Right to Vote

What is the issue?

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- Article 326 of the Constitution provides for universal adult suffrage, but does not specifically mention the right to vote.
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- The absence of a constitutional right to vote has consequences.
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How courts determine the electoral system?

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- 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.
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- Currently, the ban extends to six years after the completion of a sentence.
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- 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.
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- More recently, the court has attempted to gradually reshape the ballot.
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- They raise fundamental questions about the nature of our democracy.
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What are the problems?

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

‘purity’ and ‘pollution’ in its decisions.
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- 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.
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- The court’s language is symptomatic of its conception of its own role to ‘disinfect’ the electoral process.
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- Rights that are not explicitly set out in the Constitution, such as the right to privacy, have routinely been impliedly read into the text.
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- But the court has refused to categorically recognise the right to vote as an inalienable constitutional right.
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- This could mean that it is a privilege that can be taken away as easily as it is granted.
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- Participation in the electoral process is often seen as a gateway right, or a ‘right of rights’.
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- 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.
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- This can be seen in the court’s endorsement of the ban on the voting rights of prisoners.
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- Blanket prohibitions on voting are the surest way of alienating a political community.
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- The ban is draconian as it disregards the seriousness of their offences or the length of their sentences.
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- Moreover, prisoners awaiting trial are also denied this ‘privilege’.
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- The court’s move to change the rules of the game to match its own conception of the ideal electoral system is detrimental.
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- The right to vote and the right to contest elections are fundamental markers of citizenship in a constitutional democracy.
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Source: The Hindu

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