



Foundation for Critical Choices for India

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Voting Rights for Indians Living Abroad in Indian Parliamentary and State Elections and their Representation in Indian Parliament (1982)

Introduction:

1. Historically Indians have been traveling to other countries for trade, commerce and spreading Indian culture but in the past its significance was limited, due to the small number involved. However, migration of a different nature took place in the 19th century during the British Regime, when a large number of countrymen were transported by the colonialists to East Africa, Caribbean Islands, South West Asia and elsewhere to work on plantations and railways. After the Second World War and especially after the independence, not only that the total number of Indians migrating and living abroad had increased considerably but there has also been a qualitative change in the educational and professional background of people migrating. A large number of Indians migrating in the recent past have been highly qualified and experienced people, such as engineers, doctors, scientists, businessmen occupying prominent positions in the countries where they are resident. Although, it is difficult to have a precise figure of the total number of Indians residing abroad, estimates vary between 7 to 10 millions which is roughly 1 to 1.5% of the present population of the country.
2. This sizable group of Indian citizens has been facing a number of unique socio-economic problems regarding terms and conditions of their work abroad, educational facilities for their children, ownership of property, double taxation, problems of repatriation and re-entry in India, problems of racial and other types of discrimination, constraints on their

freedom of religious and cultural identity, exploitation by unscrupulous elements of some Indian nationals as mercenaries, etc. These problems are complex and require a sympathetic analysis and consideration at the highest level.

3. Indians abroad have appreciated the measures taken so far by the Central and the State Governments in India to tackle some of the above problems and to offer to them concessions in banking, foreign exchange, taxation, allotment of vehicles and land for housing, incentives for setting up industries in India, etc. Similarly they have also acknowledged the work done by the Indian Embassies and missions abroad in safeguarding the rights and welfare of Indians abroad. However, these piece-meal measures, whose execution is fragmented over a large number of bureaucratic agencies with consequent red tape and delays, have not covered the full gamut of socio-economic problems facing this special group, nor the present policies have as yet tapped the full potential of economic, social and technological contribution which the Indians abroad can make to the development of the country

Contribution of Indians abroad:

4. Although, this group of Indians has been away from the country of their birth for the sake of jobs, commerce and trade, the emotional link between them and the mother country has never ceased. Many of them have been keeping in touch with the developments in India through occasional visits and reading journals and periodicals from India. In fact, it would not be an exaggeration to say that despite the long distances which separate them from the country, they are perhaps one of the most well informed groups of Indians, about developments in India.

In general, the Indians abroad have been assets to the country not only in terms of remitting hard earned and much needed foreign exchange to be utilised for the economic development of the country but also in terms of propagating the Indian culture and the Indian way of life in the countries of their residence. They have taken an active part in

creating a favourable public opinion about India in their own countries, and some of them have been excellent unofficial ambassadors of India in improving political, economic and cultural relations between India and the countries of their residence. Considerable improvements which have taken place recently in India's exports to these countries as well as the cordial relations which exist between India and these countries can be ascribed to some extent to the catalytic role played by Indians abroad.

5. Indians abroad have been instrumental in acting as a link between the centres of research, science and commerce in the West and those in India by way of facilitating import of new technology, managerial know-how and the results of innovation, for the benefit of India. As a result many new joint ventures have come off the ground adding to the variety of industrial production in India. Much of the buoyancy which is seen in the new frontier industries in India like the television and video, calculating machines, electronics can be traced to this very healthy catalytic role played by Indians abroad. At the same time they have also helped industrialists in India to set up joint ventures in their own or third countries.

The Indian industrialists abroad have been keen to invest lavishly in new industries in India bringing in much needed new technology and know-how at much cheaper cost. However, the procedural rigidities and fiscal disincentives have stood in the way of full realization of this potential ('Indian Enterprises abroad' in Illustrated Weekly of India, February 21- 27 1982).

It is estimated that the collective remittance of all Indian nationals abroad would be in the neighbourhood of Rs 1, 500 crores per annum. Moreover, it is further estimated that the non-residence Indian funds in foreign banks may exceed Rs. 20,000 crores (H.R. Suri, Rules and Regulations for Overseas Indians, 1981-82, Sales Overseas, Delhi, April 1981).

The present policies have been able to tap only a fraction of the possible future remittances and investment. Eminent lawyer, Nani Palkhiwala, commenting recently on the huge US\$ 5.7 billion loan offered to India by the International Monetary Fund, stated that the loan

could have been avoided, if proper incentives and taxation facilities were offered to the Indians abroad (Indian Overseas', January - February, 1982, p.37).

6. Due to the changing international economic situation and the steep rise in the cost of production in many western countries, new horizons for exports of Indian industrial products, man-power and know-how to many third world countries are opening up, in the exploitation of which Indians abroad can play a very important role. There are only a few developing countries like India which can take advantage of this situation and which have the necessary industrial technological and man-power base. Experience of other countries like South Korea, Taiwan etc. shows that it is also possible for India to increase its exports many times. Many of the Indians abroad have distinguished themselves in the export trade and are playing a significant role in the promotion of exports of the countries of their residence. For example, the Indian business community in Hong Kong, though constituting only 0.2% of the population there, controls more than 10% of that country's export trade (Somnath Dhar, 'Council for Overseas Indians' in The Indian Overseas, January-February, 1982, p 7).

7. There is no reason why their knowledge and expertise could not be used for boosting up India's exports also. The Indians abroad, due to their high level professional background, their exposure to different cultures and systems, their spirit of adventurism and innovation, can be very reliable advisors and allies of India in ensuring new outlets for India's exports and securing for it a legitimate share of the growing international market. However, to realize this tremendous potential, quantum jumps in scope and imagination in existing policies are needed.

There is a widely shared feeling that the present policies relating to the Indians abroad have not yet addressed themselves to realize this many-sided potential contribution of Indians living abroad, nor have they done full justice to the solution of multitudinous problems facing them. There is, therefore, a need to look at these measures afresh and suggest some new departures.

Towards a new policy for Indians abroad:

A new policy for Indians abroad has to be very bold, comprehensive and it should cover a number of important aspects relating to the possible future contribution which they can make to the development of the country, as well as deal effectively with some of the major problems faced by them. It is not our intention here to elaborate on all these aspects but to concentrate on the most important ones, namely those relating to the political rights of Indians abroad and their representation.

Right of vote for Indians abroad:

8. First, to start with, it is a pity that this sizable chunk of Indian population with high level educational background and professional experience remains de-franchised at present.

The present regulations do not facilitate voting by Indians abroad for national, state and local elections in India, unless they are resident in India. In this connection it may be stated that many countries, both in the industrialized and developing world, do permit their nationals abroad to vote. Their embassies abroad register them for voting and make arrangements for postal ballots. Even in India, the civil servants working in Indian embassies abroad have been permitted to vote for Indian elections. However, the Indians abroad are still deprived from exercising this fundamental right granted to them by the Constitution. It is strange that Indians resident abroad in some countries, are allowed to vote for local elections and, in some cases they are also allowed to stand for local elections, but they cannot vote in the elections of their own country.

By denying this right to the Indians abroad, not only that their fundamental right has been compromised but also that the political process in India has remained poorer as a result of non-contribution by this group in the process of policymaking . The potential contribution of such a talented and experienced group of citizens in the policymaking process could be considerable.

Participation of Indians overseas in elections of India, will not only enhance their emotional attachment to the motherland, but it would also minimize the feeling of alienation and indifference, which sometimes they may have, as a result long absences from the motherland. Because, elections not only serve the purpose of electing a government by popular choice, but they are also a means of gratifying the fundamental desire of human beings to participate in decision-making process affecting them. They gratify the voters' sense of self-esteem and self-respect, give them an opportunity to make their views known and to influence policy-making in general in India, and on Indians abroad in particular.

The implementation of the right to vote for Indians abroad is not likely to create major political, financial or administrative problems. Their participation in the election of India is not likely to upset the electoral balance between various political parties, partly because the Indian community abroad would also reflect the same political composition as the voting population in India, and partly because of their limited number as compared to the total number of voters in India.

Making arrangements for enabling Indians abroad to vote will also not cost the tax payer a fortune. Arrangements already exist for facilitating participation in the elections by the members of the staff of Indian embassies. The same arrangements could be extended to other Indians resident in those countries. The extra financial cost is likely to be very minimal as compared to the tremendous psychological impact of such a measure.

Representation of Indians abroad in Legislature:

9. The right to vote which fulfils the craving for the sense of belonging is not an end in itself. One of the essential requirements of a democratic system is also the right of representation through which communities and groups, in particular special groups and minorities, ensure that in the process of the broad policy-making their interests and special needs are not forgotten or swamped under the general provisions meant for all citizens. At present the Indians abroad do not have access to the normal democratic channels to articulate their

special needs and interests either through participation in the electoral process or through representation. There is no special representation of Indians abroad in the highest deliberative bodies of the nation, viz. the Lok Sabha and the Rajya Sabha or in the state legislatures. The unique and the complex nature of the problems faced by this group of citizens has already been indicated earlier. Regular members of the Parliament, who normally represent geographical constituencies, are not likely to be familiar or sympathetic to the special problems of Indians abroad. In view of the magnitude of the people involved and the peculiarity of the problems facing them, there is an urgent need for their representation in parliament.

The Constitution of India, part XVI, already recognizes the principle of special representation of particular groups, minorities in the legislatures, with a view to ensuring sympathetic consideration of their problems. For example, Article 331 of the Constitution makes special provision for appointment of two members of parliament to represent the interests of the Anglo-Indian community. This special representation has gone a long way in fulfilling their aspirations and in ensuring proper consideration of their special problems. The problems faced by Indians abroad are also unique and deserve a similar sympathetic consideration. The contributions made in the past by them to the development of the country and their loyalty and support to the cause of the Nation, have been inferior to no other group in the country. It would, therefore, be in the fitness of the things that members of the Indian community abroad should not remain without proper representation in our legislature.

We, therefore, urge that the Constitution of India, Article 331 be amended to provide for nomination of appropriate number of Members of Lok Sabha to represent Indians abroad. Such an amendment of the Constitution is not likely to be controversial as all political parties would be interested in the welfare of Indians abroad. Finding suitable persons for such nominations is also not likely to pose a problem. The former Indian ambassadors, prominent Indians resident abroad or others who have been championing their cause, would be obvious candidates for such nomination.

In the long run the democratic aspirations of Indians abroad could be satisfied by providing direct elections of such members by the Indian community abroad, on the analogy of elections to the vacancies reserved for the members of the scheduled castes/tribes.

The above proposal is the most appropriate solution which would meet the aspirations of the Indians abroad. However, its realization is likely to take a long time, due to the long-drawn process of constitutional amendment. Pending this, immediate relief can be provided by nomination of special members of the Rajya Sabha to represent the interests of Indians abroad. The President of India can do this under the present provisions of Article 80(3) of the Constitution for nomination of special members of Rajya Sabha to represent various professional and other groups. Timely appointment of such members will be highly appreciated by Indians abroad and would add to their enthusiasm in working harder for the benefit of the country.

Possibilities for Indians abroad to stand for elections:

10. There are many distinguished members of the Indian community abroad who can make substantive contribution to the policy-making process in India by their participation in the Legislature.

However, the present regulations do not facilitate Indians abroad to stand for elections in India, even at local level. Based on their first hand knowledge of commerce, trade, industrialization, science, technology, education, they can make very valuable contribution to the design of policies and programmes in their fields.

Some of them often visit India and spend a considerable time in the country in the pursuit of their profession. A few of them are likely to prove very capable candidates for state or local level elections.

It is acknowledged that there may be some insurmountable problems in allowing them to stand for elections to the popular chambers where continuous presence in the constituency may be essential.

But there may not be such stringent requirements for such persons to be nominated by the State Legislatures to the Rajya Sabha for which each State has a quota.

It is desirable that the pros and cons of such a proposal should be examined at the highest level.

Planning and execution for better coordination of policies towards Indians abroad:

11. A number of measures already exist which provide preferential treatment and concessions to Indians abroad.

However, at present they come under the purview of a number of ministries, departments, bureaus at the Centre and in the States.

Very often members of the Indian community abroad have to move from one agency to another and deal in time consuming procedural formalities for getting the benefit of these measures. Also various ministries and departments which are mainly concerned with the problems of the general community of Indians living in the country itself are not likely to give high priority to the special problems of Indians abroad.

A ministry for Indians abroad:

12. We feel that a stage has come when the special problems of Indians abroad deserve a higher level institutionalization in the structure of the Government of India.

The increase in the number of Indians abroad, the potential of their contribution to the development of the country and the significant role which they can play in boosting up India's exports and prestige abroad, deserve a higher level consideration of their problems. We feel very strongly that the question of creating a special Ministry of Overseas Indian Affairs should be examined. Pending creation of such a Ministry or a Department with a separate Minister to look after such a ministry, we suggest that a Special Unit for the Affairs of Indians abroad should be created, preferably in the Prime Minister's Secretariat, to deal with the special problems of Indians abroad.

This office should coordinate with other ministries of the Government of India and the State Governments on all policy matters affecting this group. The functions of such an Office should include political rights of Indians abroad, inheritance of property left behind by Indians abroad, problems of education of children of overseas Indians in the countries of their residence as well as in India, special problems of marriage, divorce, and care of children born out of mixed marriages, protection of Indian workers abroad, safeguarding of religious and cultural identity of Indians abroad, special facilities to returning Indians for travel, customs, etc., allotment of land for building houses, location of industries, problems relating to double taxation, questions of nationality, and concessions to Indians abroad.

A special *Ambassador-At-Large* for Indians abroad:

13. At present the regular ambassadors accredited to various countries are responsible for the welfare of Indians abroad, in addition to their other activities.

The work relating to Indians abroad is not likely to make special demands in countries where the resident Indian population is very small. But in countries where their number is substantial and there are many matters to attend to, the regular arrangements at the Embassy may not be sufficient.

Moreover, sometimes there are problems of a generic nature which are common to Indians residing in more than one country.

We feel that the special problems of Indians abroad are likely to receive better attention if a Special Ambassador-At-Large is appointed whose main task would be to look after the problems of this group. He would be in a position to periodically visit all countries where Indians are resident in large number and initiate necessary measures in coordination with the local Indian Ambassadors. He should also be responsible for providing the leadership to the proposed *Special Office* in the Prime Minister's Secretariat and coordinate policies and their execution both nationally and internationally.

It would also improve matters if a special post of a First Secretary or Attaché for Indians abroad is created in Indian Embassies in countries with sizable population of expatriate

Indians. The proposed Ambassador-At-Large can function more effectively if there is a special functionary in each country for this work.

Also the resident Indian population would appreciate if there is one contact person in the Embassies for their problems. This would be similar to the arrangement which exists at present in the embassies of some Western nations in third world countries to deal with specific problems of development assistance.

Since the actual implementation of most measures providing facilities to Indians abroad would come under the purview of the State Governments, creation of special units under the direct supervision of the chief Minister to deal with this subject at the State level, would also improve coordination

Conclusion:

14. There has been a tremendous change, both quantitative and qualitative in nature, in the community of Indian citizens living abroad. Many of them are staying abroad for long periods in number of countries, occupying, important positions in the countries of their residence. They have made and are continuing to make considerable contribution to the development of their motherland.

However, the potential for their contribution is much higher, which can be tapped by an imaginative and comprehensive policy towards them. They also face many social, economic, political problems, which deserve special consideration at the highest level. We feel that the time has come to take a total look at the policy relating to Indians abroad and to suggest changes therein with a view to meeting aspirations of Indians overseas and tapping the potential of their contribution. For long the Indians abroad have remained disfranchised and un-represented in our legislature and it is high time that these omissions are rectified.

In the light of the preceding discussion we would like to make the following specific recommendations to be considered by the appropriate authorities in India:

- (1) To amend the Constitution of India, Article 331 to provide for special representation of Indians abroad in the Lok Sabha.
- (2) Pending amendment of the Constitution, Article 331, to appoint, under Article 80(3), a suitable number of members of Rajya Sabha to represent the special interests of Indians abroad.
- (3) To modify the Election Rules and if necessary the Constitution of India enabling Indians abroad to vote for local, state and national elections in India.
- (4) To amend the Election Rules, and if necessary the Constitution of India enabling Indians abroad to stand for nomination by State Legislatures to Rajya Sabha
- (5) To create a Special Ministry or an Office for Affairs of Indians Abroad in the Prime Minister's secretariat for coordinating policies and their execution with regard to problems of Indians resident abroad.
- (6) To examine the possibility of appointing a Special Ambassador-At Large to look after the special interests of Indians abroad.
- (7) To encourage use of Indian professionals abroad as consultants for project preparation and other work in India.
- (8) To reserve a certain number of seats in important Indian Universities for the education of children of Indians resident abroad.

Editorial Comments

FCCI was the first organization of NRIs/PIOs to present to the Government of India a comprehensive framework of policy and institutional set up in relation to the problems and issues of NRIs/PIOs. Most of the proposals made in this paper have been acted upon by the Government of India. Although no separate members of Rajya Sabha to represent NRI/PIOs were appointed, some of the existing members of Rajya Sabha were asked to pay special attention to NRI/PIO issues. On the organizational issue, initially a separate unit for NRI/PIO affairs was set up in the Ministry of External Affairs and ultimately as proposed by the Foundation, a separate Ministry of Overseas Indian Affairs (*MOIA*) has been set up with a cabinet rank minister. The Vajpayee Government had also appointed Dr.B. Agnihotri from USA as Ambassador At Large for NRIs/PIOs, and though late, in early January 2007, on the occasion of the Pravasi Bharatiya Divas 2007, the Minister for Overseas Indian Affairs, Mr. Ravi Vayalar announced government's decision to grant all Indian passport holders, resident or not in India, to vote for national elections.