills, the Law Commission took into consideration the Bill which was prepared in 1990 by the late Dinesh Goswami, the then Minister for Law Justice and Company Affairs based on a consensus arrived at between all the political parties. The said Bill was taken as the starting point and various other measures suggested which in its opinion were called for to achieve the aforementioned objectives. The Commission also took into account a brochure published by the Election Commission of India containing various suggestions for amending the Representation of the People Act, 1951. Notice was also taken of several decisions of the Supreme Court on various provisions of the Representation of People Act.

The findings of the Commission are far reaching and revealing merit debate in the context of the prevalent electoral scenario today.

There has been a steady deterioration in the standards, practices and pronouncements of the political class which fights the elections. Money power, muscle power, corrupt practices and unfair means are being freely employed to win the elections.

Over the years several measures have been taken by Parliament to amend the laws relating to elections with a view to checking the aforementioned forces. This Report, which has been prepared after extensive consultations, is a step in the said process. It is hoped that Parliament will take prompt action to give them legislative sanction.

In 1999 the Law Commission took note of the fact that the 'first past the post' system prevailing in our country had given rise to several inequities and distortions in our electoral process, particularly on account of the multiplicity of the political parties.

There are certain States in India where there are three or four recognized political parties, more or less evenly balanced. In such a situation what is happening is that the winning candidate is receiving, in many cases, 30 per cent or less of the valid votes cast. The remaining 70 per cent or more votes polled, cast in favour of the defeated candidates including independents, are practically going waste, without representation and without a voice in the representative bodies, namely Parliament and the State Legislatures. The consideration that weighed in this behalf was that the 'first-past-the-post' system now in vogue is not yielding a correct picture of the voter preference. It was thought advisable to provide a voice and a representation to the wasted vote which indeed very often constituted a majority of the total votes cast. There is no commerciality between the total votes cast &€!...(*Interruptions*)

MR. CHAIRMAN : Please be brief.

SHRI JAI PRAKASH AGARWAL : Sir, it is not possible. I have done a lot of work to speak on this subject. It is my Bill and I want to present my case properly....(*Interruptions*)

MR. CHAIRMAN: He is already giving a lot of information to the Law Minister to consider all these points.

THE MINISTER OF STATE IN THE MINISTRY OF PLANNING AND MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI V. NARAYANASAMY): Sir, the hon. Member is trying to convince the hon. Minister to accept his Bill....(*Interruptions*)

THE MINISTER OF LAW AND JUSTICE (SHRI M. VEERAPPA MOILY): It is quite tempting. Ultimately, he may result in convincing me also....(*Interruptions*)

SHRI JAI PRAKASH AGARWAL : Thank you Sir. To be more precise, what is happening is that a political party which has received 32 per cent of the total votes in the country is obtaining 70 per cent of the seats in Parliament whereas another

political party which has secured say 29 per cent of the votes - hardly 3 per cent difference - is getting 25 per cent of the seats in Parliament. A swing of two or three per cent of votes is resulting in a huge difference in the number of seats won.

There was yet another situation where a political party is polling a substantial chunk of votes cast in a given State in Parliament elections but is not able to get a single seat in the Parliament from that State. To remedy this, the Commission recommended the alternative method of election. The other idea put forward is the concept of negative vote. In the opinion of the Law Commission, the idea and underlying object are both laudable such an alternative method of election was suggested.

Now I would like to press my point as to why a case for compulsory voting? The right to abstain from voting is not a fundamental right. In a democratic form of government such as ours, it is the duty of every citizen to vote. Voting is not only our right. In fact, it is our responsibility as a citizen and we must all fulfil this responsibility with seriousness. We are lucky to have a democracy in our country in which every adult has a right to cast vote. India being the biggest democracy in the world may gladden our hearts but at the same time, we are continuously becoming a weaker democracy with dwindling rates of voter turnout. The percentage of votes cast in general elections of late is abysmally low. Past experience has shown that low voting areas lose out in development index, high voting areas benefit and get more attention from politicians. Any electoral system will be credible only if it ensures maximum amount of participation. It can ensure justice and secure the rights of politically disadvantaged by integrating dissent of interests and opinions.

Secondly and even more important, elections should be used to unite our very divided society which is progressively getting more divided. The health of democracy can best be described by a mandate with representative character not just the numerically largest numbers.

Compulsory voting will bring about an automatic shift in focus and significant issues will get the priority they deserve rather than parties and leaders. This will keep organised groups of hoodlums and non-deserving candidates at bay, as they will no longer be able to distort the verdict through rigging. Compulsory voting will put all citizens, regardless of class, gender, caste and religion on an equal footing. The Bill will turn Indian democracy into a vibrant one. Everyone is equal on an election day – we all have one vote – the richest and the most powerful, the poorest and the disadvantaged.

Even without securing a tangible majority in, say, a particular constituency, a person can get elected because of the "first past the post" principle – a faulty one at best. Interestingly the term "first past the post" was coined as an analogy to horse racing, where the winner of the race is the first to pass a particular point on the track, in this case a plurality of votes, after which all the other runners automatically and completely loss.

There is no requirement for the winner to gain absolute majority of votes. In a multi-member "First Past the Post" principle, the first candidate in order of highest vote to cross the line, is declared elected. The catch lies in the fact that there is no pre-set post that the winning candidate must pass in order to win, as they are simply required to receive the largest number of votes in their favour. This sometimes results in the candidate actually being "farthest from the post."

Universally the FPTP is more suited for countries with two-party system like the UK, the USA, Canada, Australia, etc. since the overwhelming majority of the vote is appropriated by two candidates thus throwing up a clear winner and not for those that have a multi-party system like ours.

The problem of FPTP as we have seen from our own experience is that by its very nature the FPTP leads to divisive agendas, narrow castiest and communal political appeal and fragmentation of society. In a multi-party, multi-member society, it divides the candidates, parties and society alike.

In the FPTP system, seats in the Parliament are not proportionate to the percentage of votes that a party gains thus leaving out a vast majority of voters un-represented in governance. Majority is understood to be the one who gets more number of votes than other contestants instead of being required to garner more than fifty per cent of the total votes. The percentage of votes that a party gets is not the same as the percentage of seats it gets in the FPTP system. Parties with less percentage of votes can gain more number of seats and parties with more percentage of votes can get less number of seats. This kind of symbolical representation does not give a true reflection of the voters' choice.

Compulsory voting system guarantees that the Government represents the will of a majority of the population, not only individuals who vote. This helps ensuring that the Governments do not neglect sections of the society that are less active politically and victorious political leaders of compulsory systems may potentially claim greater political legitimacy than those of non-compulsory systems with lower voter turnout. ...(*Interruptions*)

MR. CHAIRMAN : Hon. Member, please try to be brief because other hon. Members are also waiting. They want to speak.

SHRI JAI PRAKASH AGARWAL : What can I do?

MR. CHAIRMAN: You please continue, but make it brief. Other hon. Members want to speak. That is why I am saying this.

SHRI JAI PRAKASH AGARWAL : It may be a Private Member's Bill. But see the subject. It is a very important subject. Please accept my request and increase the time for this subject.

MR. CHAIRMAN: It is very important. That is why you have taken so much time to prepare and present it. I appreciate it. But please make it brief.

SHRI JAI PRAKASH AGARWAL :Nothing is irrelevant.

MR. CHAIRMAN: I am not saying that it is irrelevant. I am only concerned with the time factor.

SHRI JAI PRAKASH AGARWAL : Decisions made by democratically elected Governments are more legitimate only when higher proportions of the population participate. When we as the citizens of our country miss no occasion to emphasize the privilege and the importance of our fundamental rights, are we really worried about our future and the future of our country? If we are, then all of us must fulfil our fundamental responsibility to cast our votes. In fact, voting should be incorporated as a fundamental duty.

Voting is the strongest weapon in our hands with the help of which we can solve our problems and can bring a great revolution in the country without a drop of blood being shed. The voter must vote without getting affected by the factors like caste or religion.

Robust voting will focus our attention on factors like the Government's stand on national security, terrorism, poverty, unemployment, literacy, and other important issues.

Another potential argument is that it will make the people think about the tough issues facing the nation more seriously. This, in turn, might make the Government less-defensive in bringing up tough and possibly unpopular issues that need to be addressed in the larger interest of the nation.

Now, I come to fundamental rights versus fundamental duties of the Indian citizen.

Constitutional guarantees for the human rights of the people of India were one of the persistent demands of our leaders throughout the freedom struggle and while framing Fundamental Rights Chapter, the Constituent Assembly of India substantially relied upon the `Universal Declaration of Human Rights, (UDHR) 1948.

Article 21 of this very UDHR lays out the right of people to participate in government and enjoy universal suffrage and envisages that `the will of the people shall be the basis of the authority of government; this will, shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.'

The Constitution of India clearly defines the responsibilities of Indian citizen, their Fundamental Rights and Duties. Part II of the Indian Constitution covers the clauses on Citizenship, Fundamental Rights are covered in Part III of the Constitution, while the Fundamental Duties are written in Article 51A.

The Constitution, in a way, makes the citizens aware of their core rights and responsibilities through the articles dealing with the Fundamental Rights and Duties. The inclusion of fundamental duties in our Constitution also brings it in line with Article 29(1) of the Universal Declaration of Human Rights which says: "Everyone has the duties to the community in which alone the free and full development of the personality is possible."

Exercise of fundamental rights entails duties to the community which ensures the free and full development of human personality.

Fundamental Duties of citizens serve a useful purpose. In particular, no democratic polity can ever succeed where the citizens are not willing to be active participants in the process of governance by assuming responsibilities and discharging citizenship duties and coming forward to give their best to the country.

Some of the fundamental duties enshrined in article 51A have been incorporated in separate laws.

The most important task before us is to reconcile the claims of the individual citizen and those of the civic society.

To achieve this, it is important to orient the individual citizen to be conscious of his social and citizenship responsibilities

and so shape the society that we all become solicitous and considerate of the inalienable rights of our fellow citizens. Therefore, awareness of our citizenship duties is as important as awareness of our rights.

Every right implies a corresponding duty but every duty does not imply a corresponding right. Man does not live for himself alone. He lives for the good of others as well as of himself.

It is this knowledge of what is right and wrong that makes a man responsible to himself and to the society and this knowledge is inculcated by imbibing and clearly understanding one's citizenship duties. The fundamental duties are the foundations of human dignity and national character.

If every citizen performs his duties irrespective of considerations of caste, creed, colour and language, most of the malaise of the present day polity could be contained, if not eradicated, and the society as a whole uplifted. Rich or poor, in power or out of power, obedience to citizenship duty, at all costs and risks, is the essence of civilized life. ऐसा करते हैं जब आप बोलेंगे तो मुझे भी थोड़ा समय मिलेगा। I have a lot of material to put on the floor of the House.

MR. CHAIRMAN : Shri Agarwalji, afterwards also you can speak.

श्री जय प्रकाश अग्रवाल : महोदय, मैंने जो बातें कम्पलसरी वोटिंग के हक में रखी हैं, मेरा मानना है कि जो इलैक्शन प्रॉसेस है उसमें बहुत सी खराबियां आती हैं जो हम अक्सर हर चुनाव में देखते हैं।

MR. CHAIRMAN : Shri Jai Prakash Agarwal, please listen to me. What I am telling is that you have every right to speak even after the other hon. Members speak, after the Minister's reply. You can still speak. There is time for you. In fact, there is more time. I am requesting you now to give chance to other hon. Members also to speak. After that, the hon. Minister will reply. Then, you can speak.

SHRI JAI PRAKASH AGARWAL : All right, Sir, I am concluding. मैं सिर्फ इतना कहना चाहता हूँ कि जो प्रॉसेस है, उस प्रॉसेस को भी सही करने की जरूरत है। आज जो प्रॉसेस है, उसमें हम देखते हैं, मैं एक उदाहरण देकर अपनी बात समाप्त करूँगा कि तकरीबन आठ पोलिंग बूथ एक जगह कर देते हैं। एक ही जगह दस हजार आदमी वोट डालने के लिए आते हैं और उन पोलिंग बूथ की इतनी खराब हालत होती है कि कई आदमी वोट देने से पहले ही वहां से वापस मुड़कर चले जाते हैं। मेरा कहना यह है कि मुझे मालूम नहीं है कि जो चालीस परसेंट लोग वोट नहीं दे रहे हैं, हम उस कारण को ढूंढ रहे हैं। क्या वजह है, क्या हमारे में कमी है, हमारी बातों में कमी है, हमारे काम करने के तरीके में कमी है, हमारे इलैक्शन प्रॉसेस में कमी है? हमें उन चालीस परसेंट लोगों को साथ लेना है। अगर 90 प्रतिशत लोग एक जगह खड़े होकर यह कहते हैं कि यह देश हमारा है और हम उसके लिए वोट देने जाते हैं तो शायद उनके दिलों में अपने देश के लिए इज्जत होगी और वे इसके लिए काम करना चाहेंगे या इसमें कोई खराबी न हो, इसके लिए काम करना चाहेंगे।

यही मैं कहना चाहता हूँ और मैं आशा करता हूँ कि मैंने कोई राजनीतिक भाषा नहीं बोली है, मैंने साफ चीजें रखी हैं, जो आज के लिए जरूरी हैं और मंत्री जी मैं आशा करता हूँ कि यह वक्त बदलने का है। यह जरूरी नहीं है कि हमारे कानून चलते रहें और हम उन्हीं कानूनों पर चलते रहें और उन्हें डिफेंड करते रहें। आज वक्त है, सौच बदलने की जरूरत है। सरकार यदि कोई बिल लायेगी या सरकार इस बिल को एडॉप्ट करेगी तो मुझे लगता है कि हम सबको साथ लेकर चलें, यह इंटैक्शन हमारी होनी चाहिए, तभी हमारी डेमोक्रेसी मजबूत होगी।

MR. CHAIRMAN : Motion moved :

"That the Bill to provide for compulsory voting by the electorate in the country and for matters connected therewith, be taken into consideration.

SHRI JAI PRAKASH AGGARWAL : Sir, with your permission, I am laying rest of my speech on the Table of the House.

***INTERNATIONAL DECLARATIONS AND COVENANTS, HUMAN RIGHTS CONVENTIONS AND STATUS OF RIGHT TO VOTE :**

Ã~ The right to vote is a well-established norm of International Law. One of the most crucial ways that individuals can influence governmental decision making is through voting.

Ã~ Political participation is the basis of democracy and a vital part of the enjoyment of all human rights. The significance of voting as a cornerstone of democracy is expressly stated and emphasized in various International laws and declarations like **International Covenant on Civil and Political Rights** and regional agreements such as the **American Convention on Human Rights**.

Ã~ **By the year 1949, when the Indian Constituent Assembly had completed the drafting of the**

Fundamental Rights Chapter, it also had before it the 'Universal Declaration of Human Rights, 1948 that was relied upon for determining fundamental rights.

Ã~ The affirmative obligation of states to protect their citizens' right to vote is recognized in international treaties and declarations adopted by the United Nations and by regional treaty organizations such as the **Council of Europe and the Organization of American States**. (35 OAS Member States include USA, Argentina, Bolivia, Brazil, Canada, Chile, Panama, Peru, Surinam, Guatemala, Haiti, Honduras, Dominican Republic)

☞ Regional human rights systems in Europe and the Americas have mechanisms to enforce the right to vote that have been applied in a limited fashion. **The Universal Declaration of Human Rights (UDHR) is the preeminent global inspirational document on human rights.**

The declaration was adopted unanimously by the United Nations General Assembly in 1948 and its Article 21 lays out the right of people to participate in government and enjoy universal suffrage. The will of the

people shall be the basis of the authority of government; this will, shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Ã~ **Article 25 of the International Covenant on Civil and Political Rights (ICCPR)** with a binding effect from its ratification by a large number of signatories (150 countries to date) states, "Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

(a) To take part in the conduct of public affairs, directly or through freely chosen representatives;

(b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors".

Ã~ In addition, **the covenant not only protects the right of every citizen to vote, but also requires states to take the measures necessary to ensure that citizens have an effective opportunity to enjoy the right**“in particular the Committee has emphasized that the right to vote ought to be guaranteed by law.

Ã~ **The Human Rights Committee (HRC), a permanent treaty organ, was created by the ICCPR.**

Ã~ Universally **108 of the 119 electoral democracies surveyed constitutionally guarantee the right of their citizens to elect their political representatives.**

☞ Some **constitutions delineate those who are deemed ineligible** for the franchise (the young, prisoners, the mentally incapable, etc.), while **others identify the courts or the legislature as the branch of government responsible for determining citizens' fitness to take part in elections.**

Ã~ **Thirty nine percent of democratic constitutions which contain a right to vote grant legislatures**

the power to determine those who are eligible. Some judiciaries across the world have viewed the right to vote as a bulwark against government infringement (e.g., keeping certain groups from voting), **others have also seen the right to vote as imposing a positive obligation on the state to ensure that people can vote (e.g., making special efforts).**

Ã~ **The European Convention on Human Rights and Fundamental Freedoms**” which was established by the **members of the Council of Europe in 1950**” is distinguished by its active international Court and its effective complaints procedure for the determination of human rights matters.

Ã~ Currently, the Court is the ultimate authority on human rights for the citizens of 41 member states” thus the Court has jurisdiction over 800 million people. **Because the Convention has an effective enforcement mechanism, it is the leading human rights**” and thus voting rights” statute within the intra-European system. **In terms of the right to vote, the Court enforces Article 3 of Protocol 1 (P3-1) of the European Convention.**

Ã~ **The right to vote and universal suffrage have been also been incorporated into the new draft constitution being negotiated for the European Union.**

Ã~ **The Organization of American States (OAS)** is increasingly active in promoting representative democracy and the right to vote. Members' efforts to strengthen the OAS's mandate in this area culminated in 2001, when the OAS adopted the **Inter-American Democratic Charter.**

Ã~ **This Charter, a political document adopted by the 34 member states, states that the peoples of the Americas have a "right to democracy" and establishes that a fundamental element of democracy is "the holding of periodic free and fair elections based on secret balloting and universal suffrage."**

Ã~ **More importantly, the OAS Charter creates a mechanism for a collective response to an unconstitutional interruption of the democratic order of a member state. The Charter empowers the OAS General Assembly to suspend the membership of the member state in question when there has been an "unconstitutional alteration" of the democratic legal order.**

✧ The Charter also includes provisions for the OAS to observe elections in member states.

Ã~ In most respects, the voting rights language of the American Convention tracks with the language of the **ICCPR (International Covenant on Civil and Political Rights.)** The **American Convention**, however, delineates broad categories along which a member state may limit the right to vote. Article 23 of the Convention states that:

1. Every citizen shall enjoy the following rights and opportunities;
 - a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
 - b) To vote and to be elected in genuine periodic elections, which shall be by universal and equal suffrage and by secret ballot that guarantees the free expression of the will of the voters; and
2. The law may regulate the exercise of the rights and opportunities referred to in the preceding paragraph only on the

basis of age, nationality, residence, language, education, civil and mental capacity, or sentencing by a competent court in criminal proceedings.

☞ In addition to the Convention, the **member states of the OAS** have adopted an **aspirational document endorsing the right to vote, The American Declaration of the Rights and Duties of Man (1949). The American Declaration establishes the right to vote, and, in contrast to other prominent human rights documents, it also includes a duty to vote in the country in which one is a citizen.**

Ã~ The **lead role in protecting the right to vote in the inter-American system** is not played by the Inter-American Human Rights Court“which generally handles cases related to disappearances or murders“but **by the Inter-American Commission on Human Rights**. This Commission is empowered to accept individual cases and prepare country reports for which **it can conduct on-site investigations**.

Ã~ In the early 1990's, the Commission authored reports on violations of the right of political participation in Mexican elections and the progress of the Mexican government in addressing these infringements.

(2) GENERAL RIGHT TO VOTE IN DEMOCRATIC CONSTITUTIONS:

Ã~ The opportunity for citizens to participate in politics is established by a variety of means. **Over 90% of the world's electoral democracies have included the right to vote in their constitutions**, it has been articulated in a number of different ways or not at all.

Ã~ **A stand-alone right to vote is the international standard in a majority of the democratic constitutions.**

Ã~ **A majority of the world's democratic constitutions have articles or clauses outlining citizens' entitlement** to choose their representatives at all levels of government like citizenship, residence etc.

☞ Most of these constitutions have sections similar to Article 49 of the constitution of Portugal, which states "All citizens who are over 18 years of age have the right to vote, except for the incapacities laid down in general law. **The exercise of the right to vote is personal and constitutes a civic duty.**"

Ã~ **Some constitutions even provide for and mandate local referendum for broad based decision and governmental decision making on important issues.**

Ã~ Other constitutions within this group specify that the tenets of universal **suffrage should be extended to all elected positions. Bulgaria's constitution exemplifies such statutes.**

Article 10: All elections and national and **even local referendums shall be held on the basis of universal, equal, and direct suffrage by secret ballot.**

Article 42: Every citizen above the age of 18, with the exception of those placed under judicial interdiction or serving a prison sentence, is free to **elect state and local authorities and vote in referendums.**

Ã~ **Article 32 of the Peruvian Constitution even though it allows the suspension of the rights of citizenshipâ€”and thus the right to voteâ€”yet it also constructs additional barriers against the curtailment of those eligible to vote.** Article 32 states that: "Citizens enjoying their civil capacity have the right to vote. The vote is personal, equal, free, secret and obligatory until one is seventy years old. It is optional after this age. **All acts that limit or prohibit citizens from exercising their rights are null and punishable.**"

Ã~ Other constitutions, like that of Suriname, not only attempt to establish tests on the types of restrictions considered constitutional, but also **establish the affirmative obligation of the state to promote electoral participation:**

Article 54: **The State is obliged to register those with voting rights and to convoke them to participate in the elections. The registration of the voters shall serve no other purpose. Those with a right to vote are obliged to cooperate with the registration of the electorate.**

Ã~ Constitutions break into four categories depending on how they treat the right to vote:

1. Those in which there is no affirmative constitutional right to vote or no legislation with similar weight.
2. Those that establish universal suffrage for the election of sovereign bodiesâ€”such as a parliament.
3. Those that provide a general and independent right to vote.
4. Those that not only provide for a right to vote, but also specify government obligations to facilitate citizen participation and/or those that limit **the kinds of restrictions the state can place on who is eligible to vote.**

Ã~ **The issue of voting rights and eligibility in the United States is determined by both Federal and State law.**

Ã~ Over time national laws in the form of constitutional amendments and Federal legislation such as the Voting Rights Act have imposed some national restrictions and standards on state-level voting laws. The 15th, 19th and 24th and 26th amendments stipulate that though the **"right to vote" is explicitly stated in the U.S Constitution in the above referred amendments but only in reference to the fact that the franchise of any voter eighteen years of age or older cannot be denied or abridged** based solely on qualifications of race, colour, or previous condition of servitude, or sex, or failure to pay any poll tax or other tax, or by any state on account of age.

Ã~ **Unlike India 's Election Commission, The United States despite being a vibrant democracy has no single or separate Federal agency or department to oversee the conduct of free and fair polls.**

(3) NO RIGHT TO VOTE:

In many constitutions, the right to vote is not expressed as an individual right, but universal suffrage and secret elections are mandated for the fulfillment of positions in sovereign bodies, such as a legislature.

Ã~ The South Korean constitution is representative of these types of constitutions.

Article 41: The National Assembly is composed of members elected by universal, equal, direct, and secret ballot by the citizens.

Article 67: The President is elected by universal, equal, direct, and secret ballot by the people.

For these states, the existence of a right to vote for representatives in institutions other than those specifiedâ€”for example state or local government â€” is left to the legal interpretative structure of that country.

Ã~ **Some so-called democracies of the world have a repressive and centralized system of governance or at best controlled exercise and methods of electoral franchise like Iran (Candidates for Presidency must be approved by a 12 Member Guardian of Councils),** Indonesia (until 1999) and a few other Arabic countries.

Ã~ Others have **totalitarian military rule like Burma .**

Ã~ **Eleven democracies have no explicit constitutional right to vote.** For example, In Brunei that is a Kingdom (Sultanate), voters have extremely limited or no right at all. Yet, the purported cabinet advises the Sultan. Women have no right to vote. UAE too is an Autocracy where women have no right to vote. Bhutan is a Kingdom headed by a Monarch. Women have no right to vote. Each household has one vote. Guided by traditional values that vote is cast by the head of the household. In Lebanon women have no right to vote by convention not by law. Saudi Arabia held limited scale elections for the first time in sixty years in 2005. Women were not allowed to vote. Likewise in Egypt women have no voting rights. In Vatican City women cannot vote.

(4) CONSTITUTIONS WHICH INCORPORATE INTERNATIONAL HUMAN RIGHTS CONVENTIONS TO ESTABLISH RIGHT TO VOTE :

Ã~ In addition to the type of guarantees just described, a **number of Latin American and Eastern European constitutions such as Chile, Ecuador, the Czech Republic and Slovakia, grant ratified international human rights covenants constitutional or greater status in domestic law. As elaborated in the previous sections, the predominant international and regional human rights documents all establish a right to vote.**

Ã~ **Article 10 of the Czech constitution is indicative of the type of constitutions in which the right to vote is buttressed by a commitment to international norms:** Promulgated international agreements, the ratification of which has been approved by the Parliament and which are binding on the Czech Republic, shall constitute a part of the legal order; should an international agreement make provision contrary to a law, the international

agreement shall be applied.

☞ This type of constitutional clause, which is becoming more common, **demonstrates the trend towards the acceptance of international standards of human rights** and thus the right to vote as a **standard component of domestic law.**

☞ **In India** while framing the Fundamental Rights Chapter of our Constitution, the Constituent Assembly relied upon **the 'Universal Declaration of Human Rights, 1948, that emphasizes the right to vote.**

(5) SOME GENERAL UNIVERSAL LIMITATIONS ON THE RIGHT TO VOTE IN VARIOUS CONSTITUTIONS :

Ã~ The right to vote necessarily entails **limitations on who can exercise that right.** It is not uncommon for the limits to be embedded in the constitutions of electoral democracies.

Ã~ Beyond the paradigmatic examples of **citizenship and age limits, constitutions often explicitly withhold the right to participate in elections from those who are deemed mentally incapable and/or from prisoners.** The types of restrictions governments place on the right to vote fall into three general categories:

- 1) Restrictions based on community membership - Examples: citizenship, residence, language.
- 2) Restrictions based on competence or autonomy - Examples: age, mental health.
- 3) Restrictions as a form of punishment - Examples: imprisonment, voter fraud, treason.

All three forms are evident in the constitutions of the world's electoral democracies. For example, **Section 110 of the Thai constitution states:-**

A person under any of the following prohibitions on election-day is disenfranchised:-

- 1) being of unsound mind or of mental infirmity;
- 2) being a Buddhist priest, novice, monk or clergy;
- 3) being detained by a warrant of the Court;
- 4) being disfranchised by a judgment.

Ã~ In addition to constitutional restrictions on the right to vote, **almost forty percent of the constitutions surveyed allow for restrictions of universal suffrage to be determined through laws approved by the legislature.**

Ã~ In general, a **majority of Constitutions stipulate that a restriction established by a legislative act must still meet certain constitutional standards, e.g., be non-discriminatory in intent.**

Ã~ **Similarly, legislatures working under constitutions that do not explicitly permit them to limit the electorate generally must follow a common constitutional guideline for regulating the rights established in the constitution.** For example, the Canadian Charter of Human Rights and Freedoms stipulates that any of the rights and freedoms it sets out are "subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society." **Thus, the Canadian parliament must meet this standard to restrict suffrage.**

Ã~ Generally speaking 18 years is the most common voting age across democratic constitutions the world over for voter eligibility. **The exceptions are :**

Austria, Brazil , Cuba and Nicaragua : 16 Yrs ;

Bosnia, Serbia , Montenegro : 16-18 (If employed) ;

East Timor : 17 Yrs

Uzbekistan : 25 Yrs

Ã~ Many countries restrict the voting rights of convicted criminals. Some **countries and some U.S States also deny the right to vote to those convicted of serious crimes even after they are released from prison.**

Ã~ In some cases, (the felony disenfranchisement laws found in many States of the USA) the **denial of the right to vote is automatic on a felony conviction ; in other cases (e.g France and Germany) deprivation of the vote is meted out separately,** often limited to certain crimes including those against the electoral system.

Ã~ In the Republic of **Ireland prisoners are not specifically denied the right to vote but are also not provided access to a ballot station, so are effectively disenfranchised. Canada allowed only prisoners serving a term of less than 2 years the right to vote, but this was found unconstitutional in 2002 by the Supreme Court of Canada and all prisoners were allowed to vote as of the 2004 Canadian Federal Election.**

Ã~ **In the USA some states allow only individuals on probation and ex-felons to vote. Others allow individuals on parole, probation and ex-felons to vote.**

Ã~ As on July 2007, only Vermont and Maine allow incarcerated individuals to vote.

Ã~ **Fourteen states eleven of them in the South, ban anyone with a felony conviction from voting for life, even after the person has served the sentence.**

Ã~ According to the Sentencing Project, 5.3 million Americans are denied the right to vote because of a felony conviction. The **number of people disenfranchised amounts to approximately 2.42 % of the otherwise eligible voting population.**

Ã~ **This is in sharp contrast to European nations, which allows ex-felons to vote after serving sentences** and in some cases allow prisoners to vote.

Ã~ Prisoners have been allowed to vote in Canada since 2002. **The USA has a higher proportion of its population in prison than any other Western nation and more than Russia or China .**

Ã~ The **dramatic rise in the rate of incarceration in the United States , a 500 % increase from the 1970's to the 1990's due to criminalization of certain behaviours**, strict sentencing guidelines and changes in philosophy has vastly increased the number of people disenfranchised because of the felon provisions.

Ã~ Given the prison populations the **effects have been most disadvantageous for minority and poor communities. In Australia prisoners serving a sentence which is less than 3 years can vote at the federal elections.**

(6) COUNTRIES THAT PRACTISE COMPULSORY VOTING SYSTEM, LAWS, SANCTIONS & ENFORCEMENT

Ã~ A figure depicting the exact number of countries that practice compulsory voting is quite arbitrary.

Ã~ The simple presence or absence of mandatory voting laws in a constitution is far too simplistic.

Ã~ It is more constructive to **analyze compulsory voting as a spectrum ranging from a symbolic, but basically ineffective, law to a government with systematic follow-up of each non-voting citizen and implement sanctions against them.**

Ã~ This spectrum implies that **some countries formally have compulsory voting laws but do not, and have no intention to, enforce them.** There are a variety of possible reasons for this. Not all laws are created to be enforced. **Some laws are created to merely state the government's position regarding what the citizen's responsibility should be. Mandatory voting laws that do not include sanctions fall into this category.**

Ã~ **Although a government may not enforce mandatory voting laws or even have formal sanctions in law for failing to vote, the law may have some effect upon the citizens. For example, in Austria voting is compulsory in only two regions, with sanctions being weakly enforced. However, these regions tend to have a higher turnout average than the national average.**

Ã~ Other possible **reasons for not enforcing the laws could be complexity and resources required for enforcement.** Countries with limited budgets may not place the enforcement of mandatory voting laws as a high priority still they hope that the presence of the law will encourage the citizens to participate.

Ã~ **Can a country be considered to practice compulsory voting if the mandatory voting laws are ignored and irrelevant to the voting habits of the electorate? Is a country practicing compulsory voting if there are no penalties for not voting? What if there are penalties for failing to vote but they are**

never or are scarcely enforced? Or if the penalty is negligible?

Ã~ **Many countries offer loopholes, intentionally and otherwise, which allow non-voters to go unpunished. For example, in many countries it is required to vote only if you are a registered voter, but it is not compulsory to register. People might then have incentives not to register.**

Ã~ **In many cases, like [Australia](#), an acceptable excuse for absence on Election Day will avoid sanctions.** The diverse forms of compulsory voting has taken in different countries refocuses the perception of it to a study of the **degree and manner in which the government forces its citizens to participate.**

Ã~ **Most democratic governments consider participating in national elections a right of citizenship.**

Ã~ **Some consider that participation at elections is also a citizen's civic responsibility.**

Ã~ **In some countries, where voting is considered a duty, voting at elections has been made compulsory and has been regulated in the national constitutions and electoral laws.**

Ã~ Some countries go as far as to impose sanctions on non-voters.

Ã~ **Compulsory voting is not a new concept.**

Ã~ Some of the first countries that introduced mandatory voting laws were [Belgium](#) in 1892, [Argentina](#) in 1914 and [Australia](#) in 1924.

Ã~ **Australia is the only English-speaking country in the world that has made voting compulsory in federal and state elections.** The secret ballot box, which is so widely used in democracies these days, was first initiated in Victoria , in the year 1856.

Ã~ **Australia boasts of being home to the largest electoral area in the world, Kalgoorlie in Western Australia (2,295,354 square kilometers). It had its first proclaimed election in 1901. Turn out in the last parliament election here was 83.53 %.**

Ã~ There are also examples of countries such as [Venezuela](#) and the [Netherlands](#) which at one time in their history practiced compulsory voting but have since abolished it.

Ã~ Below is a table containing all the countries that have a law that provides for compulsory voting. The first column lists the name of the country, the second column the type of sanctions that the relevant country imposes against non-voters and the third column contains the information on to what extent the compulsory voting laws are enforced in practice.

Ã~ There are currently 32 countries where voting is a Constitutional right. Of these 19 enforce it as a compulsory right.

Country	Type of Sanction	Enforced	Year Introduced	Comments
Argentina	1, 2, 4	Yes	1912	N/A
Australia	1, 2	Yes	1924	N/A
Austria (Tyrol)	1, 2	Yes	Practiced from 1929 to 2004	The region of Tyrol .
Austria (Vorarlberg)	2, 3	Yes	Practiced from 1929 to 1992	The region of Vorarlberg.
Austria (Styria)	N/A	Yes	Practiced from 1929 to 1992	The region of Styria.
Belgium	1, 2, 4, 5	Yes	1919 (men)	Women in 1949.
Brazil	2	Yes	N/A	Voluntary for illiterates and those over 70. Military conscripts cannot vote.
Chile	1, 2, 3	Yes	1925(?)	N/A
				N/A
Cyprus	1, 2	Yes	1960	N/A
Ecuador	2	Yes	1936	Compulsory for literate persons ages 18-65, optional for other eligible voters.
Fiji	1, 2, 3	Yes	N/A	*Presumably strict prior to the coup d'État
France (Senate only)	2	No	1950's or 60's	N/A
Italy	5	No	Practiced from 1945 to 1993	N/A
Liechtenstein	1, 2	Yes	N/A	N/A
Luxembourg	1, 2	Yes	N/A	Voluntary for those over 70.
Nauru	1, 2	Yes	1965	N/A
Netherlands	-	No	Practiced from 1917 to 1967	N/A
Paraguay	2	No	N/A	Up to age 75
Peru	2, 4	Yes	1933	Until the age of 75.
Philippines	None	No	Attempt to practice 1972-1986 under martial law.	N/A
Spain	N/A	No	Practiced from 1907 to 1923	N/A
Singapore	4	Yes	N/A	The non-voter is removed from the voter register until he/she reapplies and provides a reason.
Switzerland (Schaffhausen)	2	Yes	1904	Practiced in only one canton. Abolished in other cantons in 1974
Turkey	1, 2	Yes	N/A	N/A
Uruguay	2, 4	Yes	1934	Law not in practice until 1970.
Venezuela	N/A	N/A		Practiced until 1993

Table updated March 2009 The numbers listed in the column for Type of Sanction stands for different types of sanctions. These are as follows:

1. **Explanation.** The non-voter has to provide a legitimate reason for his/her abstention to avoid further sanctions, if any exist. In Australia and Brazil providing a legitimate reason for not voting (e.g being sick or outside the country) is accepted. In Argentina those who were ill on voting day or over 500 kms away from their voting place are also excused by requesting a doctor to prove and certify their medical condition or asking for a certificate at a police station where they are, in case traveling on polling day.

2. **Fine.** The non-voter faces a fine sanction. The amount varies between the countries, for example 3 Swiss Francs in Switzerland, between 300 and 3 000 ATS in Austria, 200 Cyprus Pounds in Cyprus, 10-20 Argentinean Pesos in Argentina, 20 Soles in Peru etc. In Turkey, according to law passed by the Parliament in 1986 if an eligible voter does not cast a vote in the elections, he or she has to pay a fee of about 5 YTL (3 US \$). In Belgium a fine of 50 euros is charged for the first offence and 125 euros for a second offence.

3. **Possible imprisonment.** The non-voter may face imprisonment as a sanction, however, we do not know of any documented cases. This can also happen in countries such as Australia where a fine sanction is common. In cases where the non-voter does not pay the fines after being reminded or after refusing several times, the courts may impose a prison sentence. This is usually classified as imprisonment for failure to pay the fine, not imprisonment for failure to vote.

4. **Infringements of civil rights or disenfranchisement.** It is for example possible that the non-voter, after not voting in at least four elections within 15 years will be disenfranchised in Belgium . In Peru the voter has to carry a stamped voting card for a number of months after the election as a proof of having voted. This stamp is required in order to obtain some services and goods from some public offices. Goods and services provided by public offices may be denied to those failing to vote in Peru and Greece. In Singapore the voter is removed from the voter register until he/she reapplies to be included and submits a legitimate reason for not having voted. In Bolivia the voter is given a card when he/she has voted so that he/she can proof the participation. The voter would not be able to receive his/her salary from the bank if he/she cannot show the proof of voting during three months after the election.

5. **Others.** For example in Belgium it might be difficult getting a job within the public sector if you are non-voter. There are no formal sanctions in Mexico or Italy but possible arbitrary or social sanctions. This is called the "innocuous sanction" in Italy , where it might for example be difficult to get a daycare place for your child or similar but this is not formalized in any way at all.

COUNTRIES THAT DO NOT ENFORCE COMPULSORY VOTING :

- Ã~ Belgium
- Ã~ Bolivia (Compulsory for citizens over 21 ; also compulsory for married citizens between 18 and 211 years old)
- Ã~ Costa Rica .
- Ã~ Dominican Republic (18 years of age, married persons regardless of age can vote;
Members of the military and national police cannot vote.)
- Ã~ Egypt (Only men allowed to vote).
- Ã~ El Salvador .
- Ã~ France (Compulsory Voting enforced only in Senate elections)

- Ã~ Gabon .
- Ã~ Greece .
- Ã~ Guatemala (Military personnel cannot vote)
- Ã~ Honduras .
- Ã~ India .
- Ã~ Indonesia (Indonesian Council of Ulema, MUI, declared a fatwa that abstention in the general elections is religiously prohibited (Haram). However, there is no legal punishment for those who do not vote.
- Ã~ Italy .
- Ã~ Luxembourg . (Voluntary but only for those over 70)
- Ã~ Mexico .
- Ã~ Panama .
- Ã~ Paraguay (Not compulsory for voters over 75)
- Ã~ Philippines .
- Ã~ Thailand .
- Ã~ Venezuela .

(7) SOME HISTORIC OUTCOMES OF VOTING :

Ã~ Abraham Lincoln had defined Democracy as the government-'Of the People, By the People, For the People.'
In a Democracy, **elections are the biggest opportunity to bring about the changes. And VOTE is the biggest weapon for this change.**

Ã~ **History is replete with instances where a solitary vote for choice has made the eventual difference to the outcome. For Example :**

1. In 1776 in the USA – One Vote gave America the English language instead of German?
2. In England 1649 One vote meant that King Charles-I was executed Off with his head?
3. In Germany in 1923, one Vote made Adolf Hitler leader of the Nazi Party ! Think about it!

4. In the USA in 1850, one vote made California a state. In 1859 One vote made Oregon a state.
5. In 1868 one vote saved President Andrew Johnson of USA from being removed from office.
6. In 1889 one vote made Washington a state.
7. In 1714 in the U.K one vote placed King George 1 on the throne in England and restored the monarchy.
8. In 1844 in the USA a farmer in Switzerland County , Indiana , named Freeman Clark was seriously ill on Election Day. He had his son carry him to the county seat so he could vote for David Kelso for state senator. Clark died on the way home from the polling place. David Kelso was elected state senator by one vote.
9. In our own country in 1999 Vajpayee Government was voted out by 1 vote.

(8) TABLE OF VOTING TURN –OUT IN INDIAN GENERAL ELECTIONS SINCE 1952, COST & TRENDS

Our country, India has been a functioning democracy, for over sixty years now. Yet a cursory look at the **voter turn-out in India's general elections and their analysis since 1951 throws up some interesting but serious issues that must be delved into.**

Election Statistics - Voting percentage in Lok Sabha Elections

General Election	Year	Male	Female	Total
1 st	1952	-	-	61.2
2 nd	1957	-	-	62.2
3 rd	1962	63.31	46.63	55.42
4 th	1967	66.73	55.48	61.33
5 th	1971	60.90	49.11	55.29
6 th	1977	65.63	54.91	60.49
7 th	1980	62.16	51.22	56.92
8 th	1984	68.18	58.60	63.56
9 th	1989	66.13	57.32	61.95
10 th	1991	61.58	51.35	56.93
11 th	1996	62.06	53.41	57.94
12 th	1998	1998	57.88	61.97
13 th	1999	63.97	55.64	59.99
14 th	2004	52.65	44.65	48.74

1. For example, there have been **quite a few instances of the winning candidate obtaining fewer votes than required even for the refund of security deposit.** The deposit is forfeited if the candidate fails to receive more than one sixth of the total number of valid votes in the constituency.
2. Even the **largest parliamentary majorities were based on less than 50 % of voter Support.**

3. For a rising economic power and the world's largest democracy that aspires for present day leadership among the comity of Nations the highest poll percentage in any general election has been a modest 63.56 % in 1984-85.

4. So far, no national government in India has been elected with a majority vote.

5. The budget of the election has gone up from 10,79,69,000 (Ten crores seventy nine lakhs sixty nine thousand in 1967) to 1200,00,00,000 (One thousand two hundred crores in 2009).

6. Although the Election Commission spent such a huge amount of money to keep democracy alive, the percentage of voting is consistently decreasing over the last sixty years (from 61.16 % in 1952 to 58.07 % in 2004).

7. Thus though the Election Commission's preparations are for 100 % voters the money spent on NON-VOTERS is wasted. So the number of voters who do not vote multiplied by the amount spent on each voter gives the total amount of money WASTED IN THE ELECTION PROCESS. The funds so wasted has gone up from Rs 4,19,17,599/- (Four crores nineteen lakhs seventeen thousand five hundred ninety nine) in 1967 to Rs 579,73,07,800/- 2004 (Five hundred seventy nine crores seventy three lakhs approx) in 2004.

8. The election expense on each voter has gone up from Rs 0.43 (In 1967) to Rs 16.80 (In 2009), effectively costing Rs 33.60 after adjusting the voter turn-out.

(9) WHY A CASE FOR COMPULSORY VOTING ?

Ã~ **THE RIGHT TO ABSTAIN FROM VOTING IS NOT A FUNDAMENTAL RIGHT.**

Ã~ In a democratic form of government such as ours, it is the duty of every citizen to vote. **'Voting' is not only our 'Right'. In fact, it is our responsibility as a citizen and we all must fulfill this responsibility with seriousness.**

Ã~ We are lucky to have a democracy in our country, in which every adult has a right to cast vote. **India being the biggest democracy in the world** may gladden our hearts but at the same time, we are continuously becoming a **weaker democracy, with dwindling rates of voter turn-out.** The **percentage of votes cast in general elections of late is abysmally low.**

☞ Past experience has shown that low voting areas lose out in development index – high voting areas benefit and get more attention from politicians.

☞ Any electoral system will be credible only if it ensures maximum amount of participation. It can ensure justice and secure the rights of politically disadvantaged by integrating dissent of interests and opinions.

☞ Secondly and even more important, elections should be used to unite our very divided society, which is progressively getting more divided

☞ The health of Democracy can best be described by a mandate with representative character not just the numerically largest numbers.

Ã~ **Compulsory voting will bring about an automatic shift in focus and significant issues will get the priority they deserve rather than parties and leaders. This will keep organised groups of hoodlums and non-deserving candidates at bay, as they will no longer be able to distort the verdict through rigging.**

Ã~ **Compulsory voting will put all citizens, regardless of class, gender, caste and religion on an equal footing.** The bill will turn Indian democracy into a vibrant one. Everyone is equal at on Election day – We all have one vote - the richest and most powerful - the poorest and disadvantaged.

☞ ***Even without securing a tangible majority in, say, a particular constituency, a person can get elected because of the "first past the post" principle – a faulty one at best.***

☞ Interestingly the term First-Past-The -Post was coined as analogy to horse racing, where the winner of the race is the first to pass a particular point on the track (in this case a plurality of votes) after which all the other runners automatically and completely lose. (Winner takes it all Paradigm)

☞ There is no requirement for the winner to gain absolute majority of votes. In a multi-member First-Past-The-Post the first candidate in order of highest vote to cross the line are declared elected.

☞ The catch lies in the fact that there is no pre-set post that the winning candidate must pass in order to win, as they are simply required to receive the largest number of votes in their favour. This sometimes results in the candidate actually being "**FARTHEST-FROM-THE-POST**".

☞ Universally the FPTP is more suited for countries with two party system like UK, USA, Canada, Australia, etc since the overwhelming majority of the vote is appropriated by two candidates thus throwing up a clear winner and not for those that have a multi party system like ours.

☞ The problem of FPTP as we have seen from our own experience is that by its very nature the FPTP leads to divisive agendas, narrow casteist and communal political appeal and fragmentation of society. In a multi-party multi-member society it divides the candidates, parties and society alike.

☞ In the First Past the Post (FPTP) system seats in the Parliament are not proportionate to the percentage of votes that a party gains thus leaving out a vast majority of voters un-represented in governance.

☞ Majority is understood to be the one who gets more number of votes than other contestants instead of being required to garner more than 50 % of the total votes?

☞ The percentage of votes that a party gets is not the same as the percentage of seats it gets in the FPTP system. Parties with less percentage of votes can gain more number of seats and parties with more percentage of votes can get less number of seats. This is a symbolical representation does not give a true reflection of the voter's choice.

Ã~ Compulsory voting system ***guarantees that the government represents the will of a majority of the population, not only individuals who vote.***

Ã~ This helps ensure that ***governments do not neglect sections of society that are less active politically and victorious political leaders of compulsory systems may potentially claim greater political legitimacy than those of non-compulsory systems with lower voter turnout.***

Ã~ ***Decisions made by democratically elected governments are more legitimate when higher proportions of the population participate.***

Ã~ When we as the **citizens of our country miss no occasion to emphasize the privilege and the importance of our fundamental rights** are we really worried about our future and the future of our country? If we are, **then all of us must fulfill our fundamental responsibility** to cast our votes. In fact **Voting should be incorporated as a fundamental duty.**

Ã~ Voting is the strongest weapon in our hands with the help of which we can solve our problems and can bring a great **revolution in the country without a drop of blood being shed.** The voter must vote without getting affected by the factors like **caste or religion.**

Ã~ Robust voting will **focus our attention on factors like the government's stand on National Security, Terrorism, Poverty, Unemployment, Poverty, Literacy and other important issues.**

Ã~ **Another potential argument is that it will make the people think about the tough issues facing the Nation more seriously.** This in turn might make **governments less defensive in bringing up tough and possibly unpopular issues that need to be addressed nonetheless in the larger interest of the Nation.**

Ã~ Voting is certainly going to be **much more effective as a positive change harbinger than candle light marches and drawing room political discussions.** Drawing room complaints are not heard, the votes are.

Ã~ **If democracy is to take root and if we are serious about making our institutions strong and vibrant, it is necessary to bring in changes befitting a democratic society. As worthy citizens of a democratic country, everybody should participate in preserving the processes and institutions of liberal democracy.**

Ã~ **These changes would not allow narrow, parochial outfits based on caste, creed and religion to create divisions and encourage centrifugal forces.**

Ã~ The sooner these are ushered in, the better. **Compulsory vote can be a revolutionary step towards motivating the electorate** and in no way runs counter to the spirit of liberal democratic citizenship.

Ã~ **Lethargic voters must be cured of their indifference to the system and be made to choose representatives to the legislative assemblies and the Lok Sabha.**

Ã~ For example, Post the Mumbai terror attacks on 26 November 2008, whereas **one would have expected a robust voter turn-out in Mumbai a prestigious Lok Sabha constituency Mumbai South, with some of the richest residents in the country, in the general elections of 2010 had just a 43.33 per cent voter turnout in the parliamentary elections last year.** Other constituencies in the city fared no better – Mumbai South Central recorded 41.85 per cent and Mumbai North Central witnessed a meager 41.82 per cent turnout. **This indifference can be perilous to a democracy like India ?**

☞ **Politicians with criminal records are blatantly taking advantage of the lax electoral machinery while criminals are entering politics and contesting elections to subvert the long hand of the law,** especially in the Hindi heartland belt – Bihar , Jharkhand, Uttar Pradesh.

☞ There have been constant references to 3 MPs – money power, muscle power and mafia power – and to 4 Cs – criminalization, communalism, corruption, and casteism. Basically all of this has vitiated the political atmosphere in the country and even compromised the legitimacy of the political process.

Ã~ **Anti-social elements resort to false voting, jam booths in rural areas at times with the lavish hospitality of the ruling party. This one step can make the entire political process wholesome and more accountable.**

Ã~ **The compulsory vote bill is important as there is a provision for voters to reject all the candidates if they consider them unfit for the job.**

Ã~ **If a majority rejects the contestants, a re-election will become mandatory, which shows that compulsory participation is a healthy initiative.**

Ã~ **Voting, voluntarily or otherwise, has an educational effect upon the citizens. High voter turnouts might also bring about responsive accountable governments because voting rate is a sign of an engaged electorate.**

Ã~ Political parties can derive financial benefits from compulsory voting, since they do not have to spend resources convincing the electorate that it should in general turn out to vote. **With compulsory voting political parties need not spend crores of Rupees in mobilizing voters and taking them to the booths.**

Ã~ **The role and scope of unaccounted money power in voting will be reduced.**

Ã~ **Compelling voters to the polls for an election mitigates the impact that external factors such as the weather, transport or restrictive employers. It can in essence prove to be a measure that prevents de-facto or de-jure disenfranchisement of the socially under-privileged, deprived or disadvantaged.**

Ã~ The option given to the voter to vote **FOR NONE OF THE ABOVE (NOTA)** if they do not support any of the candidates to indicate clear dissatisfaction with the candidate list rather than hopeless indifference to the whole process and institution of democracy.

Ã~ ***Compulsory voting even in the 'None of the above' scenario can strengthen democracy as the voter can reject the candidates instead of being forced to choose a bad one, compelling parties to put up and field good candidates with socially acceptable profiles.***

Ã~ **Good people would contest instead of the mighty, powerful or rich.**

Ã~ **The provision or concept of NOTA should be seen as more of a "neutral" vote rather than a "negative" one. It is more of a no-opinion vote.**

Ã~ **By increased participation youngsters will understand what politics and governance is all about.**

Ã~ **It is also argued that in any democratic set-up where emphasis is laid on fundamental rights – the least that should be done to introduce a sense of participation in the citizen is that the process of voting should be made a "Civic Duty", like paying taxes, since it is critically important for the harmonious functioning of the society.**

Ã~ The government can also go a step further, that is, **include not just disadvantages or penal provisions but also rewards and incentives for compulsory voting.** For instance, that the Bill can give certain incentives such as tax rebates to those who come out and vote.

Ã~ Across India , there has been a general decline in the percentage of those who come out to vote on polling day. **Moreover, with hardly 25 to 30 per cent of affirmative votes cast it begs the question why elections should not be made mandatory given that the Election Commission spends millions preparing voters' identity cards, printing and updating voters' lists and making necessary prior arrangements.**

Ã~ **India is the BIGGEST DEMOCRACY IN THE WORLD. India 's present electorate of 714 million is larger than those of all of the 50 countries of Europe put together, all of Africa's 54, North America's 41, North and South America combined, and the entire Commonwealth minus India.**

Ã~ **We had 43 million more voters this time in the general elections of 2009 than the last**

elections - and that's two Australian electorates put together but, for **INDIA TO BE THE STRONGEST DEMOCRACY** we need to enhance consciousness about the impact of participatory democracy for the government to live upto the expectations of the people in resolving these burning issues, indeed all issues that our people grapple with.

Ã~ **One of the reasons is they don't think their one Vote will make a difference. But what if everyone thought this way? The course of history would change.**

Ã~ Fact is that in India the **perceived notion of an ever increasing amount of corruption, caste-ism, criminalization, communalization and decreasing standard of the politics in our Country has disillusioned the electorate, a large number of whom is now detached and keeping away from electoral politics including abstention from their right to vote.**

Ã~ **Given the observed fact that there has been no appreciable improvement in the quality of our legislators over the decades, the institution of an amendment like the has become pressing today in view of the increasing possibility of a larger number of voters than previously not approving the candidates** nominated by the political parties. Most of us have also been complaining about the behavior of the politicians.

Ã~ The people are also worried about **the problems like Corruption, Unemployment, Illiteracy, Increasing crime rate, Terrorism, Poverty and so on.** The list just keeps growing. Many of us really want to do something to change this situation, but, can't actually do anything, due to many different reasons.

Ã~ It is true that we have been continuously seeing the degradation of politics in India , since our independence in 1947. Ironically, though, **the word candidate comes from the Latin "Candidatus" meaning 'one clad in white' and most, till this day carry on with this white we have some of our MPs and MLAs in our elected legislatures who have serious criminal charges against them.** Some of them have also been convicted by the courts. But, their number is continuously growing as political parties are giving protection to them, just for personal gains. But this severely affects the future of our nation and its citizens.

Ã~ **The right to vote under Indian laws flows from both the constitution of India and the Representation of the People Act of 1950 and 1951.**

Ã~ A citizen of India who is 18 years of age has a right to be registered as a voter in a constituency irrespective of his or her race, religion, caste or sex.

Ã~ **Under the law, there is no specific provision which makes it compulsory for the voter to cast his vote. But he can decline to do so only if he reveals his identity to the polling officials present in the booth. Clearly, this procedure violates the principle of "secrecy of the ballot", which lies at the heart of the Electoral system in this country.**

Ã~ Given the democratic aspirations of the citizens of India and its global standing as the World's largest and one of the most vibrant democracies, there is a **strong case for providing a stronger constitutional foundation to strengthen the Right to Vote. Perhaps by making it compulsory while effecting radical changes in the**

Representation of People Act to enhance the voter turn-out and widen its base by facilitating greater participation.

Ã~ ***OUR INTENTION TO MAKE THE VOTING PROCESS MANDATORY IS TO BIND THE VOTERS TO SOME RESPONSIBILITY AND STRENGTHEN THE DEMOCRATIC INSTITUTION AND PROCESS. MORESO, CONSIDERING THAT MANY COMMISSIONS AND PANELS FORMED BY THE GOVERNMENT ON ELECTORAL REFORMS ETC HAVE RECOMMENDED A NUMBER OF MEASURES IN WHICH THIS CAN BE ATTAINED.***

(10) CONSTITUTIONAL PROVISION OF VOTER'S CHOICE

Ã~ In a parliamentary democracy of the Indian sort, the **underlying principle of sending legislators to Parliament and the State Assemblies is that of "unfettered choice"**.

Ã~ **That is, the voter is free to choose among candidates figuring in the "list of candidates" he is confronted with in a polling booth, the choice depending on his decision on who he thinks will best represent his views in the legislature. But why should the exercise of "choice" be limited to choosing among the candidates whose names figure in the list before the voter in the polling booth? The electorate has nothing to do with the drawing up of the list, and it is possible that a voter may not approve of the idea of sending any of the official poll contestants to the legislature. In such conditions, if he still has to choose among the names before him, the very principle of free choice is violated. Indeed, an element of compulsion creeps into the voting process which can be said to strike at the very heart of the Indian Republic .**

Ã~ **The Constitution provides for a voter to go to the polling booth and declare in writing that he refuses to vote for any of the available candidates, effectively rejecting the nomination of all the candidates vide form 49-O. In other words the option to vote for NOTA (None of the above). The Constitution bench in Kuldip Nayar V/s Union of India had observed, *"It is clear that a fine distinction was drawn between the right to vote and the freedom of voting as a species of freedom of expression, while reiterating the view in Jyoti Basu V/s Debi Ghosal that a right to elect, fundamental though it is to democracy, is neither a fundamental right nor a common law right but a pure and simple statutory right."***

Ã~ Even so, under the existing provisions of Sections 49(O) of the Representation of Peoples Act, a **voter who after coming to a polling booth does not want to cast his vote, has to inform the presiding officer of his intention not to vote**, who in turn would make an entry in the relevant rule book after taking the signature of the said voter. This **according to experts is violative of the Constitutional provisions guaranteed under Article 19 1 (a) (Freedom of speech and expression) and Article 21 (Right to liberty) and violated the concept of secret ballot. According to them, such a voter should be given the right to reject all candidates, by**

indicating 'none of the above' in the voting machines itself.

Ã~ What this means is that, **for the sake of complete consistency, the voter should be allowed to say no to the official list of candidates which, translated into simple terms, would mean that he is not happy with the prospect of any of the official candidates representing him in the legislature.**

Ã~ Certainly, there is nothing morally indefensible about this stand. On the contrary, **the element of choice in the system of adult franchise would be even better protected thus making the right to vote even more precious**, in a manner of speaking.

Ã~ The provision of "None of the above" choice indirectly makes an official **distinction between voters who decide to choose among the available candidates and those who decide otherwise, which probably will fall foul of the provision of the fundamental right to equality granted to every citizen under the Constitution.**

Ã~ The Election Commission has seen merit in this standpoint, so much so that it **has officially asked for an amendment of the existing laws (specifically Rules 22 and 49B of the Conduct of Election Rules, 1961) in order to "enable a voter to reject all the candidates, if he chooses to do so" while maintaining secrecy of the ballot.**

Ã~ As voters, youth can play a major role in the elections because a large amount of our voters belong to the young generation.

Because only then, can we hope to see some improvement on the many fronts causing concern to all of us.

Ã~ **Also, those who don't fulfill their responsibility towards the country, have no right to ask for their 'rights'.** I would like to quote John F Kennedy here-**'Ask not what the country has done for you. Ask what you have done for the country.'** So, if we can't do anything else for our country, let's at least cast our vote with responsibility and let's unite to bring positive changes in our life and to make our own future better.

(11) RECOMMENDATIONS OF COMMISSIONS AND OTHER GROUPS FOR COMPULSORY VOTING AS A FUNDAMENTAL DUTY AND OTHER RELATED ELECTORAL ISSUES :

In recent years in full recognition of the problems that the malformation of our electoral system has created, there have been many exercises aimed at reforming it. In the last ten years many working groups and Commissions including the Law Commission have given a host of recommendations and suggestions to initiate long due electoral and administrative reforms some of which have been implemented and the rest that are yet to be adopted would impact the voter turn out and participation of the masses in government formation. These are:

1. The Goswami Committee on Electoral Reforms (1990)
2. The Indrajit Gupta Committee on State Funding of Elections (1998)
3. The Law Commission's report on Reform of the Electoral Laws (1999).

4. In addition, the Election commission has also documented its own thoughts based on the recommendations of these three organizations as well as based on their own experience of ground realities. Some major Working groups and Commissions that deliberated the issue are: -

1) THE NATIONAL COMMISSION TO REVIEW THE CONSTITUTION.

This Commission **undertook the exercise by starting from the** findings of the aforesaid most recent official exercises already undertaken in this regard with similar objectives, that were taken prior to its being framed by the Government namely :-

(1) The Goswami Committee on Electoral Reforms (1990)

(2) The Indrajit Gupta Committee on State Funding of Elections (1998)

(3) The Law Commission's report on Reform of the Electoral Laws (1999).

(4) The Election Commission's comments on the recommendations of the above three and its own proposals based on experience of ground realities.

Ã~ The Commission had dwelt upon and brought out a slew of measures that it believed have made the voter indifferent towards casting his vote like **representative character of voting, criminalization of politics, role of money and muscle power, blatant misuse of caste and religion** and other constitutional measures **including the issue under debate COMPULSORY VOTING.**

Ã~ **The recommendations of the Commission are more relevant today than ever before in view of the debate on negative trends that have persuaded our voters to stay away from, the electoral system.**

Ã~ Of these **58 recommendations involved amending the Constitution while 86 involved legislative measures and the rest involve executive action. The necessary correctives could be achieved by ordinary legislation modifying the existing laws or, in many cases, merely by subordinate legislation.**

Besides others, the Commission had identified the problem areas to be as follows:

Ã~ **Increasing cost of elections leading to unethical, illegal and even mafia provided electoral funding, corruption, criminalization and black money generation in various forms.**

Ã~ **With the electorate having no role in the selection of candidates and with majority of candidates being elected by minority of votes under the first-past-the-post system, the representative character of the representatives itself becomes doubtful and their representational legitimacy is seriously eroded.**

Ã~ **In many cases, more votes are cast against the winning candidates than for them. One of the significant probable causes may be the mismatch between the majoritarian or first-past-the-post system and the multiplicity of parties and large number of independents.**

☞ **Use of raw muscle power in the form of intimidation of voters either to vote against their will or not to vote at all, thus taking away the right of free voting from large sections of society and distorting the result thereby.**

☞ **Criminalization of the electoral process – increasing number of contestants with serious criminal antecedents.** The visible presence of many criminals is in fact a very large factor in the loss of legitimacy for politicians as a whole.

☞ This is also extremely dangerous for the country because apart from distorting the political culture of the country, criminal elements progressively get to influence leadership and governance. The spectacular success of some criminals in politics invites emulation. The signal to the society by such a process is that it is acceptable to muscle your way through everything because in the last analysis the system rewards you.

Ã~ **Divisive and disruptive tendencies including the misuse of religion and caste in the process of political mobilization of group identities on non-ideological lines.**

☞ **Fake and non-serious candidates who create major practical difficulties and are also used indirectly to subvert the electoral process.**

Ã~ Incongruities in delimitation of constituencies resulting in poor representation.

☞ **Last but not the least, loss of systemic legitimacy due to decay in the standards of political morality and decline in the spirit of service and sacrifice in public life.**

(1.1) ON INCLUDING THE RIGHT TO VOTE IN FUNDAMENTAL DUTIES THE COMMISSION SAID :

Ã~ **Constitutions of some countries of the world contain provisions for Fundamental Duties.**

Ã~ **WHILE TAKING NOTE OF THE DWINDLING BASE OF NUMBER OF VOTING CITIZENS THE COMMISSION HAD RECOMMENDED MAKING VOTING COMPULSORY. UNDER THE HEADING "FUNDAMENTAL DUTIES" IT RECOMMENDED INCLUSION OF THE FOLLOWING IN ARTICLE 51 A OF THE CONSTITUTION :**

(IV) "DUTY TO VOTE AT ELECTION, ACTIVELY PARTICIPATE IN THE DEMOCRATIC PROCESS OF GOVERNANCE AND TO PAY TAXES SHOULD BE INCLUDED IN ARTICLE 51A".

(1.2) ON CANDIDATES WINNING BY MINORITY VOTE THE COMMISSION SAID :-

☞ **The multiplicity of political parties, combined with our Westminster based first-past-the-post system results in a majority of legislators and parliamentarians getting elected on a minority vote.**

☞ This means that at an average, at the very least, two-thirds of our legislators all over India win on the basis of a minority vote.

Ã~ **In other words, they usually win by obtaining less than 50% of the votes cast, i.e. with more votes cast against them than in their favour. There are States where 85% to 90% of the legislators have won on a minority vote. (i.e., by having obtained less than 50% of the votes cast).**

Ã~ **At the national level, the proportion of MPs who have won on a minority vote is over 67% at an average for the last three Lok Sabha elections. (Lok Sabhas constituted prior to year of report i.e 2002)**

☞ **In extreme cases, some candidates have won even on the basis of 13% of the votes polled as other contenders did not manage to get that many votes. (For relevant data, see Tables in Annexures to the Consultation Paper on the subject). Elections in India since independence have proved that candidates with even less than 10 % votes in any electoral constituency can win a seat.**

☞ In the 2009 Parliament elections, according to a study by CERI (Campaign for Electoral Reforms in India) 145 out of 573 elected members won with less than 20 % votes. On an average an MP got only one fourth of the vote

share.

☞ Again according to CERI, In the present Lok Sabha only five MP's one each from Nagaland , Sikkim and West Bengal and two from Tripura got more than 50 % of the votes.

Ã~ **In a pluralistic society such as ours, some political parties have found it advantageous to develop a vested interest in progressively appealing to narrower and narrowing loyalties of caste and religion. Clearly, if a candidate can win on less than one-third share of the votes polled, he does not need to generate a wider appeal.**

Ã~ ***By making caste and community a factor in political power play, we have made the divide even wider and deeper in the Indian society and made it nearly impossible for Babasaheb Dr. Ambedkar's vision of a casteless and classless society ever coming true.***

Ã~ **It is strange that most people of the constituency do not vote for the particular candidate who becomes their representative. Whose representatives are such candidates when a majority of voters did not want them?**

Ã~ **The seriousness of this issue has generated suggestions from many quarters focused primarily on some possibilities. It has been suggested from several quarters that this principle of representativeness will be fulfilled if the elected representatives win on the basis of 50% plus one vote.**

Ã~ **If, in the first round, no body gets over 50% of the votes polled, then according to this view, there should be a run-off contest held the very next day or soon thereafter between the top two candidates so that one of them will necessarily win on the basis of 50% plus one votes polled.** Several representations from various organizations favoured this option to achieve the objective of better representative democracy.

Ã~ **The Chief Election Commissioner is reported to have confirmed that the task of run-off elections can be managed. Actually, the run-off vote is analogous to a re-poll.** There is no revision of electoral rolls, no fresh nominations, no fresh campaigning or the like.

Ã~ **The Commission is of the view that there are substantial advantages of following the policy of 50% plus one vote. On the one hand, it resolves the problem of inadequate representation. On the other, it also makes it in the self-interest of various political parties themselves to widen their appeal to a wider electorate.**

Ã~ **It can help in political parties and candidates adopting a 'universal' tone as opposed to 'sectoral' tones of the present day. With the need to be more broad-based in their appeal, issues that have to do with good governance rather than with cleavages and narrow identities might start to surface in the country.**

Ã~ **There are substantial advantages of following the policy of 50%+1 vote.** There is no revision of electoral rolls, no fresh nominations, no fresh campaigning or the like. It is the **same polling booth with the same**

administration and therefore there are no complications of heavy costs or fresh security arrangements. On the one hand, it resolves the problem of representation. On the other, it also makes it in the self-interest of various political parties to widen their appeal to the electorate.

Ã~ **In the circumstances, the Commission while recognizing the beneficial potential of this system for a more representative democracy, recommends that the Government and the Election Commission of India should examine this issue of prescribing a minimum of 50% plus one vote for election in all its aspects, consult various political parties, and other interests that might consider themselves affected by this change and evaluate the acceptability and benefits of this system. The Commission recommends a careful and full examination of this issue by the Government and the Election Commission of India .**

(1.3) ON THE POSTAL BALLOT SYSTEM THE COMMISSION RECOMMENDED

(c) "Section 60 of the Representation of the People Act, 1951, inter alia, makes a provision enabling the persons of the armed forces to cast their votes through postal ballot. It is reported that there have been inordinate delays in delivery of the postal ballots sometimes resulting in disenfranchising the personnel of the armed forces. Some suggestions have been made to the effect that as an alternative at their option, the members of the armed forces may be allowed to cast their vote by appointing someone as proxy. **The Commission recommends that by making necessary changes in the Representation of the People Act, 1951, the facility of voting either by proxy or the existing postal ballot system may be provided to members of the armed forces."**

(1.4) ON THE MISUSE OF RELIGIOUS, CASTE OR COMMUNAL SENTIMENTS THE COMMISSION SAID :

Ã~ Campaigns which are crafted to create or exacerbate tensions between communities and/or to incite feelings of hatred on the basis of caste, community, religion, race or language attract disqualification at present but effective implementation of laws is lacking.

Ã~ **Any election campaigning on the basis of caste or religion and any attempt to spread caste and communal hatred during elections should be punishable with mandatory imprisonment.** If such acts are done at the instance of the candidate or by his election agents, these would be punishable with disqualification.

(1.5) ON REDEFINING THE ELIGIBILITY OF CRIMINALS TO CONTEST ELECTIONS THE COMMISSION RECOMMENDED :

Ã~ **Any person convicted for any heinous crime like murder, rape, smuggling, dacoity, etc. should be permanently debarred from contesting for any political office.**

(1.6) ON THE PROLIFERATION OF NON-SERIOUS CANDIDATES THE COMMISSION SAID

☞ **Out of 1900 independent candidates who contested the general election in 1998, only 6(0.65%) succeeded, 885(47%) lost their deposits.**

Ã~ **Likewise the figures given by the Inderjit Gupta Committee reveal that out of the 10635 candidates, who contested the 1996 Lok-Sabha elections, only 9 (0.08%) won and 10,603 (99.7%), lost their deposits. It is also known that most of these so-called independent candidates are in fact dummy candidates or defectors from their parties on being denied party tickets.**

☞ These candidates only vitiate the sanctity of the electoral process and involve waste of resources. This was carried to ridiculous limits when a Lok Sabha constituency in Andhra Pradesh (Nalgonda, in 1996) had 480 contestants.

Ã~ Similarly there have been assembly constituencies with over 1000 candidates. **There were 1033 candidates for one single assembly seat for the Modaurichi assembly constituency in Tamil Nadu in 1996.** The ballot paper was in the form of a booklet!"

☞ **The Commission recommends that independent candidates be discouraged and only those who have a track record of having won any local election or who are nominated by at least twenty elected members of Panchayats, Municipalities or other local bodies spread out in majority of electoral districts in their constituency should be allowed to contest for Assembly or Parliament.**

☞ In order to check the proliferation of the number of independent candidates and the malpractices that enter into the election process because of the influx of the independent candidates, **the existing security deposits in respect of independent candidates may be doubled.**

☞ **Further, it should be doubled progressively every year for those independents who fail to win and still keep contesting elections. If any independent candidate has failed to get at least five percent of the total number of votes cast in his constituency, he/she should not be allowed to contest as independent candidate for the same office again at least for 6 years.**

☞ **An independent candidate who loses election three times consecutively for the same office as such candidate should be permanently debarred from contesting election to that office.**

(1.7) ON VOTE PERCENTAGE REQUIRED FOR SECURITY FORFEITURE THE COMMISSION REMARKED :

Ã~ **The minimum number of valid votes polled should be increased to 25% from the current 16.67% as a condition for the *deposit* not being forfeited. This would further reduce the number of non-serious candidates.**

(As the initiator of the Bill on Compulsory voting, I feel there is a very strong case in view of the foregoing findings that elections to any state legislature or the Parliament should be held valid subject to the condition that minimum voter turn-out in these elections is 50 % + 1 vote of the total number of registered voters in such elections)

(2) THE 170 TH REPORT OF THE LAW COMMISSION OF INDIA IN MAY 1999 ON ELECTORAL REFORMS & ALLIED ISSUES :

Much before the recommendations of the National Commission to Review the working of the Constitution, in May 1999, the 170 th Report of the Law Commission of India in its working paper on electoral reforms set out the concept of "alternative method of election" and devised certain other reforms for adoption by Parliament with almost similar aims and objectives of cleansing the electoral system of its present ills. While preparing the working paper and the accompanying Bills, **the Law Commission took into consideration the Bill which was prepared in 1990 by the late Shri Dinesh Goswami, the then Minister for Law, Justice and Company Affairs, based on a consensus arrived at between all the political parties. The said Bill was taken as the starting point and various other measures suggested which in its opinion were called for to achieve the aforementioned objectives. The Commission also took into account a brochure published by the Election Commission of India containing various suggestions for amending the Representation of the People Act, 1951 Notice was also taken of several decisions of the Supreme Court on various provisions of the Representation of People Act.**

The findings of the Commission are far reaching and revealing merit debate in the context of the prevalent electoral scenario today.

(2.1) VIEWS OF THE COMMISSION ON THE REPRESENTATIVE CHARACTER OF VOTING :

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☞ **There has been a steady deterioration in the standards, practices and pronouncements of the political class, which fights the elections. Money-power, muscle-power, corrupt practices and unfair means are being freely employed to win the elections.**

☞ Over the years, several measures have been taken by Parliament to amend the laws relating to elections with a view to check the aforementioned forces. This report, which has been prepared after extensive consultations, is a step in the said process. It is hoped that Parliament will take prompt action to give them legislative sanction.

Ã~ The **Law Commission took note of the fact that the 'first-past-the-post' system prevailing in our country had given rise to several inequities and distortions** in our electoral process particularly on account of the multiplicity of the political parties.

☞ There are certain States in India where there are three or four recognized political parties, more or less evenly balanced. In such a situation **what is happening is that the winning candidate is receiving, in many cases, 30% or less of the valid votes cast.**

☞ **The remaining 70% or more votes polled (cast in favour of the defeated candidates including independents) are practically going waste, without representation, and without a voice in the representative bodies, namely, Parliament and the State Legislatures.**

Ã~ **The consideration that weighed in this behalf was that the first-past-the-post (FPP) system now in vogue is not yielding a correct picture of the voter preferences. It was thought advisable to provide a voice and a representation to the wasted votes which indeed very often constituted a majority of the total votes cast.**

Ã~ There is no commensurality between the total votes cast in a State or in the country, as the case may be, and the seats obtained by the parties. To be more precise, **what is happening is that a political party which has received, say, 32% of the total votes case in the country is obtaining 70% of the seats in Parliament, whereas another political party which has polled, say, 29% of the votes, is getting 25% of the seats in Parliament.**

☞ A 'swing' of 2 to 3 per cent votes is resulting in a huge difference in the number of seats won.

☞ There was yet **another situation where a political party is polling a substantial chunk of votes cast in a given State in parliamentary elections but is not able to get a single seat in the Parliament from that State.**

Ã~ To remedy this the Commission it recommended the **'Alternative method of election'**. The other idea put forward is the concept of **"negative vote."** In the opinion of the Law Commission, the idea and underlying object are both laudable. Such an alternative method of election was suggested by certain eminent persons with long experience in public life. This method the Law Commission asserted went a long way in ensuring purity of elections, keeping out criminals and other undesirable elements and also to minimize the role and importance of caste and religion. The method suggested was :-

- (a) **no candidate should be declared elected unless he obtains at least 50% of the votes cast;**

(b) the ballot paper shall contain a column at the end which can be marked by a voter who is not inclined to vote for any of the candidates on the ballot paper, which is called as 'negative vote'. **A voter can cast a negative vote only when he is not inclined to vote for any of the candidates on the ballot paper;**

(c) **for the purposes of calculating the fifty per cent votes of the votes cast, even the negative votes will be treated as 'votes cast';**

(d) **if no person gets 50% or more votes, then there should be a 'run-off' election between the two candidates receiving the highest number of votes;**

(e) in the run-off election too, there should be a provision for a

negative vote and even here there should be a requirement that only that candidate will be declared elected who receives 50% or more of the 'votes cast' as explained hereinabove;

(f) **if no candidate gets 50% or more of the votes cast in the run-off, there should be a fresh election from that constituency.**

(2.2) OBJECTS / MERITS OF THIS METHOD AS DOCUMENTED BY THE COMMISSION :

Ã~ This method of election is designed to achieve two important objectives viz.,

(i) **To cut down or, at any rate, to curtail the significance and role played by caste factor in the electoral process.**

(ii) **There is hardly any constituency in the country where anyone particular caste can command more than 50% of the votes.**

(iii) **This means that a candidate has to carry with him several castes and communities, to succeed;** The parties and candidates would also try, in such a situation, to **gather a consensus and fight on ideologies and programmes rather than on caste or religious vote banks.**

iv) **The negative vote is intended to put moral pressure on political parties not to put forward candidates with undesirable record i.e., criminals, corrupt elements and persons with unsavory background.**

(v) **It has the merit of compelling the political parties to put forward only good candidates and to eschew bad characters and corrupt elements.**

Take a constituency where there are one lakh voters. Five candidates contest from that constituency. The total number of valid votes cast in the constituency is 80,000. Ten thousand voters cast negative votes. Only the candidates who obtains 40,000 votes or more out of the 80,000 votes cast can be declared elected. If none of the five candidates obtains 40,000 votes or more, there should be a run-off between two (of the five candidates) who have polled the highest votes among the five. In the run-off, 70,000 votes are cast, of which 10,000 are negative votes. If one of the candidates obtains 35,000 or more votes, he will be declared elected. Otherwise, there would be a fresh election from that constituency. Even in this fresh election, the very same procedure as set out above will be followed - until some candidate gets 50% or more of the votes cast. This run-off poll is not applicable to 'list system'. The total number of valid votes cast in that constituency alone should be counted and that in case no candidate got 50%+1 of the valid votes cast, a 'run-off' election should be held between the two candidates obtaining the highest number of votes. The merit of such a method of election, they pointed out, was that it would reduce/eliminate the pernicious role played by the caste and religion in elections.

(2.3) ON NON-SERIOUS CANDIDATES CONFUSING THE VOTER'S CHOICE

☞ **Out of the 1910 independents contesting the last round of assembly election in four States/National Capital Territory of Delhi in November, 1998 only 19 (0.99%) out of 1910 independents could reach the post.**

Ã~ The records would further show that most of these independents were also really not independent but rebels of certain established parties and who were supported by rival parties." Past experience shows that **many independent candidates contested Lok Sabha elections in a casual manner or for oblique reasons.**

Ã~ In many cases their security deposits were forfeited. Non-seriousness of some of the independent candidates is exemplified by the fact that quite a few persons of the same name as the registered party candidate stand as independent candidates from the same constituency in order to mislead the masses. **Such practices are meant to confuse people and make them cast their vote in favour of a candidate whom they never intended to vote.**

Ã~ In Law Commission's view, the time is now ripe for debarring independent candidates from contesting Lok Sabha and Legislative Assembly election. **Any person proposing to contest Lok Sabha election can always form a political party and contest elections but its entitlement to any seat in Lok Sabha will be subject to the condition that it obtains not less than 5% of the total valid votes cast in an election to Lok Sabha.** Therefore, it cannot be legitimately argued that our proposal tends to interfere with the democratic ethos or political processes.

(2.4) ILLUSTRATING CRIMINALIZATION OF POLITICS AND ELECTIONS THE COMMISSION OPINED :

Ã~ **A negative process was in progress in India , namely, criminalization of politics and politicization of crime.**

Ã~ **Indian Society was basically tolerant of human failings and that it respected acquisition of wealth by whatever means.**

Ã~ Facts and figures depict the increasing criminalization and the increasing number of crimes committed at every succeeding election. Electoral malpractices are increasing with every passing election. While **in the 1957 elections, repoll was ordered only in 65 booths, in 1989 it was ordered in 1670 booths. In 1991, in Bihar alone repoll was ordered in 1046 booths and in 2173 booths in 1996.** Strong measures are required to arrest the trend towards criminalization of politics and elections.

(12) SUGGESTIONS TO ENCOURAGE VOTING & ENHANCE VOTER TURN-OUT IN INDIA BASED ON INTERESTING ELECTION PRACTISES IN OTHER COUNTRIES :

Ã~ **The Right to vote in advance in Canada** by amendments to election laws in 1960 and 1993, is **extended to all electors willing to swear that they would be otherwise absent on election day. We could emulate this in India.**

Ã~ **In 1988 the Supreme Court of Canada ruled that mentally ill patients have the right to vote.**

Ã~ The **United Kingdom modified laws in 2006 via the Electoral Administration Act 2006 and reduced the age of standing at a public election from 21 to 18.**

Ã~ **In the U.S a state may choose to fill an office by means other than an election. For example, upon death or resignation of a legislator the State may allow the affiliated political party to choose a replacement to hold office for the remaining term until the next scheduled election.** This ensures there is no disruption in official or business activity besides saving public resource that could be utilized for augmenting development. Such an appointment is affirmed by the Governor. This needs to be considered for adoption in India.

Ã~ **Just voter registration, Federal over-sight, and all encompassing, simplified election procedures increased the civic participation in democracies world-wide and have ensured that voter turn-out climbed dramatically and quickly.** In the US the 26th amendment ratified in 1971, required all states to set a voting age no higher than 18. No state has since opted for an earlier age although some governments have discussed it. **Some States however, permit people who will be 18 on before the general election to vote in primary elections and caucuses.**

Ã~ In India , a large number of citizens will not be able to exercise their right to vote in any given general or state election. The reasons for this are many.

Ã~ For instance, **there are no provisions in Indian law to enable migrant workers within India (estimated to be over 100 million by the government) , non-resident Indians living overseas (approximately 25 million), students traveling abroad (more than 80,000 per annum go to the United States alone), traveling business professionals and senior or unwell citizens who may not be able to travel to the polling booth *to vote in an alternative manner.***

Ã~ The best practices that prevail in different parts of the world demonstrate that governments need to make substantial efforts to ensure greater participation of their citizens in the electoral process.

Ã~ **A number of developed countries implement various forms of absentee voting , such as Internet voting (Switzerland , the USA , France etc.) proxy voting (The Netherlands) and postal voting which has become known as the most popular form of absentee voting in the world. India being an IT power we should introduce the concept of Internet and absentee voting.**

Ã~ **People in countries such as the USA , Britain , Switzerland and Australia have greatly benefited by the implementation of postal voting.** In India we too, have a limited form of postal voting, but it is not accessed by or available to a large enough number of people for it to create a consequential impact towards the desired objective of making the electoral process more inclusive.

Ã~ For instance, the **Conduct of Rules 1961 in section 18 (a) provides for the following list of persons entitled to vote by post in a parliamentary or assembly constituency;** special voters (The President of India,

Vice-President, Governors etc.) ; service voters (armed forces, members of a force to which the Army Act applies etc.) ; voters on election duty (polling agents, polling officers etc.) and electors subjected to preventive detention.

Ã~ **This provision provides for the right to vote for certain specified categories of persons "resident in India" but omits a huge number of people** stated above who have difficulties exercising their right to vote since the statutory requirements have not been updated or amended suitably.

Ã~ In an amendment to the Representation of the Peoples Act 1951, in 2003 section 60(c) provided for enabling "any person belonging to a class of persons notified by the Election Commission in consultation with the government to give is vote by postal ballot". While **this provision clearly provides scope for the recognition of a "class of persons" to be entitled to exercise their right to vote by way of postal ballot it has been used in the past for a limited number of cases only** concerning migrants from J&K, and Bru and Reang migrants from Mizoram and Tripura allowing them to exercise their franchise by postal ballot.

Ã~ For a variety of **reasons including travel, illness, disability and personal difficulties including education, employment, etc a large number of Indians are not able to be physically present on the day of elections in these constituencies where their vote is registered.**

Ã~ In the spirit of a leading democracy it is a **requirement of times that India expands the electoral framework to enhance scope and reach of its postal ballot system, for implementing the right to vote by a mix of the postal ballot system and other policies that increase the political participation of people in the electoral process.**

Ã~ **Though postal voting is provided for in our election laws, its ambit also needs to be widened in terms of the technological advances of the day to enable people who are away from their electoral constituency vote on Election Day.** A greater dimension of participation will reflect in a wider and more inclusive social character of the government. The right to vote of every Indian citizen will make the electoral process more inclusive in a way that **EVERY INDIAN IS ABLE TO EXERCISE NOT ONLY THE RIGHT TO VOTE** but also **HAVE THE OPPORTUNITY TO VOTE.**

Ã~ **The Representation of People Act 1950** passed under the Constitution of India, provides that every person who is a citizen of India and not less than legal age of voting on the qualifying date and is **ordinarily resident in a constituency shall be entitled to be registered in the electoral rolls for that constituency and exercise his right to vote.** The term 'ordinarily resident' has so far excluded people with Indian citizenship who have migrated to some other country , a person of Indian origin who is born outside India or a person of Indian origin who resides outside India or in simpler words – the NRIs.

Ã~ **Same is the case with migrant labourers who if they remain out of their constituencies for six months at a stretch find their names missing from the electoral lists for that constituency?**

Ã~ Today, the number of **Non-Resident Indians spread out across the globe stand at no less than 25 million. In the year 2009 alone India has reportedly received 50 billion dollars from the NRIs in the form of remittances.**

Ã~ **Their money has been pumped back into the country and used for improving the social and physical infrastructure.** By working abroad but investing in India , their funds have been hugely beneficial.

Ã~ When the NRIs have been so favourable towards our development, the question of voting rights is a major loophole.

Ã~ The demand for equal rights to vote made by the NRIs is quite legitimate. Why so? The NRIs are citizens of India so they feel the urge for an equal say in deciding who the future leaders of the country will be.

Ã~ **It is believed that by allowing the NRIs to vote they will become more involved in the nation-building process and the opportunities that India holds for them.** Around the world, many countries allow their citizens to vote from abroad.

Ã~ The Representation of the People (Amendment) bill of 2006 which if passed will add the names of all NRIs to the electoral votes. By this, if NRIs are in their respective constituencies at the time of election then they can exercise their legal right to vote.

Ã~ However, this amendment is not going to make much of a difference. **According to it, the NRI citizens have to be physically present at his/her constituency at the time of elections.** The **other option which could be brought in is the concept of absentee ballot.**

Ã~ **'Absentee ballot'** is a vote which is cast by someone who cannot vote in person at the polling station. **This kind of a ballot can be cast by electronic means, postal mail or proxy voting.**

Ã~ **In the 2009 elections, it is estimated that around 714 million Indian names were registered to vote in the electoral rolls. More than 828,000 polling booths were set up across the country. If the system of absentee voting is to be brought in place, our technology has to be upgraded a few notches.**

Ã~ No system or procedure in the world is fool-proof or incorruptible. But this should not deter us from bold initiatives. Adequate technological and systemic safeguards will have to be incorporated before conferring the NRIs voters the right to vote.

Ã~ Critics have said that NRIs aren't in the country for a majority of the year so their level of **comprehension about the political proceedings within the country will be negligible in comparison to the local residents. That they would have a lesser understanding of the problems faced by the people of that constituency and that they would only add to the complexity by voting for the wrong candidate. But in the modern day world that is now described as a global village, thanks to instant communication and technological innovations distances have shrunk and people in any part of the globe can and do keep track of happenings back home.**

Ã~ In any case, NRIs always have the option of coming back to India and settling down .By default, they immediately regain their right to vote. So why deny them the same by not devising other forms of voting ?

Ã~ Also, along with the **NRIs even citizens who migrate within the country and do not reside in their local residence for a period of six months find their names deleted from the electoral rolls. Our Chief Election Commissioner, found his name missing from the voters' list in the 2009 elections.**

Ã~ **In our country even though polling days are declared as holidays, polls should as far as possible be held on Saturday and Sunday, days when work related travel is minimal, to ensure that working people can fulfill their duty to cast their vote.**

Ã~ **Similarly, mobile voting booths may also be taken to old age homes and hospitals to cater for immobilized citizens, the handicapped or the infirm.**

Ã~ **There is therefore cause for concern with regard to the voting rights (or accessibility) for those who are disabled ; and also with regard to voting rights for those who have a language issue for example migrant voters of one state wanting to exercise their right of franchise in another state.**

Ã~ **In America Federal legislation such as the "Americans with Disabilities Act of 1990 (ADA), the National Voter Registration Act of 1993 (NVRA, or "Motor-Voter Act") and the Help America Vote Act of 2001 (HAVA) address some of these concerns of the disabled.**

Ã~ **A citizen who has never resided in the USA can vote if a parent is eligible to vote in certain states. In some of these states the citizen can vote in local, state and federal elections – in others in federal elections only.**

Ã~ **Jurisprudence concerning candidacy rights and judicial intervention in electoral matters is different in various states and some states require an independent or minor party candidate to collect as high as 5 percent of the total votes cast in the preceding election before the Court will intervene.**

Ã~ **Introduction of the electronic voting trials for people with vision impairment in 2007 in Australia benefited about 3 lakh people by giving them a secret ballot for the first time.** Before the introduction of the electronic voting trials, people with vision impairment had to ask someone else to fill out their ballot form for them This meant that people with print disability could not enjoy the right to a secret ballot like everyone else in Australia .

Ã~ **We should develop a system for India that aids and ensures the participation of the vision impaired in elections in India .** Further people with any kind of intellectual disability may require special assistance or a companion to enroll and also to vote – the electoral laws need to provide for this category of people.

Ã~ **Remote electronic voting was also introduced for members of the Australian Defence Force who are posted overseas.**

Ã~ **Another interesting aspect of voter registration in Australia is that voters who turn 18 after the election notification have a grace period for enrolling as eligible voters and can do so within the next three days.**

Ã~ **The people who joined the electoral roll in grace various periods for varying categories provided for in Australian law accounted for about 16 % of the total growth of enrolments since the previous election.**

Ã~ **The concept of grace period in India for voters turning 18 or even those who have changed address needs to be statutorily introduced.**

Ã~ In India rural and remote voters face extra difficulties in enrolling to vote and registering changes of address. Due to greater physical distances, means of conveyance and potential difficulties in accessing the internet in remote areas, it may take rural and remote voters more time to obtain the necessary forms, complete the requirements for updating and revision and eventual submission of the papers or forms. Shorter deadlines will exacerbate these problems and may impact on the number of rural and remote residents who can exercise their right to vote in any ensuing election.

Ã~ The basis of a functioning vibrant democracy is the right to vote which translates to the existence of an accurate and constantly updated Voters List. If this list itself is totally mismanaged - not by intent or design but by systemic deficiencies then Democracy has no meaning.

Ã~ By the Election Commission's own admissions in the past, the voters' list accuracy was supposedly less than 50%, on an average across the country. From the kind of reports we are getting, it appears no better even today, even in the technology capital of the country.

Ã~ ***The entire set up is not as professional and does not do justice to this country's reputation for its IT prowess.*** The problem of inaccurate voter lists is also a factor in low voting and the incapacity of the agencies involved - namely Election Commission (both centre and state), NIC, and local bodies. And, the only way out appears to be through the ***out-sourcing of the entire job of preparation and maintenance of the Electoral Roles across the country to a reputed professional company*** (like TCS has been engaged for Passport work). In this context **The National Commission to review the Constitution** had recommended that a single exercise should be enough for preparing common electoral rolls and ID cards. The Commission had suggested "**The task could be entrusted to a qualified professional agency under the supervision of the EC and in coordination with the SECs**".

(13) FUNDAMENTAL RIGHTS V/S FUNDAMENTAL DUTIES OF THE INDIAN CITIZEN

☞ Constitutional guarantees for the human rights of the people of India were one of the persistent demands of our leaders throughout the freedom struggle and while framing Fundamental Rights Chapter the Constituent Assembly of India substantially relied upon **the 'Universal Declaration of Human Rights, (UDHR) 1948.**

Ã~ **Article 21 of this very UDHR lays out the right of people to participate in government and enjoy universal suffrage and envisages that** "the will of the people shall be the basis of the authority of government; this will, shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures"

☞ **The Constitution of India clearly defines the responsibilities of Indian citizen, their Fundamental Rights and Duties.** Part II of the Indian Constitution covers the clauses on Citizenship. Fundamental Rights are covered

in Part III of the Constitution, while the Fundamental Duties are written in Article 51A.

☞ **The Constitution, in a way, makes the citizens aware of their core rights and responsibilities through the articles dealing with the fundamental Rights and Duties.** The inclusion of Fundamental Duties in our Constitution also brings it in line with Article 29(1) of the Universal Declaration of Human Rights which says: "Everyone has the duties to the community in which alone the free and full development of the personality is possible."

☞ **Exercise of fundamental rights entails duties to the community which ensures the free and full development of human personality.**

☞ Fundamental Duties of citizens serve a useful purpose. In particular, **no democratic polity can ever succeed where the citizens are not willing to be active participants in the process of governance by assuming responsibilities and discharging citizenship duties and coming forward to give their best to the country.** Voting should be assumed to be as a responsibility for Nation building.

☞ Some of the fundamental duties enshrined in article 51A have been incorporated in separate laws.

☞ **The most important task before us is to reconcile the CLAIMS OF THE INDIVIDUAL CITIZEN and those of the CIVIC SOCIETY.**

☞ **To achieve this, it is important to ORIENT THE INDIVIDUAL CITIZEN TO BE CONSCIOUS OF HIS SOCIAL AND CITIZENSHIP RESPONSIBILITIES and so shape the society that we all become solicitous and considerate of the inalienable rights of our fellow citizens. Therefore, AWARENESS OF OUR CITIZENSHIP DUTIES IS AS IMPORTANT AS AWARENESS OF OUR RIGHTS.**

☞ ***EVERY RIGHT IMPLIES A CORRESPONDING DUTY BUT EVERY DUTY DOES NOT IMPLY A CORRESPONDING RIGHT. MAN DOES NOT LIVE FOR HIMSELF ALONE. HE LIVES FOR THE GOOD OF OTHERS AS WELL AS OF HIMSELF. OUR BASIC DUTY TO SOCIETY IS TO CONTRIBUTE TO ENHANCE ITS QUALITY AND CHARACTER.***

☞ ***It is this knowledge of what is right and wrong that makes a man responsible to himself and to the society and this knowledge is inculcated by imbibing and clearly understanding one's citizenship duties. The fundamental duties are the foundations of human dignity and national character.***

Ã~ ***If every citizen performs his duties irrespective of considerations of caste, creed, colour and language, most of the malaise of the present day polity could be contained, if not eradicated, and the society as a whole uplifted. Rich or poor, in power or out of power, obedience to citizenship duty, at all costs and risks, is the essence of civilized life.***

(15) **FUNDAMENTAL RIGHTS**

Article 12 to 35 of the Indian Constitution covers the Fundamental Rights of the citizen of the country. All these Fundamental Rights indicate that all the citizens are equally treated by the nation irrespective of caste, sex and creed. The basic Fundamental Rights are as follows:-

Ã~ **Right to Equality:**

Article 14: The provisions regarding Equality before Law are included in this Article

Article 15: Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth is specified in this Article

Article 16: This Article consists of Rights of Equality of opportunity in matters of public employment

Article 17: Abolition of untouchability is mentioned in this particular Article

Article 18: This Article provides details about Abolition of titles

Ã~ **Right to Freedom:**

Article 19: Protection of certain rights regarding freedom of expression and free speech, etc. are clearly specified in the Article

Article 20: This Article states the Protection in respect of conviction for offenses

Article 21: Protection of life and personal liberty is mentioned in the Article

Article 22: This Article deals with Protection against arrest and detention in certain cases

Ã~ **Right against exploitation:**

Article 23: The details of Prohibition of traffic in human beings and forced labor are presented in this Article

Article 24: The Article contains Prohibition of employment of children in factories, etc.

Ã~ **Right to Freedom of Religion:**

Article 25: Particulars of Freedom of conscience and free profession, practice and propagation of religion are clearly enumerated in this Article

Article 26: The Article specifies the Freedom to manage religious affairs

Article 27: Freedom as to payment of taxes for promotion of any particular religion is stated in the Article

Article 28: This Article includes Freedom as to attendance at religious instruction or religious worship in certain education institutions

Ã~ **Cultural and Educational rights:**

Article 29: Protection of interests of minorities is specified in detailed form in this Article

Article 30: Right of minorities to establish and administer educational institutions is scripted in this very Article

Ã~ **Saving of Certain Laws:**

Article 31A: This Article contains Savings of laws providing for acquisition of estates, etc.

Article 31B: Validation of certain Acts and Regulations are mentioned in the Article

Article 31C: This Article deals with Saving of laws giving effect to certain directive principles

Article 31D: The Article dealing with Saving of laws in respect of anti-national activities has been repealed by Constitution Act, 1977 and was recorded in the 43rd Amendment

Ã~ **Right to Constitutional Remedies:**

Article 32: Remedies for enforcement of rights conferred by this part have been included in the Article

Article 33: This particular Article addresses the Power of Parliament to modify the rights conferred by this Part in their application to forces, etc.

↳ **Fundamental Duties**

The Fundamental Duties scripted in the Constitution of India are different from the Fundamental rights. This is because Fundamental Rights are considered as the basic rights to be enjoyed by the citizens of the nation while the Duties are conferred upon people to be followed by them accordingly. The Fundamental Duties of the citizens of India mentioned in Article 51A of the Indian Constitution are as follows: Constitutional guarantees for the human rights of the people of India were one of the

persistent demands of our leaders throughout the freedom struggle and while framing Fundamental Rights Chapter the Constituent Assembly relied upon **the 'Universal Declaration of Human Rights, 1948, that emphasizes the right to vote.**

1. TO RESPECT AND INCORPORATE THE IDEALS WHICH WERE THE VERY BASE OF OUR NATIONAL STRUGGLE FOR FREEDOM

2. To follow the Constitution and respect its institutions, the National Flag and the National Anthem
3. To spread the message of peace and brotherhood amongst all the Indian citizens irrespective of linguistic, religious and regional or sectional diversities
4. To discontinue practices pertaining to the impairment of the dignity of women
5. To protect and promote the sovereignty, unity and integrity of India
6. To protect public property and to avoid violence
7. To respect and preserve the rich heritage of Indian culture

8. TO CONTRIBUTE TOWARDS MAKING IMPROVEMENTS IN ALL SPHERES OF INDIVIDUAL AND COLLECTIVE FUNCTIONS TO TAKE THE NATION TO NEW HEIGHTS OF ACHIEVEMENT

9. To develop the spirit of inquiry and reform, a scientific temper and sense of humanism
10. To provide defense and national service when called upon to the country during hours of crisis
11. To preserve the natural environment of India like the forests, lakes, rivers and wild life and to have a compassionate outlook towards the living creatures. *

श्री हुवमदेव नारायण यादव (मधुबनी): सभापति महोदय, पिछले सत्र में इस विधेयक पर चर्चा प्रारम्भ हुई थी। 1977 से मैं संसद में हूँ, किसी सरकारी विधेयक पर, संकल्प या गैरसरकारी विधेयक पर प्रस्तुतकर्ता ने इतना लम्बा समय नहीं लिया होगा। डेढ़ घंटे शायद प्रधान मंत्री का भाषण भी नहीं हो पाता है। उन्होंने अपने इस विधेयक के समर्थन में दुनिया भर की और भारत का जो चुनाव आयोग है या निर्वाचन में सुधार के संबंध में जितनी समितियां बनीं, उन सबों की चर्चा की और उसके अतिरिक्त भी चर्चा की, जिन बातों का, जिन विषयों का इस विधेयक से कोई संबंध नहीं है। वह एक अलग विषय है कि राजनीति में धर्म और धर्म में राजनीति जैसे विषय पर आज से नहीं, बहुत दिनों से चर्चा है। समाजवादी नेता डा. राम मनोहर लोहिया 1963 से 1967 तक इसी सदन में थे और शायद जिस तरफ मैं बैठा हूँ, उसी तरफ किसी बैंच पर बैठकर वह बोला करते थे। इस सदन में भी उस समय चर्चा के समय उन्होंने रखा था और दृढ़ता के साथ कहते थे और हम लोग भी उसे मानते थे और मानते रहे हैं। धर्म दीर्घकालीन राजनीति है, राजनीति अल्पकालीन धर्म है। धर्म एकांगी हो जाए और राजनीति एकांगी हो जाए तो राष्ट्र का सर्वनाश अवश्य कर देगा, यदि वह सर्वांगीण रहे तो राष्ट्र का विकास करेगा और राष्ट्र का उत्थान भी कर सकता है। उसे समग्रता में चिंतन करने की आवश्यकता है।

महोदय, आखिर मतदाताओं को अनिवार्य रूप से मत देना चाहिए, इसके लिए विधेयक बनाया जाए, आखिर उसका कारण तो ढूंढा जाए। जितने कारण गिनाये गये हैं, उनके अतिरिक्त भी कारण हैं कि अनिवार्य मतदान क्यों करें। मैं एक मतदाता हूँ, मैं भारत का गरीब हूँ, निर्धन हूँ, निर्बल हूँ, पिछड़ा हूँ, दलित हूँ, झोंपड़ी में रहता हूँ, वोट डालने जाता हूँ तो मेरी झोंपड़ी के सामने ही लड़ लेकर खड़े हो जाते हैं, घर से निकलने नहीं देते हैं। मतदान केन्द्र पर जाता हूँ तो पीटकर भगा दिया जाता हूँ। हमारी बहू-बेटियों को नंगा कर दिया जाता है तो क्या अनिवार्य वोट डालने के कारण हम अपनी इज्जत लुटवा लें। क्या मेरी इज्जत की सुरक्षा देने वाला कोई हुआ है? जो आज तक वोट लूटने वाले हुए, बल प्रयोग करने वाले हुए, जबरदस्ती करने वाले हुए, क्या ऐसे किन्हीं लोगों को सजा दी गई? उन्हें कुछ मिला, क्या कारण है? देश जब महात्मा गांधी जी के नेतृत्व में आजादी की जंग लड़ रहा था, उस समय लोगों के अंदर एक आशा थी कि हिन्दुस्तान आजाद होगा, दूध-दही की नदियां बहेगी। कहीं न होवे छोट-बड़ाई, गले मिले सब भाई-भाई, ऊंच-नीच का भेद न होवे, सुख का होवे डगर-डगर, हम चलो बसाएं नया नगर। आजादी के दिनों में गांधी जी के सामने हमने सपना देखा था कि हम देश को आजाद करेंगे, ब्रिटिश साम्राज्यवाद की सत्ता से मुक्त होंगे और एक नवीन भारत का निर्माण करेंगे। हम उस आशा में चलते चले गये, लेकिन उस आशा की पूर्ति नहीं हुई। देश आजाद हुआ, आजादी के लोग थे, हमारे स्वतंत्रता सेनानी थे, देश की बागडोर उनके हाथ में आयी, लेकिन उसके बाद समय बदलता गया और मिलावट होती गयी और राजनीति में वैसे लोग प्रवेश करते गये जो ब्रिटिश साम्राज्यवाद की सत्ता की दलाली करते थे। जो अंग्रेजों के इनफॉर्मर बने हुए थे, जो अंग्रेजों के साथ मिलकर लोगों को जेल भिजवाने वाले थे, ऐसे लोग राजनीति में प्रवेश करते गये। उस समय जिन गरीब, निर्धन, निर्बल, पिछड़े, दलित, किसान, मजदूर ने देश की आजादी के लिए अपना सर्वस्व न्यौछावर कर दिया था, वे पीछे धकेले गये, वे धक्काते गये। उन्हें पीछे हटाते गये और वे पीछे हटते गये। जो अंग्रेजों के साथ थे, वही पूंजीपति, बड़े-बड़े लोग राजनीति के शिखर पर आते गये और तब से लोगों के मन में निराशा आयी। वह आशा तो पूरी नहीं हुई, लेकिन लोग थोड़े दिनों तक इस प्रत्याशा में रहे कि अब देश में कुछ परिवर्तन होगा, गांधी जी का सपना पूरा होगा, स्वराज्य आयेगा, सुराज

आयेगा और हिन्दुस्तान एक नया हिन्दुस्तान बनेगा, जहां सभी प्रकार के शोषण से समाज मुक्त होगा। यह गांधी जी का ही दर्शन था। वे राज्य विहीन समाज की कल्पना करते थे। वे वर्ग विहीन और राज्य विहीन समाज की कल्पना करते थे। क्या हम ऐसा कर पाये हैं? इस प्रत्याशा में लोग थोड़े दिन तक रहे। उन गरीब, निर्धन, निर्बल, पिछड़े, दलितों की उस प्रत्याशा की भी पूर्ति नहीं हुई तो उनके अंदर निराशा आने लगी कि कुछ होने वाला नहीं है, कोई सुनने वाला नहीं है, अब हमें कहीं कुछ मिलने वाला नहीं है। उस निराशा से निकलकर अब वे हताशा की स्थिति में चले गये हैं। आप कहते हैं कि वोट डालो, किसे वोट डालें? अभी जय प्रकाश अग्रवाल जी कह रहे थे कि अनिवार्य मतदान किया जाए। वे कह रहे थे कि वे राजनीति नहीं करते हैं। गुजरात की सरकार ने स्थानीय स्वशासन के चुनाव में अनिवार्य मतदान का प्रावधान किया है और उसे वहां की विधान सभा ने पास किया है। क्या गुजरात की विधान सभा चुने हुए प्रतिनिधियों की सभा नहीं है, क्या वहां के विधायक वोट से चुनकर नहीं आये हैं? वहां की विधान सभा ने बहुमत से विधेयक पास किया और आप कहते हैं कि अपनी मर्जी से कर दिया। अगर हम लोक सभा में ऐसा करेंगे तो हमें भी कहेंगे कि लोक सभा में बैठे-बैठे सब अपनी मर्जी से कर दिया, लोक सभा में फालतू बकवास कर गये, तो क्या हमें अच्छा लगेगा? किसी भी राज्य विधान सभा के द्वारा बहुमत से पारित किसी विधेयक की अगर हम आलोचना करते हैं तो हम लोकतंत्र की मां की कोख पर लात मारते हैं। उसमें उन्होंने एक प्रावधान भी दिया है, जिसे नकारात्मक वोट कहते हैं। गुजरात की सरकार ने उसमें दिया है कि अगर कोई भी उम्मीदवार पसन्द नहीं है तो आखिरी में लिखो कि मुझे कोई उम्मीदवार पसन्द नहीं है। यह एक नया प्रयोग हो रहा है कि हमें कोई पसन्द नहीं है। गुजरात की सरकार यहां तक गयी। बिहार विधान सभा ने पास किया और पंचायती राज के चुनाव में महिलाओं को 50 प्रतिशत आरक्षण दिया। उस आरक्षण में पिछड़े वर्ग, दलित, सबके लिए प्रावधान किया। महिला में भी महिला है तो उसके लिए भी आरक्षण किया। जैसे पुरुष समाज के अंदर ये दबे, कुचले लोग अपने को सुरक्षित महसूस नहीं करते हैं, उनको आरक्षण का मतलब विशेष अवसर से है, जो कमजोर हैं उन्हें विशेष मौका, विशेष अवसर दिया जाए, जिससे वे आगे बढ़ें। अगर घर में कोई सदस्य बीमार है तो उस बीमार सदस्य को सेब, सन्तरा, फल, सब्जी, दवाई, दूध, मक्खन दिया जाता है ताकि वह खाकर तन्दरुस्त बने और परिवार का एक स्वस्थ सदस्य बन सके। अगर घर के परिवार का कोई तगड़ा भाई यह कहे कि इस बीमार को जितना खाना देते हो, उतना ही खाना मुझे भी दो तो यह अन्याय है, अमानवीय है।

17.00 hrs.

इसलिए आरक्षण का मतलब था विशेष अवसर। विशेष अवसर देने का मतलब यह कि उनको अलग से अवसर दिया जाए जिससे वे बराबरी में आ सकें। इसलिए मेरी विनम्र प्रार्थना होगी कि आप समग्रता में विन्तन करें। बिहार विधान सभा ने एक विधेयक पास किया। उसमें उसने सबसे पहले स्थानीय निकायों के चुनावों में 50 प्रतिशत आरक्षण की व्यवस्था की और उस आरक्षण की व्यवस्था में पिछड़े और अति पिछड़े वर्ग और महादलित जिसको कहते हैं, दलितों में अति कमजोर और पिछड़ों में भी अति कमजोर जो हैं, उनके लिए कुछ प्रावधान की व्यवस्था की, जिसको कहते हैं अन्टू ट लास्ट। जो थ्योरी रस्कीन ने दी थी जिसके आधार पर संत विनोबा ने सर्वोदय और महात्मा गांधी ने अंतिम मानव का दर्शन दिया, दीनदयाल उपाध्याय और डॉ. लोहिया उसको समता समाज और समरस समाज तक ले गए थे उन्होंने ऐसा किया। आखिर मतदान करने कोई नहीं जाता है तो क्यों नहीं जाता है? क्या वह नकारात्मक को ही वोट देगा? अगर चुनाव होता है और उम्मीदवार खड़े किसे जाते हैं, उसी मशीन में नीचे एक विकल्प होना चाहिए कि मुझे कोई उम्मीदवार पसंद नहीं है, वह बटन दबाने का भी विकल्प होना चाहिए। मान लें जीतने वाले उम्मीदवार को 100 वोट मिले और नेगेटिव वोट 150 आ गए तो उस चुनाव को रद्द माना जाए और सभी पार्टियों द्वारा जितने उम्मीदवार खड़े हुए हैं, वे फिर दूसरी बार खड़े न हों। फिर दूसरे उम्मीदवार को पार्टियाँ लाएँ। तब अनिवार्य मतदान का कुछ मतलब निकलेगा। अनिवार्य मतदान किसे कहते हैं? मैं भूखा हूँ और आप कहते हैं कि खाओ। खाने के लिए क्या है - ये भैंस है, ये गाय है, ये घोड़ा है, गधा है - उनकी लीद हमारे सामने रख दें कि तुम इनमें से जो पसंद हो वह खा लो। क्या यह तर्क है? यह अमानवीय तर्क क्यों देते हैं? हमें अगर कोई उम्मीदवार पसंद नहीं है तो नहीं है। अगर यह कॉलम दे देते हैं कि इनमें से कोई भी उम्मीदवार मुझे पसंद नहीं है और अगर नेगेटिव वोट की संख्या जीतने वाले उम्मीदवार से ज्यादा हो तो चुनाव को रद्द करो, उन सभी उम्मीदवारों को हटा दो और हर पार्टी नया उम्मीदवार लेकर आए। तब कहीं लोगों में अभिलाषा जगेगी कि हमारे मन के लायक उम्मीदवार आया है और हम उसको चुन सकेंगे। अभी हमारे मन का तो कुछ है नहीं, राजनीतिक दल के द्वारा उम्मीदवार खड़े होते हैं, उनको सिम्बल दे दिया जाता है राजी या बेराजी तुमको वोट देना है, उसी में से तुमको चुनना है। अब किसको चुनो? एक थीसिस आई थी 'लैसर्ड ईविल एंड ग्रेटर ईविल' - बड़ा दुष्ट और कमजोर दुष्ट। दुष्ट क्या कभी बड़ा होता है या कहीं कमजोर होता है? डॉ. लोहिया ने जब राजनीति में इस थीसिस को दिया था, तब उन्होंने गैर-कांग्रेसवाद की नीति को देते हुए कहा कि कांग्रेस सबसे बड़ा दुश्मन है, इसलिए कांग्रेस जैसे बड़े दुष्ट को हटाने के लिए सभी छोटे-छोटे राजनीतिक दल आपस में मतभेद भुलाकर इकट्ठा हो जाओ - वहीं से गैर-कांग्रेसवाद का दर्शन चला। उसी तरह से आप कहते हैं कि हमने राजनीतिक दलों से उम्मीदवार खड़े कर दिये, इनमें से जो पसंद हो वह चुनो। ताकतवर दुष्ट और कमजोर दुष्ट में से जिसको चुनना है वह चुन लो। आखिर दुष्ट तो दुष्ट ही है। जो ईविल है वह न कमजोर होता है, न बलवान होता है। समय और अवसर के आने पर निर्बल दुष्ट भी बलवान बन जाता है और बलवान दुष्ट भी निर्बल बन जाता है। इसलिए राजनीति के शुद्धीकरण की दिशा में हमें प्रयत्न करना चाहिए।

अनिवार्य मतदान होगा, लेकिन अनिवार्य मतदाता सूची में नाम कहां होता है? आज भी जो गरीब हैं, निर्धन, पिछड़े, दलित समाज के हैं, उनके 30-40 प्रतिशत लोगों का नाम मतदाता सूची में नहीं रहता। आप दौड़कर जाओ, फोटो खिंचाओ, निर्वाचन अधिकारी के आफिस में जाओ, वहाँ फार्म भरो, वहाँ अपना नाम लिखाओ, एक दिन जाओ, दो दिन जाओ, तीन दिन जाओ, दौड़ो। नाम है मेरा हुक्मदेव नारायण यादव और फोटो लग गया इनका। कैसे काम चलेगा? वोट देने जाओ तो नाम किसी का है, फोटो किसी और का है। मेरा नाम है हुक्मदेव नारायण यादव और उसमें लिख दिया गया हुक्मदेव नारायण देवी। अब देवा को देवी बना दिया। अगर गलत मतदाता सूची बनाई जाती है और उसमें फोटो गलत लगाया जाता है, तो जो गलती करने वाले अधिकारी हैं, उन अधिकारियों के लिए दंड का प्रावधान होना चाहिए कि अगर वे मतदाता सूची गलत बनाते हैं, गलत नाम लिखते हैं, उसका विवरण गलत देते हैं, उनकी फोटो गलत लगाते हैं, तो इसके अपराध में उन अधिकारियों को सजा मिलनी चाहिए। जब तक उन्हें सजा नहीं देंगे, तब तक वे सही मतदाता सूची नहीं बना पाएंगे। यह मैं नहीं कहता, अभी सेंट्रल हाल में मैं बैठा था। कांग्रेस पार्टी के ही हैं, शैलजा जी हैं, शादी लाल बत्राजी, एडवोकेट हैं, एमएलए रहे हैं, अब राज्यसभा में आए हैं। मेरे अच्छे मित्र हैं। अलका बलराम जी राज्यसभा में हैं। हम एक समिति में हैं, इसलिए चर्चा चली। उन लोगों ने भी कहा कि यह बात आप सही कहते हैं। इसमें ऐसा प्रावधान करेंगे, तभी सुधार होगा। मैं एक और बात की तरफ माननीय विधि मंत्री जी का ध्यान दिलाना चाहूंगा। ये बहुत ज्यादा प्रगतिशीलता की बात कहते हैं और करनी भी चाहिए। समाज बदलने के लिए साहस चाहिए और हिम्मत चाहिए। दुनिया को बदलने के लिए अकेले भी चलना पड़े, तो चलना चाहिए। जब हम आजादी की लड़ाई में और बिहार आंदोलन के समय लड़ते थे, तब हम यही गीत गाते थे -

हम लोग हैं ऐसे दीवाने, दुनिया को बदलकर मानेंगे,

मंजिल की धुन में आए हैं, मंजिल को पाकर मानेंगे।

सत्ताई के कारण गांधी ने सीने पर गोली खाई थी,

ईसा को झुलाया सूली पर बत्तों ने जा गंवाई थी।

इसलिए मेरी आपसे विनम्र प्रार्थना है कि साहस कीजिए, कौन वोट नहीं देता है? दिल्ली शहर में गणनचुम्बी अटालिकाएं हैं, दिल्ली में बड़े-बड़े लोग हैं, जाड़े में गर्म और गर्मी में ठण्डा, ए.सी. मशीन लगाते हैं, यहां इतने शौक के साधन हैं, हवागाड़ी पर चढ़ने की सुविधा है। एक-एक घर में तीन-तीन गाड़ियां हैं, लेकिन उस दिल्ली में वोट का प्रतिशत कम है, हमारे बिहार के गांव में ज्यादा वोट डाला जाता है, उससे कम है, ऐसा क्यों है, जबकि यहां तो सब सुविधा है, पढ़े-लिखे हैं, विद्वान हैं, एमए हैं, पीएचडी हैं, इंग्लैंड-अमरीका रिटर्न हैं, हवागाड़ी चढ़ने की सुविधा है, किसी चीज का अभाव नहीं है तो फिर वोट क्यों नहीं डालते हैं? ये पढ़े-लिखे सुविधा सम्पन्न लोग हैं, ये वोट कम डालते हैं। एक बात समझ लीजिए पिछड़ी जाति और दलित समाज के लोगों का वोट डालने का प्रतिशत बढ़ रहा है, क्योंकि इस लोकतंत्र में जितनी उनकी हिस्सेदारी हुई है, उतनी ही उनकी अभिलाषा भी जगी है। यह लोकतंत्र की देन है कि आज इस सदन में लालू प्रसाद, मुलायम सिंह यादव, शरद यादव, हुसमदेव नारायण यादव, रमेश बैस या मेरे साथ बैठे माननीय सदस्य अर्जुन मेघवाल, जो कि कलैक्टर थे, लेकिन इनको सत्ताई के अपराध में ऐसा दण्ड दे दिया गया कि यह सदन में पहुंच गए। हम लोग कैसे आए? शैलजा जी बैठी हैं, इनके पिताजी थे। यदि लोकतंत्र में सभी लोगों को वोट डालने का बराबर का अधिकार नहीं दिया जाता, यदि गांधी जी सभी लोगों को बराबर का अधिकार नहीं देकर गए होते तो हम लोगों का कहीं स्थान नहीं होता। यदि संविधान में आरक्षण की सुविधा नहीं होती तो हिन्दुस्तान के किसी भी राजनैतिक दल को किसी भी अनुसूचित जाति और अनुसूचित जनजाति में कोई योग्य उम्मीदवार नहीं मिलता। योग्यता का मापदण्ड क्या है? आप किस मां के पेट से जन्म लेकर आए हो, भारतवर्ष में यही मान्यता बना दी गई कि अमुक-अमुक मां के पेट से जन्म लेने वाला ही योग्य माना जाएगा और अमुक-अमुक मां के पेट से जन्म लेने वाली संतान कभी योग्य हो ही नहीं सकती है। इतना बड़ा अपराध, इतना बड़ा सामाजिक अन्याय इस देश में चलता रहा। महात्मा गांधी यदि नहीं होते, बाबा साहेब अम्बेडकर नहीं होते, डॉ. लोहिया नहीं होते या ऊंची जाति में जन्म लेने वाले विवेकानन्द और दयानन्द सरस्वती नहीं आते, भगवान बुद्ध नहीं आते, महावीर नहीं आते, ये लोग यदि धार्मिक और सांस्कृतिक क्षेत्र में अलग नहीं जगाए होते तो यह परिवर्तन नहीं आता। मेरी आपसे विनम्र प्रार्थना है, हम लोगों ने अपने परिश्रम से पुरुषार्थ से इसको बदला है... (व्यवधान)

SHRI P.T. THOMAS (IDUKKI): Hon. Member, you are telling that no dalit is coming out. You see, Mr. K.R. Narayanan, our beloved son of Kerala, became the President of India. Why are you not seeing these things? Why have you not pointed out these things?

श्री हुसमदेव नारायण यादव (मधुबनी): मैं अपनी बात आपसे कह रहा था, आप मेरी बात सुनें। मेरी न मजबूरी, न मुझे भय है और न ही कोई लोभ है, मैं निर्भय होकर अपनी बात बोलता हूँ। आप यह बात मान लें कि आज भी पिछड़ी जाति और दलित में से किसी को कुर्सी दी जाती है तो कहा जाता है कि हमने इन्हें कुर्सी पर बैठाया है। यह सरकार का शेर, भालू देखें या बॉयस्कोप का खेल देखें, जो सिनेमा दिखाते थे, बॉयस्कोप का नाच देखें। मेरे में शैलजा, मीरा कुमार और हुसमदेव नारायण यादव देखें। ये सरकार के खेल में अपने को आगे समझ कर कोई गर्व मत करना। अगर संविधान के द्वारा संरक्षण नहीं दिया होता तो हमें आगे बैठने की पंक्ति में कोई स्थान नहीं देता। हमारे पूर्वजों ने भोगा, हम सदियों से भोगते आए हैं और आज भी बहुत सी जगहों पर भोग रहे हैं। जिसका उदाहरण यह संसद है। आप अनिवार्य मतदान की व्यवस्था करते हो, क्या इस संसद का रूपांतरण हो पाया है? भारत को आजाद हुए इतने दिन गुजर गए, क्या इस संसद का रूपांतरण हो पाया है? संसद का रूपांतरण नहीं हो पाया है।

सभापति महोदय, आपके माध्यम से इनसे मेरी विनम्र प्रार्थना है कि आप उस पर जरा गहराई से चिन्तन करिए। आप जब अनिवार्य मतदान की व्यवस्था करेंगे तो मुझे हर्ष होगा, क्योंकि मुझे उसका लाभ मिलेगा। हमारी संततियां जग रही हैं और जगती जा रही हैं। आप जब अनिवार्य मतदान की व्यवस्था करेंगे तो जिसकी सबसे ज्यादा संख्या होगी, वह ज्यादा वोट डालेगा, लोकतंत्र में 51 का राज है, जिसका वोट 51 आएगा, उसका राज बन जाएगा। इसी लड़ाई को अगर मुलायम सिंह जी, लालू प्रसाद जी, शरद यादव जी और मायावती जी लड़ रहे हैं, चाहे अन्य कोई देश में लड़ रहा है, वे सामाजिक क्रांति की लड़ाई लड़ रहे हैं। मनुष्य को केवल रोटी ही नहीं चाहिए, इंसान को दो तरह की भूख है - एक पेट और एक मन की भूख है। पेट की भूख रोटी से मिटती है और मन की भूख इज्जत की मिटती है। हमें केवल रोटी देकर मत समझो कि भरोपेट रोटी दे देंगे तो हमारी भूख मिट जाएगी, रोटी के साथ-साथ मन की भूख, इज्जत की भूख और इज्जत की भूख बराबरी की भूख है। इसलिए आज इस लोकतंत्र रूपा माता की वंदना करते हैं, प्रार्थना करते हैं, इस संसदीय लोकतंत्र रूपा माता ने अपने गर्भ से आज हिन्दुस्तान के सैकड़ों पिछड़े, दलित, किसान, मजदूर, निर्धन, निर्बल, पीड़ित, उपेक्षित, जिनके पूर्वजों को कभी सड़क पर सीधे चलने नहीं दिया जाता था, आज उन्हें इस संसद में शेर जैसे गरजने का अवसर मिल रहा है। यह लोकतंत्र, भारत के संविधान एवं भारत की स्वतंत्रता की देन है, महात्मा गांधी और डॉ. अम्बेडकर की देन है।

इसलिए आपसे मेरी विनम्र प्रार्थना है, अगर मुझे यह अवसर मिला है तो मैं आप सब से हाथ जोड़ कर प्रार्थना करूंगा कि अपने इस अवसर का लाभ उठाएं। जिस समाज में जन्म लेकर आए हो, जहां पले हो, बड़े हुए हो, जिस समाज ने तुम्हें उठाया है, हमें आगे बढ़ाया है, कितनी बड़ी से बड़ी और ऊंची से ऊंची कुर्सी पर जाएं, लेकिन कभी अपने समाज की पीड़ा को मत भूलें। अगर हमारी एक आंख दिल्ली के लालकिले पर रहे तो दूसरी आंख झोंपड़ी वालों की तरफ भी रहे, जहां से हम निकल कर आए हैं। जब तक हमारी एक आंख उन झोंपड़ियों पर नहीं जाएगी और दूसरी आंख दिल्ली के लालकिले पर नहीं रहेगी तब तक हिन्दुस्तान की राजनीति का परिवर्तन नहीं होगा। आप जनप्रतिनिधित्व कानून में संशोधन एवं परिवर्तन करिए। आप अनिवार्य मतदान की व्यवस्था करिए, लेकिन मैं यहां एक बात जरूर कहूंगा कि यहां पाल जी बोल रहे थे तो उस पर लोग हंसे थे। जब सरकारी कर्मचारी रिटायर होते हैं तो उन्हें पेंशन दी जाती है। उस दिन अगर छुट्टी हो जाए तो उसका भी उन्हें वेतन भत्ता मिलता है, जिस दिन मतदान हो जाए तो किसी के लिए मत करो, लेकिन एक बात कर दो कि गरीबी रेखा से नीचे बीपीएल के जितने कार्डधारी हैं, वे जिस दिन वोट डालने जाएंगे तो जो लोग वोट डालेंगे, आप जो नरेगा वालों को मजदूरी दे रहे हैं, उस वोट डालने वाले बीपीएल कार्डधारी को उतनी मजदूरी देंगे।

सभापति महोदय, इसलिए वह मजदूरी दी जाए, क्योंकि वह कमाता है, राशन लाता है, बच्चों को खिलाता है। यदि नहीं कमाएगा, तो राशन नहीं आएगा और जब राशन नहीं आएगा, तो बच्चे भूखे रह जाएंगे, लोक तंत्र में वोट गिराएगा और सभी बच्चे भूखे पेट सो जाएंगे, इस लोक तंत्र से वह क्या पाएगा। इसलिए जो गरीब और निर्धन हैं, उन्हें कम से कम 100 रूपए मजदूरी दो जिससे वे वोट डाल सकें। जब आप स्टेट फंडिंग की बात करते हैं, तो उसमें यह क्यों नहीं जुड़ेगा? इसलिए उन्हें कम से कम 100 रूपए मजदूरी दें, जिससे वे वोट डालने जाएं और उस पैसे से वह अपना राशन लेकर आए और फिर अपने बच्चों को खिलाए।

महोदय, दूसरी बात यह की जाए कि जब वोट की प्रक्रिया शुरू हो जाए और आचार-संहिता लग जाए, उस दिन से मतदान की प्रक्रिया समाप्त होने तक हिन्दुस्तान में शराब की बिक्री बन्द कर दी जाए, क्या आप ऐसा कर सकते हैं? अनिवार्य वोटिंग अपने आप हो जाएगी, लेकिन आपको शराब की बिक्री इस दौरान बन्द करनी पड़ेगी, क्योंकि पैसे वाले, शराब के कारण हमारे लोगों का सबसे ज्यादा नाश कर रहे हैं। ये हमारे लोगों को बरगलाते हैं, हमारे बच्चों को ये शराब पिलाते हैं और

हमारे घरों को उजाड़ते हैं। मुझे यह कहने के लिए क्षमा करें कि बड़े लोग, छोटे लोगों को पशु समझते हैं, जैसे कुत्ता सूखी हड्डी को चबाता है और उसके मसूढ़े से रक्त आता है, लेकिन वह समझता है कि सूखी हड्डी से रक्त निकल रहा है, उसी तरह जैसे वाले लोग हम गरीबों को चबाते हैं। मेरी आप से विनम्र प्रार्थना है कि अब जमाना लद गया है। आप अनिवार्य वोट की व्यवस्था करें। हमें उसमें लाभ ही लाभ है। हमें कोई नुकसान नहीं है। हमारे लोग अभी भी आने बढ़ रहे हैं। धूप में आठ-आठ घंटे खड़े होने और वोट डालने का साहस हमारे ही आदमियों में है। हमारे आदमी आज भी वोट डालने के लिए चार और पांच किलोमीटर दूर चल कर जाते हैं। जो बड़े ताकतवर लोग हैं, वे भले ही नहीं जाते होंगे, लेकिन गरीब आदमी आज भी वोट डालने जाता है।

महोदय, मैं 1967 में एम.एल.ए. बना था। मैं 1962 में चुनाव लड़ा था। मैं वर्ष 1959-60 में ग्राम पंचायत का प्रधान बना था। मैं ब्लॉक का प्रधान बना। जिला परिषद् का अध्यक्ष बना। तीन बार एम.एल.ए. रहा और संसद में पांचवीं बार रह कर भारत सरकार के मंत्री पद तक गया। गांव के खेत-खलिहान से चल

कर लाल किले तक की यात्रा कर मैंने देखा है। इसलिए मुझे रामचरित मानस की वे पंक्तियां याद आ गईं, जिनमें कहा गया है कि -

" मंदिर-मंदिर प्रतिकर सोधा, देखे जहं-तहं अग्नित जोधा। गयऊ दसानन मंदिर माही, अति विचित् कही जात सो नाहीं। शयन किए देखा कपि तेही, मंदिर महुं न दीख वैदेही।"

मैं गांव की गली से निकल कर लाल किले तक चल कर आया हूँ। मेरे पिताजी, आठ चाचा और चार चचेरे भाई स्वतंत्रता सेनानी थे। मेरा घर लूटा गया। मेरे घर को अंग्रेजी-राज में लूट लिया गया। मैं तीन साल का था। मेरी मां, मुझे गोद में उठाकर, नाव पर चढ़ कर ननिहाल ले गई थी। मेरे पिताजी, चाचा और चचेरे भाई स्वतंत्रता सेनानी थे। हमारा गांव आदर्श गांव बना। उनके पत्थर लगे हुए हैं। जब आजादी के बाद दिन आने लगे तब जो महलों में रहने वाले थे, उनमें किसी ने आजादी की जंग में अपना एक महल दे दिया, तो बदले में उन्होंने भारत की राजनीति पर कब्जा कर लिया। मेरा घर उजड़ गया, परिवार उजड़ गया, घर जल गया, मां-बाप सब परेशान हुए, मैं भी मां की गोद में परेशान हुआ था, तब देश में आजादी आई थी। इसलिए मैं इस पीढ़ा के साथ लड़ता हूँ, क्योंकि मेरे पिता ने इस देश की आजादी के लिए अपना खून दिया था, मेरे खानदान ने खून दिया, मेरे परिवार ने खून दिया और मैं उस संघर्ष से निकल कर आया हूँ। इसलिए उस संघर्ष की अग्नि में तपा हुआ आदमी, कभी धूमिल नहीं होता है। हम उस संघर्ष की आग को निरंतर जलाते चलेंगे, उस मशाल को निरंतर जलाते चलेंगे, उस दिन की कल्पना के साथ, जिस दिन भारत की संपूर्ण सत्ता, आर्थिक सत्ता, राजनीतिक सत्ता, सामाजिक सत्ता, सांस्कृतिक सत्ता, प्रशासनिक सत्ता और जितनी भी सत्ताएं हैं, जब तक उन सभी संस्थाओं पर भारत के निर्बल, निर्धन, दलित, पिछड़े, गरीब, भूखे लोगों का पूर्ण वर्तव्य नहीं होगा, तब तक भारत में संघर्ष रहेगा। इसलिए अनिवार्य मतदान करिए, हमें सुविधा दीजिए और अनिवार्य मतदान कोई करे न करे, अरे साहब, किसी को करोड़ों रूपए दोगे, तो नहीं मानेगा, हम तो कहते हैं, हमारी घर की औरतों को, हमारे दादा, ताऊ और चाचा को वोट के लिए 100 रूपए दे दो, उन्हें वोट के लिए जरा सा इंसेंटिव दे दो, देखो वोट का कितना परसेंट बढ़ता है। आप अगर इंसेंटिव न भी दोगे, तो भी हम वैसे ही वोट का परसेंट बढ़ाएंगे। मैं अंतिम बात कहता हूँ कि आप इंसेंटिव नहीं देंगे, तब भी हम मतदान केन्द्रों पर जाएंगे। धूप में जलेंगे, पानी में भीगेगे, जाड़े में ठिठुरेंगे, मतदान केंद्र पर जाएंगे, इसलिए जाएंगे कि लोकतंत्र पर मुझको अधिकार जमाना है और भारत की सत्ता पर हमें अपनी सन्ततियों को सम्मान के साथ बैलाना है, जिसके लिए वह भूखा है। उस अरमान को पूरा करने के लिए और लोकतंत्र में सुधार के लिए हम आपसे समर्थन मांगते हैं और आपसे भी कहते हैं कि समर्थन दीजिए।

श्री महाबल मिश्रा (पश्चिम दिल्ली): आदरणीय सभापति जी, श्री जय प्रकाश अग्रवाल द्वारा जो प्रोपोजेक्शन मेंबर बिल लाया गया है, यह बहुत ही महत्वपूर्ण विषय है। मैं आज हुवमदेव जी को सुन रहा था, मुझे लग रहा था कि वह बहुत कुछ सुझाव देंगे, लेकिन रामायण और लोकगाथा में ही वह अपना समय व्यस्त किए हैं। मैं समझता हूँ कि जिस तरह से वह बोले, कुछ कांग्रेस के हक वाली बात बोले हैं। इस कड़ी में कहना चाहूंगा कि स्वर्गीय राजीव गांधी ने 18 साल से 25 साल के नागरिक को वोट देने का अधिकार दिया, उनका जिक्र आपने नहीं किया। सबसे बड़ा यह काम स्वर्गीय राजीव गांधी ने किया था। हमारे कानून मंत्री जी स्वयं रामायण के ज्ञाता हैं और रामायण भी लिखते हैं। वह मानवीय दृष्टिकोण से इस बात को समझेंगे। आज उस विषय पर थोड़े कम समय में ही अपनी सजेशन देना चाहता हूँ। बिहार, उत्तर प्रदेश या कहीं भी, हिमालय की चोटी से लेकर बंगाल की खाड़ी तक जम्मूतवी से लेकर कन्याकुमारी तक के लोग दिल्ली में, पंजाब में, महाराष्ट्र में, हरियाणा में, असम में, कोलकाता और अन्य जगह नौकरी करने जाते हैं। वे नौकरी करने जाते हैं, लेकिन उस 18 से 25 साल के नागरिक का वोट लिस्ट में नाम नहीं है। वोट लिस्ट में नाम नहीं होने की वजह से वह वोट नहीं डाल पाता है। मैं एक एग्जंपल देता हूँ कि दस लाख से ज्यादा लोग हैं, जिनका वोट लिस्ट में नाम नहीं है। इस कारण उनका राशन कार्ड नहीं बनता है, उनके बच्चे का स्कूल में एडमिशन नहीं होता है, हॉस्पिटल में बीमारी का इलाज नहीं होता, क्योंकि वे दिल्ली के नागरिक नहीं हैं। आज इंडस्ट्रियल टाउन होने की वजह से आप पंजाब में देखेंगे, दो-तीन महीने पहले वहां लार्डीचार्ज हुआ। हजारों की संख्या में हम वहां गए थे। हजारों की संख्या में लोग लुधियाना में रहते हैं। लोग वहां रोटी कमाने के लिए जाते हैं, लेकिन उनका वोट लिस्ट में नाम नहीं है। दिल्ली में 18 से 25 साल के लोग, दिल्ली के बाहर से आए लोग, चाहे वह उत्तराखंड के हों या हिंदुस्तान के किसी कोने से आए हों, जो किराए पर रहते हैं, मकान मालिक उसे लिखकर नहीं देता, क्योंकि उसको डर होता है कि दिल्ली में मकान मालिक लिखकर देगा कि यहां इसका वोट है, तो वह उसके मकान पर कब्जा न कर ले। उनके साथ यह दिक्कत आती है, उनका राशन कार्ड नहीं बनता है और वोट लिस्ट में नाम नहीं होता है। इसी तरह से आपने महाराष्ट्र में देखा, असम में देखा, मध्य प्रदेश, भिलाई और रायगढ़ में आप जाएं, पूरे पूर्वांचल के लोग वहां हैं, हिंदुस्तान के कोने-कोने से वहां लोग आए हैं, हरियाणा में जाएं या कोलकाता में जाएं, इन तमाम सिटीज में 18 से 25 वर्ष के लोग नौकरी करने के लिए जाते हैं।

महोदय, मैं इस बिल का समर्थन का समर्थन करने के लिए खड़ा हुआ हूँ। यह हमारे प्रदेश अध्यक्ष जी का भी क्षेत्र है। मैं कहना चाहता हूँ कि आज दिल्ली में 10 लाख से ज्यादा लोग बिना वोट और राशन कार्ड के हैं। इसका कारण है कि मकान मालिक उसे लिखकर नहीं देता है। यह उसकी बहुत बड़ी जटिल समस्या है। मैं राय देना चाहता हूँ कि आप सेल्फ एफिडेविट बनाने पर विचार करें, क्योंकि मेरा मकान है, मैं उसको किराये पर शो नहीं करना चाहता। इससे उनका राशन कार्ड नहीं बनता, राशन कार्ड नहीं बनता तो आई-कार्ड नहीं बनता। उन्हें दिल्ली की नागरिकता नहीं मिलती या पंजाब की नागरिकता नहीं मिलती है, इसलिए मेरी राय है कि सेल्फ एफिडेविट डिवलेयोरेशन के लिए पांच रूपए के पेपर पर अगर वह लिखकर देता है कि दिल्ली या दिल्ली के बाहर मेरा कहीं भी राशन कार्ड या आई-कार्ड नहीं है, तो निश्चित रूप से उसको सम्मिलित किया जाना चाहिए, क्योंकि यह 18 से 25 साल के लोगों की बात है।

हमारे दिल्ली प्रदेश अध्यक्ष यहां उपस्थिति हैं और भी तमाम कानूनविद बैठे हैं। हमारे आदरणीय मंत्री जी बहुत मानवीय दृष्टिकोण रखते हैं और बहुत धार्मिक प्रवृत्ति के इन्सान हैं। आपने कहा कि कंपल्सरी वोटिंग होनी चाहिए, यह होना चाहिए। कई बार 33 पर्सेंट वाले सरकार में बैठ जाते हैं। क्यों न मेनडेटरी से ही हो? जब वोट ही नहीं बना होगा, तो मेनडेटरी कहां से होगा। 18 से 25 साल तक के लोगों को सैल्फ डिवलेयोरेशन पर यह अधिकार देना चाहिए जिससे उनका राशन कार्ड बन सके। अभी मौलिक अधिकार की बात की जा रही थी। अभी हुवमदेव जी बोल रहे थे, तो मैं सुन रहा था। मैं बिहार में उनका वोट भी रहा हूँ। लेकिन इस तरह के लोक लुभावन भाषण से काम नहीं चलेगा। आपने गुजरात की उपमा दी है। आपने बिहार में दलित और महा दलित को बांटने का काम किया है। कांग्रेस पार्टी ने हिन्दु-मुस्लिम, सिखा-ईसाई को एक करने की बात कही है, कभी बांटने का काम नहीं किया है। कांग्रेस ने हिन्दु-मुस्लिम, सिखा-ईसाई का एक नारा दिया है, लेकिन आपने दलित, महा दलित, पिछड़े, अति पिछड़े करके जातिगत आधार पर बड़ावा देने की बात की है। कांग्रेस पार्टी ने कभी भी ऐसा नहीं चाहा। स्वर्गीय राजीव गांधी ने कभी जाति के आधार पर नहीं कहा। उन्होंने कहा था कि 18 साल के बच्चे मौलिक अधिकार का महत्व जानते हैं। उन्होंने कहा कि उन्हें वोट देने का राइट हो। मैं आज स्वर्गीय राजीव गांधी जी को याद करता हूँ। ठीक है, मौलिक अधिकार है, हम दिल्ली से चुनाव लड़ते हैं, लेकिन लोग चाहे मद्रास, पंजाब से आते हैं, महाराष्ट्र में देखिये। वहां कहा जाता है कि नागरिकता नहीं है, तो भगाओ। वहां बाल ठाकरे जी का समर्थन करते हैं, भगाने की बात करते हैं। वहां के मुख्य मंत्री चन्हाण साहब ने क्या कहा था? यहां से पुरबियों को भगाओ। लेकिन आप उसका समर्थन करने की बात करते हैं। मुख में राम और बगल में छुरी नहीं चलेगी। आप कहिये कि हिन्दुस्तान में सबको मौलिक अधिकार है। कोई व्यक्ति कहीं भी जा सकता है, नौकरी कर सकता है और अपना पेट पाल सकता है। ...**(व्यवधान)** शीला जी ने ऐसा नहीं बोला था। आपने बात को ट्विस्ट किया। मैं माननीय अध्यक्ष सोनिया जी को हार्दिक बधाई देता हूँ। यदि शीला जी ने ऐसा बोला होता तो महाबल मिश्रा आज एमपी नहीं होता। महाबल मिश्रा को टिकट किसने दिया? श्री जय प्रकाश अग्रवाल, शीला जी या सोनिया गांधी जी ने पूर्वांचल के लोगों को इस तरह नहीं बोला। उन्होंने हमेशा पूर्वांचल के हित की बात की। यदि उन्होंने पूर्वांचल के हित की बात नहीं की होती तो छठ की छुट्टी नहीं मिली होती। दिल्ली में भोजपुरी, मैथिली अकादमी नहीं बनी होती। मैं आपसे आग्रह करता हूँ कि चाहे कोई उत्तराखंड से आया हो, चाहे बिहार से आया हो, उत्तर प्रदेश से आया हो या पंजाब से आया हो, हरियाणा में 18 साल से 25 साल तक के बच्चों का सैल्फ डिवलेयोरेशन पर वोट लिस्ट में नाम जाना चाहिए जिससे वे राशन कार्ड में अपना नाम लिखवा सकें।

आज महंगाई की चर्चा हो रही थी। प्रधान मंत्री जी ने बहुत अच्छे शब्दों में कहा। मैं महंगाई के बारे में कहना चाहता हूँ कि लोगों के पास राशन कार्ड नहीं है, आई कार्ड नहीं है। इसलिए तेल की दुकान पर, राशन की दुकान पर उन्हें राशन नहीं मिलता जिससे उन्हें ब्लैक में खरीदना पड़ता है। राशन कार्ड के लिए आई कार्ड की जरूरत है। 18 साल से 25 साल तक के बच्चों को पांच रुपये के स्टैम्प पेपर पर सैल्फ डिवलेयोरेशन देकर वोट लिस्ट में नाम लिखना अनिवार्य करना चाहिए। मैं माननीय मंत्री जी से कहना चाहूंगा कि वे निश्चित तौर पर इस पर ध्यान देंगे। मैं हुवमदेव जी से कहूंगा कि यदि आपने महात्मा गांधी जी का नाम लिया है तो आपको स्वर्गीय राजीव गांधी जी का नाम भी लेना चाहिए। आपने अम्बेडकर जी का नाम लिया। राजीव गांधी जी अछूते नहीं हैं। राजीव गांधी जी ने भी अच्छा काम किया था। उनके नाम की भी चर्चा करते, तो मुझे अच्छा लगता। आपने मुझे बोलने का मौका दिया, इसके लिए बहुत-बहुत धन्यवाद।

MR. CHAIRMAN : We have already taken the allotted two hours for this Bill. If hon. Members agree, we can extend the time by one more hour.

SEVERAL HON. MEMBERS: Yes.

MR. CHAIRMAN: So, the time for this Bill is extended by one hour more.

SHRI B. MAHTAB (CUTTACK): Mr. Chairman, Sir, at the outset I would thank Shri Jai Prakash Agarwal for moving this Bill. In a way he has allowed us to think over the matter, the causes for low polling and the demerits that have crept into our election system. Some years back we had also discussed about this compulsory voting in our country and this House also had deliberated on this issue. I am reminded, in this democratic set up in our world, in different countries, we have different types of democracies. We have adopted a system - 'first past the post' – and that is how a Member gets elected. It is not like the European countries like Germany or France where a specific number of votes is required for a Member to be elected. We have adopted a system as in Britain which is the 'first past the post'; whoever gets maximum number of votes wins and he is elected. A person who gets one per cent less from the winner is nowhere, he is not recognized. But in other countries, specially in Germany, Italy, France etc., it is a specific percentage of votes that is counted and that is how many number of Parties also get representation in their Houses. But we have adopted this system. It has its merits, it has its demerits.

But when we are discussing about compulsory voting, I can understand the predicament of Shri Jai Prakash Agarwal – he is representing an urban area. Shri Hukmadeo Narayan Yadav does not represent an urban area. He had also participated in the earlier discussion when we discussed about the compulsory voting in this House, perhaps it was in 14th or 13th Lok Sabha.

But, I would ask – which are the countries which have adopted compulsory voting? Some 38 or 39 or 40 countries have this system of compulsory voting. But those are smaller countries where the population which comes to vote or those who are entitled to vote, their number is very less. In our country it is 71 crore or 714 million voters. In 2009 when we went to polls for our General Election, it was 714 million registered voters. Of course, I remember the day when I participated in the earlier discussion during a Private Member's Bill where I had said that out of 543 Members who have been elected to the Lok Sabha, how many of them have got more than 50 per cent of their voters' support? How many of them have got it? Some NGO or some group of people or researchers have made certain researches and it has been published in different newspapers.

In the constituencies of many of us, the total polling is less than 50 per cent of the total electorate and we have been elected, many of us have been elected getting 18 per cent or 22 per cent of votes of the total electorate whom we represent here. But that is the system.

I was referring to the Constitution. I would remind Shri Jai Prakash Agarwal one thing. The hon. Minister of Law and Justice is going to participate in this discussion. As per our Constitution and election law, voting is a civic right; it is not a civic duty. Shri Hukmadeo Narayan Yadav hails from a freedom fighter's family and so also Shri Jai Prakash Agarwal hails from a freedom fighter's family. Should I say I also belong to a freedom fighter's family? Yes.

It is the utmost duty of all of us to uphold the cause of freedom for which many people have sacrificed their lives. Very humbly, I would state that when you say to make it compulsory, you are trampling on the freedom of a citizen and you are forcing him to express his opinion. Our Constitution does not give that right to any of us to force a person to express his opinion. It is his civic right. He may express or he may not express it. We have not enshrined in our Constitution that it is a duty, but subsequently whenever we have discussed this, this issue has cropped up. A Committee under the chairmanship of former Chief Justice J. S. Verma was appointed in 1998. He gave a report to the then Government, in which it was suggested that ...(*Interruptions*)

THE MINISTER OF LAW AND JUSTICE (SHRI M. VEERAPPA MOILY): It was Venkatachaliah Committee to review the Constitution.

SHRI B. MAHTAB (CUTTACK): Justice Venkatachaliah Committee comes later. I will come to that later. It was Justice J.S. Verma Committee which had first given a report in October, 1999. It suggested that duty to vote at elections, to actively participate in the democratic process of governance and to pay taxes should be included in Article 51A of the Constitution. What is Article 51A? It enumerates the Fundamental Duties of every citizen. In its sub-clauses (a) to (j), a number of duties have been enshrined. Justice Verma's suggestion was that once you make it a duty of the citizen to vote at elections, you also make it a duty that he should pay taxes. He had coined these two words. It was the National Commission to review the working of the Constitution of India about which hon. Law Minister mentioned. Justice Venkatachaliah and others had participated in that. They had also mentioned that the first and foremost step required by the Union Government and the State Government is to sensitise the people and to create a general awareness of the provisions of Fundamental Duties among the citizens on the lines recommended by Justice Verma Committee. It had strongly suggested implementation of some of the Fundamental Duties, including the duty to vote at elections by amending Article 51A of the Constitution. I would say that these are the suggestions.

What the Election Commission had said when Gujarat Assembly passed a resolution. Very faintly, without going into the politics of it, the Election Commission had stated that it was very impossible to organize it. That was their instant reaction in a very faint manner. I fully agree that there are pros and cons. Once you make it mandatory, you compel the voter to vote and the mover of the Bill has suggested certain punishments, like fine of Rs. 500 or two-day imprisonment, forfeiture of his ration-card, to render him ineligible of contesting any election for a period of ten years and so on and so forth. But I would say that a great cost is also involved in it, namely, to identify, to locate and also to punish. Once the vote is cast, if somebody has not done as per the provisions of the law, then how long will it take to prosecute that person with our system of courts and judiciary?

How long will it take to do it? Who will prosecute them? Who will be the complainant? Will the Election Commission be the complainant or the District Magistrate be the complainant? Who will be the complainant? Will the candidate be the complainant? These things are lacking in the Bill.

I would not take much time, but I would say that the time and funds required to enforce the rule will cost several thousands of crores of rupees. Compulsory voting has certain plus points. It will enhance the percentage of votes and it will force the educated people to come to vote who actually take the benefit of the democratic system of our country. They will be forced to come out to vote, and with educated people coming out to vote, it will definitely make a change to the people who get elected and it will also put pressure on the political parties to field better candidates. But with this, if the mover of

the Bill would have added -- as was suggested by Shri Hukmadeo Yadav -- that a rejection or negative vote also should be enshrined, then it will help to a great extent.

But I am of the view that to make it compulsory or mandatory for the Indian citizens is too unwieldy a situation. It can happen in Switzerland and it can happen in smaller countries. It can happen even in Delhi itself where you can enforce it in a limited way as has been done in Gujarat. I do not know whether it is in force or not, but you can enforce it in the urban areas. But it is very difficult to enforce it in a country where 71 crore people or 714 million people are in the voters list. It is a utopian idea.

No doubt that everybody should come out to vote, but the basic question is this. The people amongst themselves ask during election time and all of us also know what voters ask from us. What is the benefit that I am going to get if I am going to vote? He is not asking for money; he is not asking for prestige; and he is not asking for certain chair where he will sit. He is asking a very pertinent question to the system that we have developed within the last 63 years. Is this democratic system benefiting me in a certain way? Is it empowering me to get my ration card or get the job that I am supposed to get? This question he is asking to a candidate. What does the candidate say to him? Give me vote; I will get elected; and I will do everything for you. This is what the candidates have been saying for the last 63 years, and in a way, a number of citizens of our country feel very disenchanted with the system.

Of course, by raising this issue, Shri J. P. Agarwal has brought the issue before this House to deliberate. I would think that he wants us to deliberate on a very particular issue. Is the system -- that has developed within the last six decades or so -- delivering justice to the citizens for whom the freedom fighters have fought? Subsequently, when I heard his colleague from Delhi speaking in favour of the Bill, should I say that the Congress is in support of making this Bill pass in this House?

MR. CHAIRMAN: It is a Private Member's Bill.

SHRI B. MAHTAB : Yes, it is a Private Member's Bill, but I would say that let us all deliberate on this. Certain corrections are necessary, and this discussion is required not only in this House but also outside where we can educate ourselves and our people, and accordingly reform the system that has been there and which is actually not delivering justice.

*SHRI C. SIVASAMI (TIRUPPUR): Mr. Chairman, Sir, in order to protect himself, his property and to safeguard his interests and to ensure a Government of his preference by electing representatives of his choice to guide the lives of people, every individual has got voting right as his only talisman. A voter is empowered to change a government and to elect a government.

What is prevailing today as of now with regard to voting rights and voting method raises a question as to whether people are able to elect a government of their choice. There are many hurdles and lacunae coming in the way. This is what I would like to bring to the notice of this august House. If we want all the cent per cent of people to come forward to vote, we must ensure a conducive atmosphere for all the people to cast their vote. We are now deliberating the same.

Our Constitution provides that all the citizens who have completed 18 years of age have got voting rights. But when you go to a polling booth, you will be permitted to exercise your voting right only when your name has been enumerated in the Voters' List available with the Polling Officer. It is not enough that you have voting right, but you must find your name in the Voters' List. Every year, when the Voters' List is revised, according to the rise in population, the Voters' List too must swell. But officials involved in that duty restrict the rise in number to two per cent only. Even if the request from the individual eligible people is more in number, say four to five per cent, they are not enrolled. The officials on duty think that

they may become answerable to their higher ups and as a result of this apprehension, they curtail it to two per cent only. So, the aspirants and applicants to get their name registered in the Voters' List are deprived. It is difficult for those who have completed 18 years of age to get their names enrolled in the Voters' List. It is not that easy and it is very cumbersome. I can even go to the extent of saying that it would be rather easy to get elected as a Member of Parliament than to get enrolled as a voter in any of the Lok Sabha constituency.

If the revision of Voters' List is carried out according to the increase in population in every constituency, 5,000 to 10,000 new voters would be added. But what is available today is something to the contrary. It is rather strange to note that in some constituencies, the number comes down from what it was in the previous year or the previous election. Such confusion prevails there in our country in many constituencies. We must note that the candidate can be declared to have been elected with a margin of very meager number like 10 or even less or it can even be by a single vote. From Singanallur Assembly Constituency, a legislator was elected by a margin of 14 votes. In the neighbouring Pongalur Constituency, a candidate lost his choice by 40 votes. So we find that an improper Voters' List can change the fortunes of a Government.

When we want all the eligible voters must vote without fail in the elections, then we must ensure that a right atmosphere for all the voters to cast their vote is there during the elections. Necessary formalities and basic requirements in this regard must be completed and fulfilled. Today we are casting our vote. We cannot be very sure that our vote has been cast in favour of the candidate of our choice. There is no way to ascertain that we have cast our vote the way we wanted to. We are not sure what we have done because we are not in a position to know what we have done. This is the situation available now. With these Electronic Voting Machines, we cast our vote without knowing for sure what we are doing. Even when you are to buy a cloth in a cloth store, you see the cloth, ascertain for yourself the choice and then buy. There is no way in the case of our voting to find out whether we have voted only to the candidate of our choice. Earlier on we used to have ballot papers. It was then easy for us to check for ourselves whether we have inked our vote on the symbol of the candidate of our choice. We were able to verify before putting the ballot in the ballot box. Now, EVMs are there. We press the button. There is a 'beep' sound. We are to believe that we have voted. We are also to believe that we have voted for the candidate of our choice. But we cannot verify it for ourselves. So, a person with the voting right has no right to know the fate of his vote.

That is why, our Leader and the General Secretary of our AIADMK and the former Chief Minister of Tamil Nadu Puratchi Thalaivi Amma has been reiterating that the earlier system of voting through ballots should be resumed giving a go-by to the Electronic Voting Machines which have got the scope for going out of order due to possible malfunctioning.

I am duty bound to point out here that even after several years of Independence, our voting percentage is much to be desired. In Jammu and Kashmir, only 20 per cent of voters cast their vote during the previous election. Later on, during the Assembly election, the voting percentage improved by about 30 to 35 per cent because of the security measures that instilled confidence among voters. We must take steps to give adequate protection to people so that they may gain confidence that there is a guarantee for the safety of their lives. It will not be out of place on my part to point out that we witness violence and war-like situations which may even put to shame Indo-Pak war. We find from the media the increase of violence especially during elections even near election booths. We can see them through our TV sets. It is so common that it is for all of us to see. A culture of violence has set in. That is why, the Chennai City Corporation elections were revoked and re-election was done. That happened because of unprecedented violence that took place in Chennai city that day. So, even if we want to ensure cent per cent voting, it is not that easy at this juncture. Only when people feel safe and guaranteed of their safety and security will they come forward to vote. As long as violence prevails, no amount of emphasis on cent per cent voting can take off. We need to ensure safety and security first.

I am in the public life taken to party politics and I am an elected District Secretary of AIADMK. In all my public life, I have contested in elections five times, right from local body elections to parliamentary elections. Every time my family members were bidding farewell to me when I was leaving home they were not that much afraid like now. I have contested in local body elections twice, assembly elections twice and lately parliamentary elections. They now say that I must come back safe. That is the kind of security scenario and violent culture prevailing now. They even ask me whether I am sure of protecting myself and come back alive. Such is the worst situation now.

Fear has spread and apprehension is there in the minds of everyone now. This situation must be changed for the better to guarantee the public that we can hold free and fair elections and only then we can ensure better participation, leading to total participation of all the electorates in all the elections. It is only after that we can hold our heads high with the satisfaction of upholding democracy.

We used to have leaders with farsightedness and vision to plan for the welfare of the people, but today we find leaders coming out with populist measures and free distribution schemes having next elections in their minds. Such is the electoral politics now. This is the situation within which we have to hold elections, ensuring the participation of our voters. There is also an unsavoury trend that only those who have money can win.

It is right thinking to believe that we can strengthen our democracy by way of ensuring total participation of all the electorates with cent per cent casting of their votes, but the challenges are one too many. Voters are being bought. Money is being shelled out. It is said that a vote is purchased for even Rs. 2,000. Some people think that they can win anywhere if they have money enough in their pockets. If we allow this trend to continue, we will be allowing ourselves to be ruled by money rather than we rule ourselves with a democratic form of government. This will put spokes in the hopes of ordinary people and ordinary citizens hailing from workmen's families and rural and backward areas to come forward to take part in elections. We have to answer a question whether we can help the democracy to survive and grow under these circumstances.

I wish a suitable amendment is inserted in this Bill so that money power is clamped to claim a hold over the voters and sway the elections. Stringent measures and enactment of laws must be in place to put an end to money power in elections. Electoral violence must attract severe punishment and suitable measures in this regard must be taken without which we cannot think of people's participation and that too cent per cent participation in elections. There can be free and fair elections only when we resort to corrective measures to put an end to violence and money power.

Before concluding my speech, I would like to reiterate the need to do away with EVMs. Let me ask all the Members here again whether you were able to see for yourselves whether your vote cast during the last Lok Sabha elections was cast the same way you wanted to vote. You were deprived of your right to know how you have voted. Along with the right to vote, you also must have the right to know how you have voted. So we need to extend this right to the people by way of restoring the ballot system during voting. This will help the people to regain confidence in our electoral democratic system. This is the need of the hour. I hope, we will all put our head and the heart together to evolve a conducive atmosphere.

श्री अर्जुन राम मेघवाल (बीकानेर): महोदय, मैं जय प्रकाश अग्रवाल द्वारा प्रस्तुत किए गए गैर सरकारी विधेयक अनिवार्य मतदान के संबंध में चर्चा करने के लिए खड़ा हुआ हूँ। इस चर्चा के दौरान बहुत महत्वपूर्ण बिंदु उभरकर आए हैं। मैं मानता हूँ कि अनिवार्य मतदान होना चाहिए। जैसा अग्रवाल जी और माननीय सदस्य ने भी बताया कि मतदान कम क्यों होता है। मेरा कुछ प्रैक्टिकल अनुभव है जिसके आधार पर मैं कुछ कहना चाहता हूँ। कुछ एनजीओज़ और ऑर्गेनाइजेशन, जो इलैक्शन रिफार्म में काम करते हैं, उनकी सर्वे रिपोर्ट भी है जिससे एक चीज समझ में आई है कि मतदान की प्रक्रिया में लोगों का विश्वास नहीं रहा है और इस कारण मतदान कम हो रहा है। परसेंटेज कम होने का एकमात्र कारण है कि लोगों का मतदान की प्रक्रिया में विश्वास नहीं रह गया है। प्रक्रिया का मतलब यह नहीं है कि लोकतंत्र में लोगों का विश्वास नहीं है। इसमें विश्वास है लेकिन प्रक्रिया में विश्वास नहीं है। एक जगह बात आई कि एक जगह आठ मतदान केंद्र हैं, लंबी कतार है, कोई आदमी अगर दस बजे जाएगा और तीन बजे टर्न आएगी तो वह कहेगा कि क्यों चार घंटे खराब करें। एनजीओज़ ने कुछ ऐसे बिंदु उठाए हैं कि किस कारण मतदान प्रक्रिया में आम मतदाता का विश्वास कम हुआ है। इस देश में 71 करोड़ 40 लाख मतदाता हैं। इनमें से लोकसभा और विधान सभा चुनावों में 50 परसेंट से कम मत देते हैं। हम पंचायत समिति के चुनाव की बात करते हैं। राजस्थान में सरपंचों के चुनाव हुए, कई जगह 90 परसेंट वोट पड़े और कई जगह 70 परसेंट से ऊपर वोट पड़े। वहां इन्स्ट्रुट क्यों है और यहां क्यों नहीं है? यह गैप है। लोकसभा के लिए जो आदमी खड़ा है, उसे कम वोट देते हैं और सरपंच को ज्यादा वोट देते हैं। इसके अध्ययन की जरूरत है कि यह गैप क्यों आ रहा है। इसका मतलब है कि या तो गांव वालों को पकड़ कर ला रहे हैं। आप अनिवार्य मतदान कानून बनाएंगे तो इसके कई फायदे होंगे।

महोदय, एक बात इलैक्शन रिफार्म के दौरान आई कि इम्पेक्ट फीचर के माध्यम से मीडिया के लोग कैंडीडेट से एड और समाचार में आने के लिए पैसे वसूलते हैं। जब लोकतंत्र इस देश में आया, वर्ष 1952 में चुनाव हुए तब यह इम्पेक्ट फीचर नहीं था। लेकिन अब यह आ गया है। नई टेक्नोलॉजी से नई चीजें आ गईं। शायद उस समय धनबल का प्रयोग होता होगा लेकिन अब यह बढ़ा है। मसल पॉवर बढ़ी है, आपराधिक प्रवृत्तियां ज्यादा आ रही हैं, बाहुबल बढ़ा है, एससी और एसटी के लोगों का वोट कोई और दे जाता है। ये सब बीमारियां जो मतदान प्रक्रिया में आई हैं। अनिवार्य वोटिंग कानून से इन सबको दूर किया जा सकता है। लेकिन यह बड़ा क्रांतिकारी कदम है। यह बात सही है, इन्होंने कहा कि यह देश बहुत बड़ा है। लेकिन यदि कोई क्रांतिकारी कदम उठाएंगे।

MR. CHAIRMAN : Shri Arjun Ram Meghwal, you can continue later on. The House stands adjourned to meet again on

Monday, March 08, 2010.

18.00 hrs

The Lok Sabha then adjourned till Eleven of the Clock

on Monday, March 08, 2010/Phalguna 17, 1931 (Saka).

* Not recorded.

* Not recorded.

* Speech was laid on the Table.

* Speech was laid on the Table.

* Speech was laid on the Table.

* Speech was laid on the Table.

* Speech was laid on the Table.

* Not recorded.

* Not recorded.

* This part of the Speech was laid on the Table.

* English translation of the speech originally delivered in Tamil.