



# The Representation of the People Act : Part I

## 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 26<sup>th</sup>, 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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