

Voting Rights for Prisoners

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Why in news?

The Supreme Court (SC) of India sought responses from the Union government and the Election Commission of India on a petition challenging the blanket disqualification of prisoners, from exercising their right to vote.

- **Case Background** - The SC is addressing a plea that challenges the **voting rights of undertrial prisoners**, people who are accused of crimes but not yet convicted.
- **Legal Considerations** - The plea argues that denying voting rights to undertrials is unconstitutional and violates their fundamental rights.
- **Excluded offences** - Even if persons imprisoned for corrupt practices or electoral offences are excluded, a large number of undertrials and pre-trial detainees continue to be unjustly deprived of their franchise.

No restriction of voting rights for undertrials exists under the Indian Penal Code, now replaced by the Bharatiya Nyaya Sanhita.

- A blanket ban violates the universally-recognized principle of **presumption of innocence**.

Provisions related to Prisoners' right to cast their vote

- **Section 62(5) of the RPA, 1951** - Disqualifies any person from voting while confined in prison, whether under a sentence of imprisonment, transportation, or lawful police custody.
- However, it did **not bar** a person under preventive detention to vote.
- **Section 16(1)(c) of RPA, 1950** - Provides for disqualification only on two grounds - conviction for corrupt practices or electoral offences.
- Disqualification may also arise from non-residence or unsoundness of

mind.

Important court rulings

- **Anukul Chandra Pradhan v. Union of India, 1997** -
 - The Supreme Court has upheld the ban on voting for prisoners, ruling that the right to vote was merely a statutory, not a fundamental, right.
- **Anoop Baranwal v. Union of India, 2023** -
 - The Supreme Court recognized the right to vote as a fundamental right under Part III of the Constitution.
 - Also, recommended the formation of a high-powered committee to appoint the Chief Election Commissioner and Election Commissioners.

Status of Prisoners

- **Prison Statistics India, 2023** - Published by NCRB, 73.5% of all prisoners are undertrials, 3.9 lakh out of 5.3 lakh prisoners.
- **National Crime Records Bureau (NCRB), 2022** - About 77% of India's prison population comprises undertrials, while the conviction rate for total IPC offences stands at only 8.55%.
- **High acquittal rates** - The petition notes that 80-90% of undertrials are eventually acquitted, yet are denied their democratic right to vote while in prison.

Reference

[The Hindu | SC seeks Centre, EC response on voting bar on undertrials](#)