Right to Vote in India: Electoral Roll Concerns Renew Debate over Its Legal Status and Constitutional Protection

Published On: 30-09-2026

Recent Developments:

- Recent concerns over **electoral roll management** and the functioning of the Election Commission of India have renewed attention to the legal status of the **right to vote** in India.
- In Goa, **97 electors** who had initially been flagged for logical discrepancies during the Special Intensive Revision were subsequently found eligible after examination by Electoral Registration Officers but were not included in the final electoral roll published in February 2026. The Goa Chief Electoral Officer later stated that the cases were separately processed through house-to-house visits, that many had since been enrolled and that the remaining cases were being processed.
- The episode has highlighted the importance of **accurate electoral rolls, procedural safeguards, digital election systems and timely correction mechanisms** in protecting effective participation in elections.
- The Election Commission currently provides mechanisms for voter registration, correction, deletion and electoral-roll searches, including **Form 6 for new registration, Form 7 for deletion and Form 6A for eligible overseas electors**.

Universal Adult Suffrage in India:

Constitutional Foundation:

- India adopted **universal adult suffrage** from the commencement of the Republic, allowing eligible adult citizens to participate in elections without discrimination based on gender, caste, religion, education or property.
- **Article 326** provides that elections to the House of the People and State Legislative Assemblies shall be based on adult suffrage, subject to constitutionally permitted disqualifications.
- The constitutional framework therefore established mass political participation from the beginning rather than introducing voting rights gradually through separate social or property-based expansions.
- The Election Commission confirms that elections to the House of the People are conducted on the basis of **adult suffrage under Article 326**, and the first general election was held during **1951-52**.

India Compared with the United States:

- India adopted universal adult suffrage at the outset of the Republic, whereas the United States expanded formal voting rights through constitutional amendments and subsequent legislation over a longer period.
- The **15th Amendment** prohibited denial of voting rights on grounds of race, colour or previous condition of servitude, while the **19th Amendment** prohibited denial of voting rights on grounds of sex.
- Despite these constitutional developments, discriminatory mechanisms such as poll taxes and literacy tests continued to restrict effective political participation in parts of the United States for decades.
- India therefore began its constitutional democracy with a substantially broader formal electoral franchise.

Constitutional and Statutory Framework:

Article 326 and Representation of the People Acts:

- **Article 326** establishes the constitutional basis for adult suffrage, while detailed rules governing electoral registration and elections are primarily provided through legislation.
- The **Representation of the People Act, 1950** deals with electoral rolls, qualifications of voters, allocation of seats and delimitation-related matters.
- The **Representation of the People Act, 1951** regulates the conduct of elections, qualifications and disqualifications for membership, corrupt practices, electoral offences and other election-related matters.
- This framework creates a distinction between the **constitutional basis of adult suffrage** and the statutory mechanisms through which electoral participation is operationalised.

Legal Status of the Right to Vote:

Fundamental Right, Constitutional Right and Statutory Right:

- A **Fundamental Right** receives direct protection under Part III of the Constitution, whereas a constitutional right derives from the Constitution but may operate through statutory provisions; a statutory right is created and regulated primarily by legislation.
- The Constituent Assembly considered whether the right to vote should be placed within the **Fundamental Rights** chapter but ultimately provided for adult suffrage separately through Article 326.
- In **Kuldip Nayar v. Union of India (2006)**, a Constitution Bench reiterated the distinction between the right to vote and the freedom of voting and described the right to elect as a **statutory right**.
- In **Rajbala v. State of Haryana**, the Supreme Court referred to the right to vote under Article 326 as a **constitutional right**, while also recognising that the right operates subject to constitutionally permitted restrictions.
- In **Anoop Baranwal v. Union of India (2023)**, the Constitution Bench examined the earlier decisions and noted the tension between these formulations but did not finally determine the issue, stating that it could proceed on the basis of the position established in *Kuldip Nayar*.
- Therefore, the judicial position should be presented carefully: **the right to vote is not a Fundamental Right**, while judicial decisions have used both statutory-right and constitutional-right formulations in discussing its legal character.

Freedom of Voting and Article 19(1)(a):

- The Supreme Court has distinguished the **right to vote** from the **freedom of voting**, particularly the expression of political choice when an eligible elector casts a vote.
- In *Anoop Baranwal*, the Court discussed earlier jurisprudence recognising that the act of expressing a choice through voting can have a connection with **freedom of expression under Article 19(1)(a)**.
- This distinction is important because the legal entitlement to participate in an election and the constitutional protection associated with the expression of political preference are not necessarily identical concepts.

Importance of Electoral Rolls:

Legal Framework:

- The practical exercise of the right to vote depends on the elector's **name being correctly included in the electoral roll**.
- Under **Section 19 of the Representation of the People Act, 1950**, an eligible citizen meeting the statutory conditions relating to age and ordinary residence can be registered as an elector.
- **Section 21** provides for the preparation and revision of electoral rolls and empowers the Election Commission to direct revision, including special revision where required.

- **Section 22** provides for correction, transposition or deletion of entries after appropriate verification, while **Section 23** deals with inclusion of names in electoral rolls.

Electoral Roll Integrity:

- Electoral-roll management must address **omission of eligible electors, inclusion of ineligible persons, duplicate registration and incorrect personal details**.
- The principle of **one person, one vote** requires both accurate inclusion of eligible citizens and exclusion of persons who are not legally entitled to vote.
- The Election Commission describes itself as the constitutional authority responsible for administering elections and provides mechanisms for registration, correction, electoral-roll search and voter services.

Digitalisation and Electoral Administration:

Emerging Governance Issues:

- Increasing reliance on digital systems makes **data accuracy, auditability, interoperability, access control and correction mechanisms** important components of electoral administration.
- The Goa controversy brought attention to the interaction between decisions taken by Electoral Registration Officers and the technical capabilities of the electoral-roll software.
- Reports stated that the digital system did not provide a rollback facility after certain deletion actions, while the Election Commission explained the applicable software and statutory process; the Goa CEO subsequently stated that the affected cases were processed separately.
- The episode demonstrates that digitalisation can improve administrative efficiency but also requires **human oversight, procedural safeguards and effective grievance-redress mechanisms**.

Why the Legal Protection Debate Matters:

Democratic Participation and Constitutional Safeguards:

- The debate over the legal status of the right to vote concerns the degree of **constitutional protection** that should accompany universal adult suffrage.
- A stronger constitutional character for voting could potentially affect the manner in which legislative restrictions and administrative decisions concerning electoral participation are examined.
- At the same time, electoral participation necessarily requires statutory rules concerning **eligibility, residence, registration, disqualification, electoral-roll revision and election administration**.
- The constitutional framework therefore combines **adult suffrage under Article 326, statutory regulation through election laws and constitutional supervision of elections through Article 324**.

UPSC Relevance:

GS-II Constitutional and Governance Linkages:

- **Constitution:** Articles 324 and 326, constitutional position of adult suffrage, constitutional protection of electoral democracy.
- **Legislature:** Parliament's role in establishing the statutory framework governing electoral registration and election conduct.
- **Election Commission:** Superintendence, direction and control of elections under Article 324.
- **Electoral Reforms:** Electoral-roll accuracy, voter registration, deletion safeguards, digitalisation and grievance redressal.
- **Judiciary:** *Kuldip Nayar*, *Rajbala* and *Anoop Baranwal* illustrate the evolving judicial discussion concerning the legal nature of voting rights.

- **Democratic Governance:** The issue connects individual electoral participation with the broader constitutional requirement of **free and fair elections**.

Value Addition for UPSC:

Key Conceptual Takeaways:

- **Article 326:** Provides the constitutional basis for adult suffrage but does not place the right to vote among the Fundamental Rights in Part III.
- **Article 324:** Entrusts the Election Commission with the superintendence, direction and control of elections.
- **Representation of the People Act, 1950:** Primarily governs electoral rolls and elector registration.
- **Representation of the People Act, 1951:** Primarily governs the conduct of elections and election-related offences.
- **Kuldip Nayar (2006):** Treated the right to elect as a statutory right and distinguished it from freedom of voting.
- **Rajbala:** Referred to the right to vote under Article 326 as a constitutional right.
- **Anoop Baranwal (2023):** Discussed the conflicting judicial formulations but did not finally resolve the statutory-versus-constitutional-right question.
- **Electoral Roll Principle:** Democratic participation requires both **inclusion of eligible electors and exclusion of ineligible persons**.
- **Mains Argument:** The legal status of the right to vote must be examined alongside the constitutional design of adult suffrage, statutory electoral regulation, Election Commission autonomy and safeguards for accurate electoral rolls.