

Prisoners Voting Rights Global Trends and Indian Perspective

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ABSTRACT

In democratic democracies across the globe, the question of whether or not convicts should be allowed to vote is still a hotly debated topic. This study looks at prisoner enfranchisement trends worldwide, comparing and contrasting the methods used by various nations. In some countries, the right to vote is universal and unaffected by a person's criminal record, whereas in others, limits are imposed for ethical, political, or legal reasons. The research takes a close look at the main causes of disenfranchisement, which include issues related to punishment, civic duty, and the credibility of the voting process. Evaluating the constitutional and ethical reasons in favor of prisoners' participation in democracy, it delves more into the Indian context, where convicts are often denied voting rights. The paper argues that extending voting rights to prisoners aligns with principles of equality, rehabilitation, and inclusive democracy. Finally, it proposes a way forward for India by suggesting reforms such as conditional enfranchisement, policy revisions, and increased awareness. The study concludes that recognizing prisoners' voting rights can strengthen democratic values and promote social reintegration.

Keywords: *Prisoners, Voting, Democracy, Rights, Disenfranchisement.*

I. INTRODUCTION

In contemporary democracies, the subject of whether or not inmates have the right to vote is nuanced and ever-changing. In response to differences in political philosophy, legal systems, and understandings of human rights, nations throughout the globe take different tacks. There has been a discernible shift in the international community in recent years toward the idea that the ability to vote should not be totally curtailed because of a person's criminal record. In recent years, there has been a growing consensus across democracies that inmates should be allowed to keep their civic rights, including the ability to vote, because of the growing importance of inclusion, rehabilitation, and equality in these countries.

No matter the seriousness of their crime or the length of their sentence, inmates in a number of European nations have the right to vote. In these nations, the right to vote is considered fundamental to democratic participation and must be protected even for those incarcerated. Keeping the ability to vote is seen as a means to keep inmates linked to society in countries where rehabilitation takes precedence over punishment. However, there are a few of nations that have maintained their prohibitions. As an example, despite modest revisions prompted by discussions and legal challenges, the voting rights of prisoners in the UK have always been restricted. The United States also takes a piecemeal approach; some states' laws let inmates to vote while others have stringent disenfranchisement measures.

Human rights norms on a worldwide scale also impact discussions over inmates' voting rights. The European Court of Human Rights and other institutions have argued that prisoner voting prohibitions go against basic democratic ideals. These points of view call on governments to reevaluate existing legal systems and implement more nuanced policies that strike a better balance between punishment and the protection of fundamental rights. Partial or conditional enfranchisement is therefore becoming increasingly popular, reflecting a more modern conception of fairness.

Restrictions imposed by electoral legislation influence the question of convicts' voting rights in the Indian setting. At the present time, inmates in India cannot cast ballots, with the exception of those undergoing preventative custody. The major reasons for this limitation are the difficulties in organizing voting inside jails and the need of ensuring the validity of the election process. But detractors say it goes against the democratic concept of adult suffrage in general. They stress that those behind bars should not be denied the opportunity to participate in politics because of their citizenship status.

In addition, the rehabilitation and reintegration process may be impeded if voting rights are denied. Allowing prisoners to vote can foster a sense of responsibility and belonging, which is essential for their transformation into law-abiding citizens. In a democratic country like India, where equality and justice are core constitutional values, extending voting rights to prisoners can strengthen the democratic framework. It can also align India with global trends that increasingly recognize the importance of inclusive governance.

II. PRISONERS' RIGHT TO VOTE: TRENDS ACROSS THE WORLD

Although there isn't a centralized database showing a consistent trend regarding inmates' voting rights worldwide, the research and publications that are accessible provide a good picture of how things are done across the world. According to a 2012 BBC article, all convicts in Europe, regardless of the severity or length of their sentence, are granted full voting rights in at least 18 nations. Like these progressive and inclusive democracies, Slovenia allows its prison population to vote without restrictions.

These nations believe that the right to vote is inherent to all citizens and should not be taken away because of a person's criminal record. This strategy, which prioritizes rehabilitation above punishment, is followed by nations like Denmark, Norway, and Sweden. These countries recognize the need of preserving inmates' political engagement by allowing them to vote via other means, such as supervised voting inside correctional institutions or mail votes.

However, in a few of nations, inmates are not allowed to vote at all or only in limited capacity. For example, despite criticism and legal challenges, especially from the European Court of Human Rights, the United Kingdom has maintained its long-standing prohibition on prisoners voting. Similarly, in the United States and other nations, the voting rights of ex-convicts are determined by state law; some states let ex-convicts to vote, while others maintain a stringent ban on voting even after their release.

There has been a slow but steady movement in human rights discourse throughout the world to acknowledge the voting rights of inmates. A large number of human rights groups and international organizations contend that denying convicts the ability to vote makes it more difficult for them to reintegrate into society and weakens democratic inclusion. Consequently, there is a growing trend toward changing voting rules in a way that strikes a compromise between the goals of punishment and the protection of basic rights.

III. WHY COUNTRIES RESTRICT PRISONERS' RIGHT TO VOTE

While "convicts" are the only inmates in most nations who are unable to vote, detainees and those awaiting trial have the same voting rights as any citizen. There is universal agreement across nations that detainees and those awaiting trial who have not yet been found guilty by a court should be considered innocent and granted the right to due process. Many nations are fighting, to varying degrees, the expansion of this privilege to convicted criminals already serving their sentences.

Arguments Against	Arguments For
Civil death should be part of punishment	Civil death is outdated
Prisoners have broken the social contract and have voluntarily put themselves outside the social order	Social contract cannot be negotiated away
Preserve the purity of the ballot box	Undermines the democratic polity by denying the vote to a section of the population
Majority of the people are against allowing prisoners to vote	Elected should not be allowed to decide the electorate
Government has an obligation to those who obey laws to punish those who break laws	Allowing convicts to vote will encourage respect for law
To disallow those who have broken laws to engage in the political process shows how much respect society has for laws	Convicts will be less inclined to obey laws that they have had no role in deciding upon
Powerful moral symbol from society that the convict's behaviour is unacceptable	Symbolic statement to the convict that they are acceptable
Punishment can be used to form character	Allowing prisoners to vote will be a lesson in civic education
It will act as deterrent	It is rehabilitative
Expressive punishment and moral condemnation	Retribution should have no place in modern penalty
Disenfranchisement is exclusionary	Enfranchisement is inclusionary

The idea of "civil death" was the starting point for the argument against inmates' voting rights. This theory states that anyone declared a criminal, notorious, or outlaw loses all civil liberties, including the ability to freely speak one's mind, gather with others, own or inherit property, initiate legal proceedings, and serve in the military, among many others. With the exception of the ability to vote, most of these limitations do not apply anymore (Behan 2014). The idea that a criminal has broken the "social contract" is the most compelling argument against granting inmates the right to vote. Citizens of a society agree to live by and abide by a code of conduct, as stated in the social contract theory, which provides the theoretical foundation for the argument. The social compact in contemporary democracies is mostly enforced via the rule of law. Therefore, a lawbreaker opts to withdraw from society when they knowingly and willingly breach the law. Thus, the same privileges enjoyed by law-abiding citizens should not be extended to them. It is only fair to remove a lawbreaker from office since they have betrayed the public's faith. The denial of voting rights serves as a deterrent since it sends a message of societal disapproval.

IV. WHY SHOULD INDIA GIVE VOTING RIGHTS TO PRISONERS?

Two main points disprove the claims made against inmates' voting rights. The first is that a person cannot be punished further than what they already have experienced as a result of their incarceration; second, the point of prisons is not "punishment" per se, but rather the denial of liberty that leads to reform and the preparation of ex-offenders for reintegration into society.

In 1955, the Nelson Mandela Rules—also known as the United Nations' Standard Minimum Rules for Treatment of Prisoners—described the purpose of incarceration in Articles 57 and 58 and what treatment offenders were required to receive in Articles 60 and 61.

Depriving a person of their liberty and hence their right to self-determination is what makes imprisonment and other measures that isolate an offender harmful, according to Article 57. Consequently, the penal system must not... make matters worse for those already suffering in such a circumstance.

"The purpose and justification of a sentence of imprisonment or a similar measure derivative of liberty is ultimately to protect society against crime," further declares Article 58. To this aim, it is imperative that the offender's time behind bars be used to the fullest extent feasible in order to prepare him to return to society as a law-abiding, self-sufficient individual.

Article 60 states that, "(1) The regime of the institution should seek to minimize any differences between prison life and life at liberty which tend to lessen the responsibility of the prisoners or the respect due to their dignity as human beings."

According to Article 61, it is important to treat prisoners in a way that highlights their ongoing participation in society rather than their isolation from it. Inmates should have their civil rights, social security entitlements, and other social benefits protected.

States violate all the aforementioned norms when they deny incarcerated people the right to vote. Another kind of punishment is to take away a prisoner's right to vote.

"Rather than for the crime itself, it is a punishment for incarceration." According to long-standing court rulings in India, a prisoner is entitled to all liberties enjoyed by free persons, with the exception of those that are inalienably lost while incarceration (AIR 1978 SC 1514). No one shall face a double punishment for the same crime, as stated in Article 20(2) of our Constitution.

The inmate's humanity and civic dignity are violated by this extra penalty, which may make their suffering worse. The purpose of incarceration, as shown in Articles 60 and 61, is not to subject prisoners to such a deprivation; rather, it is to foster in them a sense of responsibility and civic engagement so that they may become productive members of society upon their release, both as a "law-abiding" and "self-supporting" individual.

The imposition of a uniform penalty on all inmates irrespective of their offense or personal circumstances demonstrated an illogical connection between punishment and the criminal, and there was no proof that disenfranchisement reduced crime. No one could credibly argue that the government has the right to strip convicted inmates of important rights they still hold on to in order to improve its public image or to correct a public misunderstanding about its real stance on crime and offenders. When a government exploits the Right to Vote for its own political gain, it betrays the sacredness of the voting process.

In addition to calling the government's claims "vague and symbolic objectives," a Canadian court ruled as follows:

"It was outrageous and contrary to the Canadian Charter of Rights and Freedoms that the legislation forbade inmates serving terms exceeding two years from voting in federal elections. "We must not casually discard the right to vote because it is essential to our democracy and the rule of law."

It couldn't "permit elected representatives to disenfranchise a segment of the population." For a long time, governments made up of white males denied some groups the right to vote because of their gender, ethnicity, color, or wealth. This history is continuing today when voting rights of another section of society, that is, prisoners and/or lawbreakers, is being denied by the people who are making the law. Interviews with these prisoners, during the same research study, revealed that prisoners welcomed the act of their enfranchisement, and also hoped that more such acts of their engagement with the society including more attention from the political class will be undertaken by the government.

V. VOTING RIGHTS FOR PRISONERS: THE WAY AHEAD

While campaigning for our desires, elections also provide us a platform to vent our grievances and express our dissatisfaction with the current government. We need policies that address the root causes of crime and help ex-offenders become productive members of society in addition to traditional measures like punishment, deterrence, and prevention. Removing the ability to vote further isolates the incarcerated person from society. In a democratic society, a person is meaningless if they cannot cast a ballot. This is also true in Indian politics, where platforms for office seldom call for changes to jail policies or circumstances. People outside of prison must step up and speak out for

prisoners if they want their voices heard. Therefore, lawmakers will pay more attention to the demands of inmates as a direct result of prisoners' ability to vote. Even if the inmate population is very tiny in comparison to other communities, those seeking office and those who come to power still have a moral obligation to address the inmates' concerns.

VI. CONCLUSION

Prisoners' ability to vote is a microcosm of the larger social tension between punishment and civic engagement in modern times. More and more nations are realizing that voting is fundamental to citizenship and should not be entirely stripped away because to incarceration. Some countries' rules are still rather lax because of legal or ethical considerations, while others are really well ahead of the curve when it comes to human rights, equality, and rehabilitation. The denial of voting rights to convicts in India demonstrates the vast gulf between constitutional concepts and their actual implementation. Excluding convicts from voting would be a breach of the principle of universal adult suffrage, notwithstanding legitimate administrative concerns and security concerns. Rehabilitating ex-offenders into contributing members of society calls for instilling in them a sense of civic responsibility, community, and participation in democratic governance. That is why it is imperative that we reconsider the current legal framework and seek compromises that safeguard democratic institutions. Recognizing the voting rights of prisoners leads to a more inclusive, participatory, and egalitarian democracy in the long term.

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