

Lesson 10: Election

Election Commission

- ▶ To ensure elections are conducted fairly, the Constitution establishes an independent Election Commission. (independent of the government)
- ▶ The 1st Election Commission (EC) was formed on 04/09/1957. At its establishment , the EC consisted of only a Chairman and 2 members.
- ▶ Now, the EC consist of a Chairman, a Deputy Chairman and 5 other members.

Appointment of EC

- ▶ The EC are appointed by the YDPA on the advice of the Prime Minister after consultation with the Conference of Rulers.
- ▶ Article 114 & Article 40 of the Federal Constitution.

A candidate PM advises YDPA YDPA appoints
Is selected → the YDPA → consults → that candidate
▶ the C.R a member of EC

Functions

The EC's functions are:

1. To delimit/delineate constituencies (at least after 8 years and to complete within 2 years of commencement) – i.e. period between reviews can be 8 or more years but once started, a review must be completed within 2 years.
2. To prepare & revise electoral rolls (including running electoral registration);

3. To conduct elections to the House of Representatives (222 seats) & States Legislative Assemblies (576 seats).

Note:

- (1) Election only exist at 2 levels, i.e. the Federal level and the State level.
- (2) Elections to the Senate are not conducted by the EC.

- ▶ To ensure the EC cannot be interfered with by the Government, the Constitution provides that:
 1. A member may not be removed from office except on the same grounds and in the same manner as a judge;
 2. A member ceases to hold office on reaching 66;
 3. Other than 1 above, the YDPA may also remove a member from office if:
 - (1) he is an undischarged bankrupt;

- (2) he engages in any paid office or employment;**
- (3) he is a member of either House.**

4. His remuneration is charged on the Consolidated Fund. (therefore not subject to annual debate in and approval by Parliament)



5. His remuneration may not be altered to his disadvantage after his appointment.

Delimitation of Constituencies

- ▶ **Delimitation/ delineation is the process of dividing the Federation and the States into various constituencies.**
- ▶ **The 13th Schedule of the Federal Constitution lays down the principles that shall, as far as possible, be taken into account in dividing constituencies.**

4 Principles

1. Do not cross State boundaries;
2. Whether there are administrative facilities available for electoral registration and polling;
- 3 . Ought to maintain local ties;
(Meaning : To ensure that communities are not split and that as far as possible these communities, who share common interests, are kept intact).

4. The number of electors within each constituency in a State ought to be approximately equal.

Original Article 116(4):

The disparity must not exceed 15%.

1962 Constitutional amendment:

Article 116 (4) repealed and a new Schedule 13 inserted.

Qualifications of Electors – Art. 119

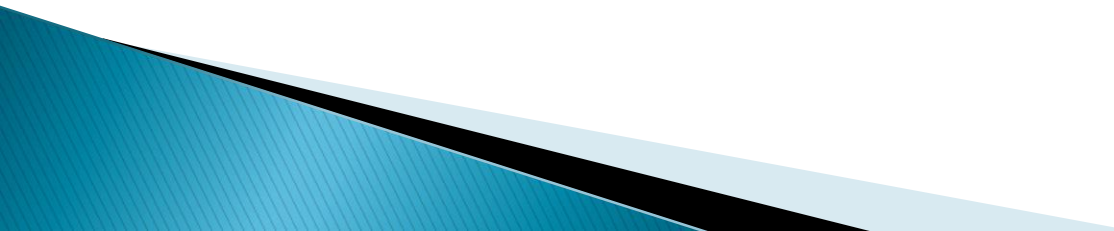
(Amended in 2019)

A person fulfilling the following are entitled to vote:

1. he is a citizen;
2. he has attained the age of **18**;
3. he is “resident” in a constituency or is an “absent voter”;
4. he is registered in the electoral roll as an elector in the constituency in which he resides.

[Note: A person on reaching the age of 18 will be automatically registered as an elector by the Election Commission]

Note: A qualified elector may vote only if he is registered on the electoral roll.

- ▶ **A person who registered as “absent voter” may vote by post, i.e. they are sent ballot papers well in advance to enable them to vote.**
 - ▶ **They register in the constituency in which their home address is situated and may vote in an election for that constituency.**
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- ▶ **Persons who may register as “absent voter” includes:**
 - (1) A serving member of the naval, military or air force;**
 - (2) The wife or husband of (1) above, who is accommodated in quarters provided by the force;**
 - (3) A public servant on duty abroad;**

- (4) The wife or husband of (3) above, who is living with him/her abroad;**
- (5) Person receiving education abroad;**
- (6) The wife or husband of (5) above, who is living with him/her abroad.**

Disqualification of Electors

A person is disqualified for being an elector if:

1. On the qualifying date, he is detained as a person of unsound mind;
2. On the qualifying date, he is serving a sentence of imprisonment;
3. Before the qualifying date, he has been sentenced to death;
4. Before the qualifying date, he has been sentenced to imprisonment of more than 12 months and is still liable on the qualifying date.

“Qualifying date” means the date on which a person is registered as an elector OR the date on which he applies for the change of his registration as an elector.

Challenging Elections

- ▶ An election dispute may be brought to the High Court by way of an election petition.
- ▶ After 2003, a candidate may appeal against the determination of the High Court (election judge) to the Federal Court.
- ▶ The appeal must be heard and decided upon by the Federal Court within 6 months from the date of presentation of the appeal.