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**A Legal Perspectives of Electoral Participation of Under-Trials vs
Convicts in India**

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ABSTRACT

The legal framework governing electoral participation in India differentiates between under-trials and convicts, reflecting a nuanced approach to democratic rights. Under-trials, who are individuals accused of offenses but not yet convicted, retain their right to vote under Article 326 of the Constitution. The rationale is rooted in the principle of “innocent until proven guilty,” which ensures that civil and political rights are not curtailed during the pendency of a trial. In contrast, convicts—those convicted and sentenced to imprisonment of two years or more—face temporary disqualification from voting under Section 62(5) of the Representation of the People Act, 1951. This legal distinction aims to maintain the integrity of the electoral process while acknowledging that convicted individuals have committed offenses against the state. The disqualification period, however, raises debates about rehabilitation, social reintegration, and the democratic inclusion of former convicts. Judicial interpretations have reinforced that only serving convicts are disqualified, allowing those who have completed their sentences to regain voting rights, thereby emphasizing the balance between punitive measures and democratic participation.