

Election Law

Election law is a discipline falling at the juncture of constitutional law and political science. It researches "the politics of law and the law of politics".

Since 1950 many laws have been passed in India regarding the functioning of elections.

This article will shed light on them within the context of the polity segment of the UPSC 2021 .

Overview of Election Laws in India

To regulate elections in India certain laws in India have been passed. They are the following:

1. Representation of the People Act, 1950
2. Representation of the People Act, 1951
3. Delimitation Act, 2002

All of the three acts above will be discussed in brief below

Representation of the People Act, 1950

Articles 81 and 170 of the Constitution of India lay down the maximum number of seats in Parliament and in Legislative Assemblies of States and also certain principles to be followed in allocating seats in the Houses of People among the States and in the State Legislative Assemblies, but have left the actual allocation of such seats to be provided by the law.

Similarly Article 1 of the Constitution of India lays down the maximum and minimum number of seats in the Legislative Council of a State and also specifies the various methods in which seats shall be filled, but the actual number of seats to be filled by each such method has been left to be provided by law.

Thus, the Representation of the People Act 1950 was enacted to provide for the allocation of seats in the House of the People and in the Legislative Assemblies and Legislative Councils of States.

To sum-up, the Act makes the following provisions relating to the elections

1. Allocation of seats in the House of the People, State legislative Assemblies and the State Legislative Councils.
2. Delimitation of Parliamentary, Assembly and Council Constituencies
3. Election officers like chief electoral officers, district election officers, electoral registration officers and so on.
4. Electoral rolls for Parliamentary, Assembly and Council constituencies

5. Manner of filling seats in the Council of States to be filled by the representatives of union territories.
6. Local authorities for purpose of elections to the State Legislative Councils
7. Barring jurisdiction of civil courts.

Representation of the People Act, 1951

The Representation of the People Act, 1951 did not contain all the provisions relating to elections, merely provided for the allocation of seats and the delimitation of constituencies for the purpose of elections to the House of People and Legislatures of States, the qualifications of voter at such election and the preparations of electoral rolls.

The provisions for the actual conduct of election to the house of Parliament and to the House or Houses of the Legislature of each State, the qualifications and disqualifications for the membership of these Houses, the corrupt practices and other election offences and the decision of election disputes were all left to be made in a subsequent measure.

In order to provide for these provisions, the Representation of the People Act, 1951 was enacted

Broadly speaking, this Act contains provisions relating to the following electoral matters:

1. Qualifications and disqualification for membership of Parliament and State Legislatures
2. Notification of general elections
3. Administrative machinery for conducting elections
4. Registration of political parties
5. Conduct of elections
6. Free supply of certain material to candidates of recognised political parties
7. Disputes regarding elections
8. Corrupt practices and election offences
9. Powers of Election Commission in connection with inquiries as to disqualification of members
10. Re-elections and time limit for filling vacancies
11. Miscellaneous provisions relating to elections
12. Barring the jurisdiction of civil courts

Delimitation Act, 2002

Articles 82 and 170 of the Constitution of India provide for readjustment and the division of each state into territorial constituencies (Parliamentary constituencies and Assembly Constituencies) on the basis of the 2001 census by such authority and in such manner as Parliament may, by law, determine.

Further, Articles 330 and 332 of the Constitution of India provide for fixing the number of seats reserved for the Scheduled Castes and Scheduled Tribe in the House of the People and Legislative Assemblies of the States on the basis of the 2001 census.

The Present delimitation of Parliamentary and Assembly constituencies is based on the 1971 census. The uneven growth of population in different constituencies in different parts of the country as well as within the same State as also continuous migration of people/electorate from one place to another especially from the rural areas to urban areas have resulted in strikingly different sizes of electoral constituencies even within the same state.

Therefore, the Delimitation Act 2002 was enacted to set up a Delimitation Commission for the purpose of effecting delimitation on the basis of the 2001 census so as to correct the aforesaid distortion in the sizes of electoral constituencies. The proposed Delimitation Commission would also re-fix the number of seats for the Scheduled Castes and the Scheduled Tribes on the basis of the 2011 census without affecting the total number of seats based on the 1971 census.

Other Acts Relating to Elections in India

1. Parliament (Prevention of Disqualification) Act 1959, declares that certain offices of profit under the Government shall not disqualify the holders thereof for being chosen as (or for being) members of the Parliament.
2. Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976 provides for the inclusion in and the exclusion from the lists of Scheduled Castes and Scheduled Tribes, of certain cases and tribes, for the readjustment of representation of parliamentary and assembly constituencies
3. Government of Union Territories Act, 1963
4. Government of National Capital Territory of Delhi Act, 1991
5. Presidential and Vice-Presidential elections Act, 1952 regulates certain matters relating to or connected with elections to the offices of the President and Vice President of India