

Date: February 24, 2022

To,

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Subject: Ground reports on bogus voting, EVM malfunction, threatening of voters etc

Respected Sirs,

We, at Citizens for Justice and Peace (CJP) are writing to you as we are extremely concerned about certain occurrences at polling booths across the state of Uttar Pradesh. We would like to state here that we have received these ground reports from various sources, but we are unable to authenticate completely the veracity of these incidents. We consider it our responsibility as responsible citizens to forward the same to you so that they can be looked into and necessary action may be taken after due inquiry.

Here are some reports of incidents we have received:

EVM defective/Faulty:

- Booth number 40 of 200 Etawah assembly constituency of Etawah district: EVM machine is not dispensing slips at. Polling station officials are telling voters that the machine is faulty.
- Booth No. 305 Etah Assembly constituency 104 of Etah District
- Booth number 343 of 227 Mehrauni assembly constituency of Lalitpur district: EVM malfunction reported
- Booth number 4 of Rasulabad Vidhan Sabha, 205, of Kanpur Dehat district: defective EVM
- Booth number 401 of Jasrana 96 assembly seat of Firozabad district: Faulty EVM
- Kannauj Sadar assembly seat 198 of Kannauj district: Three EVMs malfunctioned in Ahmedpur Rauni village in. Voting was thus affected.

Bogus voting

- Booth number 326 of 106 Jalesar constituency of Etah district
- 103 Aliganj assembly booth number 359 of Etah district: BJP workers reportedly got bogus voting done
- Booth number 141, 142 of Rasulabad Vidhan Sabha of Kanpur Dehat district: BJP workers reportedly got bogus voting done
- Booth number 364-365 of Karhal 110 assembly seat of Mainpuri district: BJP workers reportedly got bogus voting done
- Booth number 36 of 212 Govindnagar assembly constituency of Kanpur Nagar district: BJP workers reportedly got bogus voting done with the help of police
- Booth number 81 in Karhal 110 constituency of Mainpuri district: reports of fake voting
- Booth- Girls Inter College Karhal 110 constituency of Mainpuri district: BJP workers reportedly got bogus voting done

Obstruction at booths

- Chhibramau Constituency 196 booth number 157 of Kannauj: BJP workers were not allowing voters to cast their votes
- Booth number 260, 261 of Ghatampur 218 assembly constituency of Kanpur Dehat: BJP candidates were influencing female voters
- Booth number 26 27 of Jasrana assembly constituency of Firozabad district: BJP candidate Manvendra Lodhi was threatening voters and trying to capture booths with the help of police

- Booth number 524,525,526,527 of Kannauj Chhibramau Vidhan Sabha 196: Voting was stopped by BJP worker by switching off the EVM machine.
- Booth number 44 of 102 Patiali assembly constituency of Kasganj district: Police reportedly harassed voters

Candidates obstructed

- Booth number 19, 20, 21, 22, 23 in 107 Mainpuri assembly seat of Mainpuri district: some Samajwadi Party (SP) members were not allowing a candidate to enter.
- Booth number 283 of Aliganj 103 assembly of Etah district: BJP agents went inside while the SP's agent has been ousted.
- Booth number 525 of Kannauj Chhibramau Vidhan Sabha 196: SP agent was ousted
- Booth number 317, 318, 319, 320 of Kannauj constituency 198, Kannauj: BJP workers were reportedly misbehaving with SP workers and journalists

Violations

The above mentioned incidents, if found to have been committed, entail the following offences under the Representation of People Act, 1951:

130. Prohibition of canvassing in or near polling station.—(1) No person shall, on the date or dates on which a poll is taken at any polling station, commit any of the following acts within the polling station or in any public or private place within a distance of ³[one hundred metres] of the polling station, namely:—

- (a) canvassing for votes; or
- (b) soliciting the vote of any elector; or
- (c) persuading any elector not to vote for any particular candidate; or
- (d) persuading any elector not to vote at the election; or
- (e) exhibiting any notice or sign (other than an official notice) relating to the election.

131. Penalty for disorderly conduct in or near polling stations.—(1) No person shall, on the date or dates on which a poll is taken at any polling station,—

- (a) use or operate within or at the entrance of the polling station, or in any public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loudspeaker, or
- (b) shout, or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighbourhood

thereof, so as to cause annoyance to any person visiting the polling station for the poll, or so as to interfere with the work of the officers and other persons on duty at the polling station.

132. Penalty for misconduct at the polling station.—(1) Any person who during the hours fixed for the poll at any polling station misconducts himself or fails to obey the lawful directions of the presiding officer may be removed from the polling station by the presiding officer or by any police officer on duty or by any person authorised in this behalf by such presiding officer.

135A. Offence of booth capturing –

(c) [coercing or intimidating or threatening directly or indirectly] any elector and preventing him from going to the polling station or a place fixed for the poll to cast his vote;

Also, offences under the Indian Penal Code may also be invoked:

171C. Undue influence at elections.—

(1) Whoever voluntarily interferes or attempts to interfere with the free exercise of any electoral right commits the offence of undue influence at an election.

(2) Without prejudice to the generality of the provisions of sub-section (1), whoever—

(a) threatens any candidate or voter, or any person in whom a candidate or voter is interested, with injury of any kind, or

(b) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of Divine displeasure or of spiritual censure,
shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter, within the meaning of sub-section (1).

171D. Personation at elections.—Whoever at an election applies for a voting paper on votes in the name of any other person, whether living or dead, or in a fictitious name, or who having voted once at such election applies at the same election for a voting paper in his own name, and whoever abets, procures or attempts to procure the voting by any person in any such way, commits the offence of personation at an election.

In *Lakshman Singh vs. State of Bihar (now Jharkhand)* [Criminal Appeal No. 606 OF 2021; decided on July 23, 2021], the Supreme Court had held thus,

"In the case of People's Union for Civil Liberties (supra), it is observed by this Court that freedom of voting is a part of the freedom of expression. It is further observed that secrecy of casting vote is necessary for strengthening democracy. It is further observed that in direct elections of Lok Sabha or State Legislature,

maintenance of secrecy is a must and is insisted upon all over the world in democracies where direct elections are involved to ensure that a voter casts his vote without any fear or being victimised if his vote is disclosed."

The court has further stated that democracy and free elections are a part of the basic structure of the Constitution.

"The essence of the electoral system should be to ensure freedom of voters to exercise their free choice. Therefore, any attempt of booth capturing and/or bogus voting should be dealt with iron hands because it ultimately affects the rule of law and democracy. Nobody can be permitted to dilute the right to free and fair election," the court added.

In fact, the court observed that the 6 months imprisonment imposed by the trial court was inadequate.

It is in this background, we urge this Hon'ble Commission to take note of the ground reports received by us and initiate enquiries into these allegations that may have impacted conducting of free and fair elections in the state of UP and take necessary further action in this regard as well.

Yours sincerely,

Nandan Maluste, President

Teesta Setalvad, Secretary