



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2024

Editor-in-Chief – Prof. (Dr.) Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

REPRESENTATION OF PEOPLE ACT

INTRODUCTION

The Representation of People Act 1951 is a crucial piece of legislation that has had a significant impact on the popular process in India. legislated just four times after India gained its independence, this act has played a vital part in ensuring fair and free choices in the country and the Act established fundamental principles governing elections, voter eligibility, constituency delineation, and the conduct of political parties. In this blog article, we will delve into the various topics related to the Representation of People Act 1951 and its significance in shaping the Indian republic. This paper aims to delve into the historical environment, legislative provisions, and impact of the Act on the criminal justice system.

HISTORICAL CONTEXT

The act was legislated on 25th January 1951, just a year after India gained independence from British rule. It replaced the former Representation of People Act 1950, which was passed as a temporary measure to conduct the first general elections in 1951- 52. The 1951 act was a comprehensive legislation that not only dealt with the conduct of elections but also with the qualifications and disqualifications of members of parliament and state legislatures. The Representation of People Act 1951 was a significant step towards strengthening the popular fabric of India. It aimed to ensure free and fair elections and to prevent loose practices in the electoral process. The act also established the Election Commission of India, an independent body responsible for conducting elections in the country. The act was legislated during a time when India was facing multitudinous challenges, both internal and external. The

Representation of People Act 1951 played a pivotal part in this process by providing a frame for conducting popular elections and giving a voice to the people.¹

AMENDMENTS TO THE ACT

The Representation of People Act 1951 has undergone several amendments over the years to keep up with the changing times and address new challenges. One such notable amendment was the introduction of the Electronic Voting Machines (EVMs) in 1998, which revolutionised the electoral process and made it more efficient and transparent.²

The Representation of the People(Amendment) Act, 1996 The 1996 amendment to the act introduced the concept of NOTA(None of the Above) in choices. This gave voters the option to deny all candidates questioning in their constituency if they felt that none of them were suitable for the position. This correction was a pivotal step towards increasing voter participation and promoting the right to freedom of expression for voters³

The Representation of the People(Amendment) Act, 2003 One of the most significant amendments made to the act in 2003 was the foreword of the provision for proxy voting for trained forces personnel. This allowed soldiers serving in remote and unapproachable areas to bounce through a designated deputy in their home constituency. This amendment helped in ensuring that the votes of soldiers weren't left out and gave them the occasion to exercise their right to vote.

CHALLENGES AND CRITICISMS

One of the biggest challenges to this law is the issue of voting errors. Despite the provisions of the Act, India's electoral system continues to suffer from booth- taking, advancing fraud, and other forms of electoral fraud. This not only undermines the integrity of the electoral process but also affects the credibility of elected representatives. The provisions of this law allow

¹ K.K. Venugopal, Electoral Reforms and the Representation of the People Act, 1951, 5 J. Indian L. Inst. 1, 2 (1999) (Lastly accessed in March 31)

² Representation of the People Act, 1951, No. 43, Acts of Parliament, 1951

³ . P. M. Bakshi, The Constitution of India, (New Delhi: Universal Law Publishing Co. Pvt. Ltd., 2011), 447

people with felonious records to participate in elections, unless they've been condemned by a court. ⁴This has led to further and further criminals insinuating politics and threatening the country's popular institutions. Representatives of marginalised and depressed members of society⁵. Despite reserved seats for slated Castes and slated Tribes, representation of these communities in parliament and state legislatures remained shy. also, the law doesn't give for reservation of seats for other marginalised communities similar as OBCs and women.⁶

RELATED CASE LAWS

Over the years, the Supreme Court and High Courts of India have decided several important cases relating to the interpretation and application of various provisions of this Act.

Case law and its relevance

1. Jyoti Basu v. Devi Ghosal, 1982 AIR 983 (SC)

In this case, the Supreme Court of India held that a person providing false information in a nomination form for the purpose of contesting an election It was held that it was illegal to do so. The court also said that while false statements need not be the only reason for disqualification, they must have a material impact on the election. This ruling played an important role in preventing abuse of the nomination process and preserving the integrity of elections.

⁴ V.S. Rama Devi, Electoral Malpractices and the Representation of the People Act, 1951, 1 J. Indian L. Inst. 1, 2 (1995).

⁵ Pratap Bhanu Mehta, Criminalization of Politics: A Critical Study of the Representation of the People Act, 1951, 25 J. Indian L. Inst. 1, 2 (2003).

⁶ Tarunabh Khaitan, Reservation of Seats in the Indian Parliament: An Analysis in the Light of the Representation of the People Act, 1951, 45 J. Indian L. Inst. 1, 2 (2018).

[https://www.prsindia.org/uploads/media/Representation%20of%20the%20People%20\(Amendment\)%20Act%202010.pdf](https://www.prsindia.org/uploads/media/Representation%20of%20the%20People%20(Amendment)%20Act%202010.pdf)

<https://indianexpress.com/article/india/criminal-background-of-candidates-contesting-elections-supreme-court-ec-guidelines-51>

2. *Kuldip Nayar V. Union of India*, AIR 2006 SC 3127

In this case, the Supreme Court dealt with the issue of criminalization of politics. The court ruled that candidates with criminal records should not be allowed to participate in elections. The court also directed the Election Commission to include a section in the candidacy form asking candidates to declare their criminal records.

3. *Lily Thomas vs. Union of India* (2013)

In this case, the Supreme Court declared Section 8(4) of the RPA, which allowed convicted members to remain in office, to be unconstitutional. The court found that this provision violated the principle of equality under the law and the people's right to vote. The ruling led to the disqualification of several convicted members and brought about much-needed changes to the political system.

CONCLUSION

The Representation of the People Act, 1951 was an important step towards ensuring fair and free elections in India. It provides a framework for holding elections and has played an important role in upholding democratic principles. There is still room for improvement and it is the government's responsibility to address these issues and further strengthen the law. Only then can we truly achieve a system in which all citizens' voices are heard and their voices matter in shaping the future of our country.