

Protecting and Preserving Voting Rights in India: Legal Status, Electoral Rolls & Universal Suffrage

July 11, 2025 • vajiramandravi.com



Voting Rights in India

Voting Rights in India Latest News

- Recently, the Supreme Court asked the Election Commission to accept Aadhaar, voter ID, and ration cards for updating Bihar's voter list. The court said the right to vote is core to India's democracy.
- Unlike some Western countries, India gave voting rights to all adults from the start.
 - In the UK, voting was once limited to rich men. Women there got voting rights only in 1928.
 - In the U.S., Black citizens and women legally gained voting rights early, but many still faced unfair barriers for years.
- The article highlights the Supreme Court's emphasis on protecting the right to vote, linking it to India's commitment to universal adult suffrage.

How India Made Universal Adult Suffrage a Reality

- India chose immediate universal adult suffrage from the beginning, ensuring voting rights for all citizens, unlike many countries that granted it slowly.
- **Constitutional Guarantee**
 - Article 326 granted voting rights to all adults, regardless of gender, caste, religion, education, or property.
 - The voting age was later reduced from 21 to 18 through the 61st Amendment in 1989.
- **Legal Framework**
 - Two laws support this right:
 - The Representation of the People Act, 1950 — for preparing electoral rolls.
 - The Representation of the People Act, 1951 — for regulating elections and addressing offences.
- **Administrative Innovations**
 - To include 173 million largely illiterate voters, election symbols were introduced by Chief Election Commissioner Sukumar Sen, making voting easier for all.
 - The Election Commission ensures that every citizen, no matter how remote, can exercise their right to vote — a core pillar of India's democracy.

Legal Status of Voting Rights in India

- In India, the 'right to vote' is not a fundamental or constitutional right but a statutory right under Section 62 of the Representation of the People Act, 1951.
- In **Kuldip Nayar v. Union of India (2006)**, the Supreme Court ruled that voting is a statutory right, not a fundamental or constitutional one.
- A 2016 judgment in **Rajbala v. State of Haryana** termed it a constitutional right, but the larger bench ruling in Kuldip Nayar prevails.
- In **Anoop Baranwal v. Union of India (2023)**, the Court maintained the established view.
- Justice Ajay Rastogi's dissent linked voting to fundamental rights under Articles 19(1)(a) and 21, but his opinion was a minority view.
- Even as a statutory right, courts and thinkers consider voting essential for democracy's health and survival, reflecting its status as a "democratic imperative."

Importance of Electoral Roll Accuracy in Safeguarding Democracy

- Accurate electoral rolls are essential for free and fair elections in India, ensuring the principle of "one person, one vote."
- Under the Representation of the People Act, 1950, the Election Commission is empowered to regularly update and correct these rolls.
- Errors such as mass omissions, duplicate entries, or ineligible inclusions can lead to impersonation, voter disenfranchisement, and distortion of election outcomes.
- Allowing multiple ID documents like Aadhaar, voter ID, and ration cards strengthens every citizen's right to be included and represented.
- According to **Lakshmi Charan Sen v. A.K.M. Hassan Uzzaman (1985)**, political parties have a responsibility to ensure voter rolls are accurate, especially in a country with widespread illiteracy.

- Given India's party-based Parliamentary system, such vigilance will help to preserve 'electoral integrity'.

Ordinary Resident in India's Voter List

- The Election Commission (EC) prepares electoral rolls under Article 324 of the Constitution and Section 19 of the Representation of the People Act (RPA), 1950.
- **Definition of Ordinary Resident**
 - Any Indian citizen aged 18 or above who usually lives in a constituency can register as a voter.
 - Ordinary residence means regular and genuine presence — not a short or temporary stay.
 - For example, a student in a hostel may not qualify if their permanent home is elsewhere.
- **Why It Matters**
 - This rule prevents fake registrations and keeps voters connected to their constituencies.
 - In **Manmohan Singh's case** (1991), the court clarified that ordinary residence means habitual presence, not just a formal address.
- **Special Voter Categories**
 - Postal ballots are allowed for service voters like soldiers, government staff abroad, and election officials.
 - Overseas Indians can register under Section 20A of the RPA but must vote in person.

Citizenship Verification Debate in Bihar

- A key issue in Bihar's SIR process is citizenship verification.
- In **Lal Babu Hussein v. ERO (1995)**, the Supreme Court struck down Election Commission orders that allowed officials to remove alleged foreigners from voter rolls without proper procedure.
- The Court held:
 - Proof of citizenship cannot be unfairly demanded from voters.
 - Past voter lists must be respected.
 - EROs must conduct full inquiries, follow fair procedures, and act under the Citizenship Act and Constitution.
- As reaffirmed in **Md. Rahim Ali Case** (2024), no one can be excluded from voter rolls based on mere suspicion or unverified allegations.

Source: TH | AJ

Source: <https://vajiramandravi.com/current-affairs/protecting-and-preserving-voting-in-india/>

© Vajiram & Ravi. For personal use only.