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The Representation of the People Act : Part I

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Introduction

- The holding of **free and fair elections** is the sine-qua-non of democracy. To ensure the conduct of elections in free, fair and in an impartial manner, the constitution-makers incorporated **Part XV (Articles.324-329)** in the constitution and empowered Parliament to make laws to regulate the electoral process.
- **The Election Commission of India (ECI)** is the watchdog of **free and fair elections** in the country and **Article 324** of the Constitution provides for its establishment.
- In this context, the Parliament has enacted the Representation of the People Act (**RPA**), 1950 and Representation of the People Act,1951.
- In this TTP, we will cover RPA, 1950 followed by the TTP on RPA, 1951 and other aspects related to both the acts.

Background

- **Universal suffrage:** After independence, there was a need to hold **general elections** to elect a truly representative government on the basis of **universal adult suffrage**.
- **Article 325** of the constitution ensures **universal suffrage** and provides that no person be ineligible for inclusion in, or to claim to be included in a special, electoral roll on grounds of religion, race, caste or sex.

Universal Adult Suffrage

Universal adult suffrage is the right to vote of all adult citizens, regardless of wealth, income, gender, social status, race, or ethnicity, subject only to minor exceptions.

- **Election Commission of India (ECI):** The ECI as an **independent constitutional authority** was therefore brought into force from **November 26th, 1949**.

- **The Acts:** To provide a **legal framework** for the conduct of elections, Parliament passed the **Representation of the People Act, 1950, Representation of the People Act, 1951** and **Delimitation Commission Act of 2002**.
- **Delimitation:** For the purpose of **first general elections** to the Lok Sabha and Vidhan Sabhas, the **first delimitation order** was issued by the President, **in consultation with ECI** and with the approval of Parliament in August 1951.

Representation of the People Act (RPA), 1950

Key Provisions

- Lays down procedures for **delimitation of constituencies**.
- Provides for the **allocation of seats** in the House of the People and in the Legislative Assemblies and Legislative Councils of States.
- Lays procedure for the **preparation of electoral rolls** and the manner of filling seats.
- Lays down the **qualification of voters**.

Delimiting Constituencies

- The **President** of India has been conferred the power to **amend** orders delimiting constituencies, **only after consulting the ECI**.
- In Lok Sabha, there is a reservation of seats for **Scheduled Castes and Scheduled Tribes**.
- The ECI has the power to determine the constituencies to be reserved for scheduled tribes in the states of Meghalaya, Mizoram, Nagaland and Tripura.

Delimitation Commission

- Under **Article 82** of the Constitution, the Parliament by law enacts a **Delimitation Act after every census**.
- After coming into force the commencement of the Act, the Central Government constitutes a **Delimitation Commission**.
- This Delimitation Commission demarcates the boundaries of the Parliamentary Constituencies as per provisions of the Delimitation Act.
- The **present delimitation** of constituencies has been done on the basis of the **2001 census** figures under the provisions of **Delimitation Act, 2002**.
- Notwithstanding the above, the Constitution of India was specifically amended in 2002 **not to have delimitation of constituencies till the first census after 2026**. Thus, the present Constituencies carved out on the basis of the 2001 census shall continue to be in operation till the first census after 2026.
- **Allocation of seats:** As far as possible, every state gets representation in the **Lok Sabha in proportion to its population** as per census figures.
- **Electoral Rolls**

- The 1950 Act permits the registration of persons in electoral rolls who are **ordinarily resident** in a constituency and persons **holding**:
 - **Service** qualification such as a member of **armed forces, member of the armed police force of a state**, serving outside the state, or central government employees posted outside India.
 - **Certain offices in India** declared by the President in consultation with ECI.
 - The wives of such persons are also deemed to be ordinarily residing in India. There is a proposal for making some provisions **gender-neutral** by replacing the term 'wife' with 'spouse'.
- **Chief Electoral Officer (CEO)**
 - Each state to have a CEO nominated or designated by the ECI in **consultation with the state government** to **supervise** the election work in the State/ UTs.
 - The ECI also nominates or designates an officer of the state as the **District Election Officer (DEO)** in consultation with the state government
The DEO works under the overall superintendence and control of the CEO.
- **Electoral Registration Officer (ERO)**
 - The ERO is responsible for the **preparation of the electoral roll** for each constituency (parliamentary/assembly).
 - An appeal against the order of the ERO during the update of the electoral rolls now lies with **District Magistrate**.
- **Returning Officer(RO)**
 - RO is responsible for the conduct of the election in **a constituency** and **returns an elected candidate**.
 - The ECI nominates or designates an officer of the government or local authority as the RO in **consultation with the state government**.
- **Power to make rules** under the act is conferred to the Central **government**, which can exercise this power in **consultation with the ECI**.
The **Civil Courts** have also been **barred** to question the legality of any action of the **ERO** regarding **revision of electoral rolls**.
- **Voting Rights:** In 2010, voting rights were extended to citizens of India living abroad.

RPA, 1950 Schedules

- **The First Schedule:** Allocation of seats in the House of the People
- **The Second Schedule:** Total number of seats in the Legislative Assemblies
- **The Third Schedule:** Allocation of seats in the Legislative Councils
- **The Fourth Schedule:** Local authorities for purposes of elections to Legislative Councils

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