

## Right to Vote

### What is the issue?

\n\n

\n

- Article 326 of the Constitution provides for universal adult suffrage, but does not specifically mention the right to vote.

\n

- The absence of a constitutional right to vote has consequences.

\n

\n\n

### How courts determine the electoral system?

\n\n

\n

- Supreme Court requested the government's views on a PIL seeking to impose a lifetime ban on contesting elections for those sentenced to imprisonment for more than two years.

\n

- Currently, the ban extends to six years after the completion of a sentence.

\n

- The court has held that citizens are entitled to cast a 'none of the above' vote, that the concealment of criminal antecedents constitutes a corrupt practice under the law, and that electoral appeals to caste and religion are impermissible.

\n

- More recently, the court has attempted to gradually reshape the ballot.

\n

- They raise fundamental questions about the nature of our democracy.

\n

\n\n

### What are the problems?

\n\n

\n

- The court has increasingly used the regrettable, caste-based taxonomy of

‘purity’ and ‘pollution’ in its decisions.

\n

- e.g In 2013, it endorsed the decision of the Patna High Court observing that candidates with criminal records pollute the electoral process, affect the sanctity of elections and taint democracy.

\n

- The court’s language is symptomatic of its conception of its own role to ‘disinfect’ the electoral process.

\n

- Rights that are not explicitly set out in the Constitution, such as the right to privacy, have routinely been impliedly read into the text.

\n

- But the court has refused to categorically recognise the right to vote as an inalienable constitutional right.

\n

- This could mean that it is a privilege that can be taken away as easily as it is granted.

\n

- Participation in the electoral process is often seen as a gateway right, or a ‘right of rights’.

\n

- The absence of a constitutional right to vote makes it easier to impose wide restrictions on who can exercise that right, and the circumstances in which they may do so.

\n

- This can be seen in the court’s endorsement of the ban on the voting rights of prisoners.

\n

- Blanket prohibitions on voting are the surest way of alienating a political community.

\n

- The ban is draconian as it disregards the seriousness of their offences or the length of their sentences.

\n

- Moreover, prisoners awaiting trial are also denied this ‘privilege’.

\n

- The court’s move to change the rules of the game to match its own conception of the ideal electoral system is detrimental.

\n

- The right to vote and the right to contest elections are fundamental markers of citizenship in a constitutional democracy.

\n

\n\n

\n\n

**Source: The Hindu**

\n

