



Empower Election Commission: To Defend Institutional Credibility

This editorial is based on “ [Selection and election: On the appointment of Election Commissioners](#) ” which was published in The Hindu on 20/03/2024. The article talks about the necessity for an impartial selection panel devoid of executive bias for the Election Commission of India.

For Prelims: [Election Commission of India \(ECI\)](#), [Lok Sabha](#), [Rajya Sabha](#), [State Legislative Assemblies](#), [President](#), [Vice President](#), [CEC and Other ECs \(Appointment, Conditions of Service and Term of Office\) Act, 2023](#).

For Mains: Accomplishments of the Election Commission of India, Issues Associated with the Election Commission of India, Steps to Strengthen the Election Commission of India.

In a recent development, Gyanesh Kumar and Sukhbir Singh Sandhu, both retired bureaucrats, have been swiftly appointed as Election Commissioners. This appointment comes just two days before the scheduled announcement of the dates for the 2024 Lok Sabha elections. They now join Rajiv Kumar, the Chief Election Commissioner, forming the three-member panel of the [Election Commission of India](#).

However, the resignation of Arun Goel, an Election Commissioner, amidst a Constitutional Bench hearing aimed at ensuring an independent selection process for ECI members, has raised criticism. Moreover, the absence of a clear explanation for Goel's resignation, especially timed just before the finalization of the [Lok Sabha](#) election schedule, has heightened apprehensions regarding the transparency and autonomy of the commission's operations.

What is the Election Commission of India?

▪ About:

- The [Election Commission of India \(ECI\)](#) is an autonomous constitutional authority responsible for administering Union and State election processes in India.
 - It was established in accordance with the Constitution on 25th January 1950 (celebrated as [National Voters' Day](#)). The secretariat of the commission is in New Delhi.
- The body administers elections to the [Lok Sabha](#), [Rajya Sabha](#), and [State Legislative Assemblies](#) in India, and the offices of the [President](#) and [Vice President](#) in the country.
 - It is not concerned with the elections to [panchayats](#) and [municipalities](#) in the states. For this, the Constitution of India provides for a separate [State Election Commission](#).

▪ Constitutional Provisions:

- **Part XV (Article 324-329):** It deals with elections and establishes a commission for these

matters.

- **Article 324:** Superintendence, direction and control of elections to be vested in an Election Commission.
- **Article 325:** No person to be ineligible for inclusion in, or to claim to be included in a special, electoral roll on grounds of religion, race, caste or sex.
- **Article 326:** Elections to the House of the People and to the Legislative Assemblies of States to be based on adult suffrage.
- **Article 327:** Power of Parliament to make provision with respect to elections to Legislatures.
- **Article 328:** Power of Legislature of a State to make provision with respect to elections to such Legislature.
- **Article 329:** Bar to interference by courts in electoral matters.

▪ **Structure of ECI:**

- Originally the commission had only one election commissioner but after the Election Commissioner Amendment Act 1989, it was made a multi-member body.
- The Election Commission shall consist of the Chief Election Commissioner (CEC) and such number of other election commissioners, if any, as the President may from time-to-time fix.
- Presently, it consists of the CEC and two Election Commissioners (ECs).

▪ **Appointment & Tenure of Commissioners:**

- The President appoints CEC and Election Commissioners as per [the CEC and Other ECs \(Appointment, Conditions of Service and Term of Office\) Act, 2023](#).
- They have a fixed tenure of six years, or up to the age of 65 years, whichever is earlier.
- The salary and conditions of service of the CEC and ECs will be equivalent to that of the Cabinet Secretary.

▪ **Removal:**

- They can resign anytime or can also be removed before the expiry of their term.
- The CEC can be removed from office only through a process of removal similar to that of a SC judge by Parliament, while ECs can only be removed on the recommendation of the CEC.

What Accomplishments Has the Election Commission of India Achieved So Far?

▪ **Conducting Free and Fair Elections:**

- The Election Commission of India (ECI) has successfully organized numerous elections across the country, ensuring they are conducted fairly and without bias.
- It has ensured the integrity—free and fair—of 17 national and more than 370 state elections since 1947.

▪ **Celebrated as Undocumented Wonder:**

- It conducts some of the largest and longest elections globally. For instance, the 2019 parliamentary elections had 900 million eligible voters and spanned nine phases over 39 days.
- Celebrated as an “undocumented wonder”, the ECI has emerged as a guardian of public value, ensuring the integrity of free and fair elections in India.

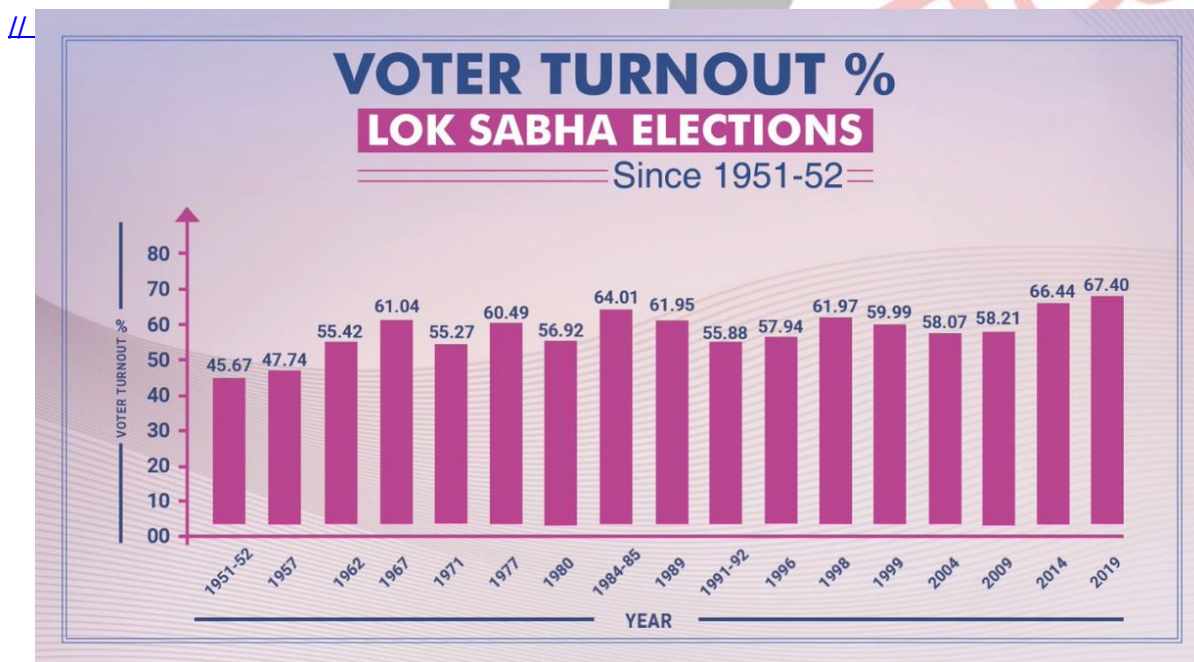
▪ **Initiatives for Inclusive Participation:**

- Steps taken by the ECI have ensured that the poor and marginalized have been enthusiastic voters and have participated in elections in increasing numbers, without fear of intimidation by higher-ranked, more powerful groups.
- It has implemented special provisions such as reserved constituencies for Scheduled Castes and Scheduled Tribes, as well as measures to prevent electoral malpractices such as booth capturing, voter intimidation, and bribery, thereby upholding the democratic process.

▪ **Introducing Voter ID Cards:**

- The Indian [Voter ID Card](#) (officially the Elector's Photo Identity Card (EPIC)) was first introduced in 1993 during the tenure of Chief Election Commissioner T. N. Seshan.
- Voter ID cards serve as proof of identity and address, helping to maintain the integrity of the electoral roll and reduce instances of impersonation.

- **Introduction of Electronic Voting Machines (EVMs):**
 - The adoption of [EVMs](#) by the ECI has significantly streamlined the voting process, making it more efficient and reducing the chances of electoral fraud.
 - EVMs ensure accuracy in vote counting and have increased the transparency and credibility of elections in India.
- **Implementation of Model Code of Conduct (MCC):**
 - The ECI enforces the [MCC](#) during elections to ensure a level playing field for all political parties and candidates.
 - The MCC lays down guidelines for conduct during the electoral process, including rules on campaigning, political advertisements, and the use of government resources, thereby promoting fair and ethical election practices.
- **Innovative Use of Technology:**
 - The ECI has embraced technological advancements to improve the electoral process, such as the introduction of voter registration portals, online voter verification systems, and mobile apps for voter education and information dissemination.
 - These initiatives have made the electoral process more accessible, transparent, and efficient.
 - The [cVIGIL](#) which stands for Citizen Vigilance is a mobile application designed by the Election Commission of India, with an opportunity to report election code violations directly by citizens.
- **Implementation of Voter Education Programs:**
 - The ECI has launched extensive voter education campaigns to enhance voter awareness and participation in the electoral process.
 - These initiatives aim to educate citizens about their voting rights, the importance of casting their vote, and the significance of making informed choices during elections.



What are the Issues Associated with the Election Commission of India?

- **Constitutional Limitations:**
 - The Constitution has not prescribed the qualifications (legal, educational, administrative, or judicial) of the members of the Election Commission.
 - The Constitution has not specified the term of the members of the Election Commission.
 - The Constitution has not debarred the retiring election commissioners from any further appointment by the government.
- **The Selection Committee is Dominated by the Government :**
 - [The Chief Election Commissioner and other Election Commissioners \(Appointment Conditions of Service and Terms of Office\) Act, 2023](#) put in place a

selection committee comprising the Prime Minister, Leader of the Opposition in the Lok Sabha, and a Union cabinet minister.

- Thus, the Selection Committee has a majority of members from the government of the day, which may undermine the independence of the ECI.

▪ **Security of Tenure :**

- Security of tenure is not guaranteed for Election Commissioners as they can be removed by the government in power upon the recommendation of the Chief Election Commissioner, rather than through a formal impeachment process, leaving them vulnerable and potentially impacting their independence.

▪ **Lack of Financial Independence :**

- The Election Commission's financial independence is limited as it relies on the Union Government for financial matters.
- Despite efforts to ensure independence through various provisions, the expenses of the Election Commission are not drawn from the Consolidated Fund of India, further reinforcing its dependence on the central government.

▪ **Electoral Malpractices:**

- Irregularities and discrepancies in voter rolls, such as duplicate entries, inaccuracies, and omissions, are persistent issues that can lead to disenfranchisement and affect the fairness of elections.
- Instances of electoral fraud, including tampering with electronic voting machines (EVMs), voter impersonation, and manipulation of voter lists, pose a threat to the integrity of elections.
- Electoral violence remains a significant issue, particularly in areas with a history of political rivalry or communal tensions.

▪ **Political Bias Allegations:**

- The ECI has faced allegations of political bias and favoritism in its decision-making processes.
- There are instances of abrupt transfer of senior officials working under State governments by an order of the commission.
- Instances of violations of the MCC by political parties and candidates, such as hate speech, misuse of government resources, and distribution of cash and gifts, highlight the need for more effective enforcement mechanisms.
- Some political parties and stakeholders have accused the ECI of being influenced by the ruling party or failing to act impartially in addressing electoral disputes and complaints.

▪ **Lacks the Authority to Deregister Political Parties :**

- The Election Commission, despite its role as the enrolling authority under Section 29A of the [Representation of the People Act, 1951](#), lacks the authority to deregister political parties even in cases of severe violations.
- Additionally, the ECI is not empowered to enforce inner-party democracy or regulate party finances.

▪ **Accessibility and Inclusivity:**

- Despite efforts to enhance voter accessibility and inclusivity, challenges remain in ensuring that all eligible citizens can exercise their right to vote.
- Issues such as inadequate infrastructure for voters with disabilities, language barriers, and logistical challenges in remote or marginalized areas can hinder voter participation.

Selection Process of the Election Commission in certain countries

Country	Appointing Authority	Selection Committee/Process
South Africa	President	President of the Constitutional Court (Chairperson), representative of the Human Rights Court, representative of the Commission on Gender Equality, and the public prosecutor.
United Kingdom	The monarch, upon approval by the House.	<ul style="list-style-type: none">• The Speaker's Committee on the Electoral Commission with MPs as members, oversees the recruitment of electoral commissioners.• The candidates for these posts are then approved by the House of Commons and appointed by the British monarch.• The Speaker asks the Leader of the House to table a motion for an address to appoint the recommended candidates.
United States	President	The Commission is appointed by the President and confirmed by the Senate.
Canada	-	Appointed by a resolution of the House of Commons.

Selection process of the Election Commission in certain countries

What Steps should be Taken to Strengthen the Election Commission of India?:

- **Formation of Independent Selection Committee:**
 - Create an independent selection committee comprising representatives from various stakeholders in addition to government officials. This committee should oversee the appointment process and ensure fairness and impartiality.
 - In *Anoop Baranwal vs Union of India Case, 2023*, a five-judge bench of the [Supreme Court \(SC\)](#) unanimously ruled that the appointment of the [Chief Election Commissioner](#) and the Election Commissioners shall be made by the President on the advice of a Committee consisting of the Prime Minister, the [Leader of the Opposition](#) of the Lok Sabha and [Chief Justice of India \(CJI\)](#).
- **Provide Statutory Safeguards to Election Commissioners:**
 - Enact legislation that clearly defines the conditions under which Election Commissioners can be removed from office.
 - This legislation should incorporate stringent criteria and procedural safeguards to prevent arbitrary dismissal.
- **Transparent Funding Mechanisms:**
 - Implement transparent mechanisms for allocating funds to the ECI, such as through a parliamentary appropriations process or an independent budgetary oversight committee.
 - This would enhance accountability and ensure that funding decisions are made in a fair and impartial manner.
- **Power for Proportional Punishments:**
 - Empower ECI to implement a range of sanctions and penalties for political parties found guilty of violations, including fines, suspension of privileges, and temporary or permanent deregistration.
 - The severity of the punishment should be commensurate with the severity of the offense.
- **Enhance Electoral Integrity:**
 - Strengthening mechanisms to ensure the integrity of the electoral process is paramount.
 - This includes enhancing measures to prevent electoral fraud, voter intimidation, and malpractices, as well as improving the security and reliability of electronic voting systems, voter registration databases, and ballot counting procedures.

- The commission needs to establish its trust amongst people by installing [Voter Verifiable Paper Audit Trail System \(VVPATS\)](#) in more and more constituencies.
- **Technological Integration:**
 - Embracing technological advancements and investing in the modernization of electoral infrastructure can improve the efficiency, transparency, and integrity of the electoral process.
 - This includes the adoption of advanced voting technologies, such as blockchain-based voting systems, to enhance security and reduce the risk of tampering or fraud.
- **Inclusive Participation:**
 - Promoting inclusive participation in the electoral process involves taking proactive measures to address issues such as voter suppression, discrimination, and disenfranchisement, as well as ensuring adequate representation of diverse communities in electoral decision-making bodies.
 - Ensure that polling stations are accessible to all voters, including those with disabilities. This may involve providing ramps, wheelchair-accessible entrances, Braille signage, and tactile voting machines
- **International Collaboration:**
 - Strengthening collaboration and cooperation with international electoral management bodies and organizations can facilitate knowledge exchange, capacity-building initiatives, and the adoption of best practices in electoral governance.
 - This can enhance the ECI's credibility, effectiveness, and reputation on the global stage.

Conclusion

Looking ahead, the future of the Election Commission of India lies in its ability to adapt to technological advancements, strengthen regulatory frameworks, promote inclusive participation, and uphold democratic principles. By empowering the Election Commission and enhancing its capacity to regulate and oversee elections effectively, India can reaffirm its commitment to democratic governance and foster trust and confidence among its citizens in the electoral system.

Dristi Mains Question

Analyze the accomplishments and challenges linked with the operational efficacy of the Election Commission of India. Suggest reforms to strengthen and empower the Election Commission of India.

UPSC Civil Services Examination, Previous Year Questions (PYQs)

Prelims

Q. Consider the following statements: (2017)

1. The Election Commission of India is a five-member body.
2. The Union Ministry of Home Affairs decides the election schedule for the conduct of both general elections and bye-elections.
3. Election Commission resolves the disputes relating to splits/mergers of recognised political parties.

Which of the statements given above is/are correct?

- (a) 1 and 2 only
- (b) 2 only
- (c) 2 and 3 only
- (d) 3 only

Ans: D

Mains

Q. Discuss the role of the Election Commission of India in the light of the evolution of the Model Code of Conduct. **(2022)**

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