

The Role of Election Commission of India: New Emerging Trends

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Abstract

The Chief Election Commissioner is in charge of the Election Commission, which is tasked by the Indian constitution with managing all aspects of the country's electoral process (CEC). The Election Commission ensures that all voting in India is conducted fairly and openly. This is one of the few really independent organisations in the country since the Constitution mandates free and fair elections. 70 years after India's independence, the country's Election Commission will address the measures it has made to update the voting system. There are a wide variety of languages spoken in India due to the country's big and diverse population. Election integrity, voter privacy, and a reliable count of votes cast are all responsibilities of the Commission. The Commission is responsible for creating and enforcing India's election rules. The Indian government's election oversight body is attempting to make casting ballots easier. It wasn't until 1993 that the "voter ID" system was put into place. A number of other facets of the election itself benefitted as well. A picture ID provided by the government that may be used to verify the voter's identification and shorten the time it takes to cast a ballot is called a voter ID. In India, elections are overseen by the Election Commission of India (ECI). The president, on the recommendation of the prime minister, appoints the chairman, who serves as the Commission's head for seven years and must be confirmed by the Lok Sabha. The ECI has also done an excellent job making sure every individual has a voter ID. The general public relies on this organisation to help them choose their representatives in government. This committee has given the election process a lot of leeway.

Introduction

India has to conduct elections often and consistently in the same places if it wants to keep its democratic reputation. It is widely acknowledged that free and fair elections are essential to the maintenance of democracies worldwide. The Electoral Commission of India (ECI) is a government agency that operates independently to investigate claims of election fraud and bring corrupt officials to justice. For this reason, the ECI (Electoral Commission of India) is responsible for ensuring that voting day goes off without a hitch. Independent, permanent, and impartial, the Election Commission of India is required under the Indian Constitution. Its principal duty is to guarantee that all national and state elections in India are conducted fairly and openly, as required by law. The Election Commission of India (ECI) is responsible for organising, monitoring, and conducting elections for all Indian governmental entities as stated in the Indian Constitution. Both the President and the Vice President of India are elected at the same time as members of

Parliament and state legislatures. On January 25, 1950, the Election Commission of India was established to monitor and maintain order inside India's massive election system. The Election Commission of India is to blame for this. Because it was formed in conformity with the Constitution's criteria, this group is empowered to carry out the responsibilities set out in the document. The Election Commission of India (ECI) is tasked with managing all elections for President and Vice President, as well as the Indian Parliament and the Indian Legislature, under Article 324 of the Constitution of India. (Laxmikanth 2017)

Structure

The Commission has grown substantially from 1950, when it only had one member, to the present, when it has five. The new Commissioners' terms, which began to expire on 1 January 1990, were all appointed on 16 October 1989 (the day before the 1989 General Election). With the passage of the Election Commissioner Amendment Act in 1989, there were three commissioners instead of one in 1990, with decisions being made by a majority vote. The Commission's Secretariat, based in New Delhi, will provide members with support and assistance. Deputy Election Commissioners are members of the Indian Administrative Service who work with the Election Commissioners to ensure a smooth election (IAS). Each and every member of the administration pitches in, from the Director General to the Undersecretaries and Secretaries. The Chief Electoral Officer is both a member of the Election Commission and a Principal Secretary in the Indian Administrative Service. The District Magistrates (acting as the District Election Officers) are in charge of the elections in their respective districts, while the Electoral Registration Officers and Returning Officers in each constituency make sure the voting goes well. (Laxmikanth, 2017)

Electronic Voting Machines (EVM)

India is the world's first and only nation to use nationwide computerised voting. Thanks to the use of electronic voting systems, the Election Commission was able to count votes quickly and accurately (EVMs). Its test run was the 1982 elections for the Kerala State Assembly. After extensive testing and the elimination of all legal barriers, the panel unanimously voted to enable the use of these voting devices.

There has been a "none of the above" (NOTA) choice available on all voting machines since the 2014 election cycle. Since September 18, 2015, a black cross has represented the "none of the above" option on ballots. The logo was created by students at India's National Institute of Design in the city of Ahmedabad. On June 3, the Election Commission of India hosted a public hackathon to find flaws in the Electronic Voting Machines (EVMs) that would be used in all future elections. The New Communist Party and the Communist Party of Marxist China, two major communist organisations, are noticeably missing. Electronic voting machines (EVMs) have been the subject of unfounded accusations of tamperability, although the claims' proponents continue. Employees have a deep familiarity with EVMs and VVPATs. (Kapur and Jethwaney 2019)

Remote Voting

"Electronically Transmitted Postal Ballot Papers" (ETPB) are ballots that voters in India receive in the mail and then return to the Election Commission. Votes cast through mail-in ballot are tallied before those cast via voting machine. Those who want to vote by mail must satisfy certain criteria. Members of the Indian armed forces or state police force who are on official government business outside of India have the opportunity to vote by mail if they so choose. Voting by mail is available to those who are placed in preventative custody. Inmates are not permitted to cast ballots. **(Sharma and Rao 2016)**

Indian Democracy & Role Of Election Commission

India is a Democratic, Republic, as stated in the Preamble of the Constitution. Those of us who are committed to safeguarding and promoting the civil rights of Indian people care passionately about the health of India's democratic polity. According to the ruling in *Indira Nehru Gandhi v. Election Commission* case, "democracy" is an essential component of the Constitution. Mr. Raj Narayan Democracy is characterised by the holding of regular elections. The elections in a democratic system serve as a barometer of the people's values, priorities, and worldview as they relate to government and policy. Voting in free and fair elections is fundamental to our system of governance. Their leaders are sanctioned by the law and chosen by the people. Elections serve as a symbol of popular sovereignty and an argument for the legitimacy of governmental authority. Therefore, free and fair elections are essential to the smooth functioning of democratic society. Democracy cannot thrive if citizens are denied the right to vote in national elections. It is on the basis of the "Adult Suffrage" clause of Art. 326 that elections are conducted in India, which is perhaps the most important foundation of India's democracy.

In order to ensure free and open elections, the Constitution calls for the establishment of an impartial Election Commission. Since 1950, India has had its own independent Election Commission. It is an autonomous institution, unconstrained by the executive branch or any other political authority. With great care, the Election Commission was designed to function independently, uninfluenced by the intentions of the governing party or the present government. To promote democracy, it is the Election Commission's duty to hold fair elections for all branches of government. The racial and ethnic composition of the population in certain nations is a patchwork. A pan-India Election Commission has been created to supervise, prepare, and execute the forthcoming parliamentary elections in India, despite the country's diverse native population and other citizens' potential linguistic, cultural, and ethnic distinctions. India's electoral rules are grounded on constitutional democracy. The Constitution's framers included in protections to keep these ideals protected from legislative and executive excess. Courts may look at whether or not a proposed change to election rules violates the Constitution's core democratic ideals while deciding whether or not to uphold the change. It's safe to say that the Elections Commission has been there for a while now. For elections to go well, the Election Commission must be given complete control over the process. Parliamentary and state legislative elections, as well as roll maintenance, are all addressed. **(Carpenter 2010)**

Election Commission Responsibility:

1. Defense of Fair Election Procedures.

Periodic elections are a defining characteristic of democratic governments. True democracy is the

“Government of the people, By the people, And for the people”.

Every functioning democracy relies on regularly scheduled, election-free elections. The concept is important to the framework of the Constitution. This was established in the case of T. N. Sheshan v. Union of India. The Commission has made extensive efforts to guarantee the fairness of elections and, by implication, the functioning of our democratic system. That's because it guarantees free and fair elections and the right to vote.

2. Model Code of Conduct

The credibility of the Elections Commission has increased as a result of the transparent and honest elections it has managed. It offers a Model code of Conduct for political parties and candidates to follow to guarantee free and fair elections. As the Commission has evolved since its founding during the Fifth Presidential Election in 1971, so too have the rules regulating its functioning gone through several revisions. Before, during, and after the election, all political parties and candidates must adhere to the document's requirements. Unsavory behaviour may come from either side of an election, and accusations about politicians exploiting public funds are not uncommon. During the 2007 Gujarat Assembly Elections, both Mr. Narendra Modi and Smt. Sonia Gandhi broke the Model code of Conduct. In its ruling in I.D. Systems (India) Pvt. Ltd. v/s. Chief Election Commissioner, the Kerala High Court made clear that the model code of conduct is not intended to suspend all government activities but rather to halt only those steps that may directly hurt a sector of voters. Guidelines like this are necessary to promote honest elections. The code is unfortunately not binding. Even when said simply, it is effective. There is a presentation of rules for holding a fair vote. Despite the rule's lack of a solid legal foundation, the Commission nonetheless plans to enforce it. Article 324 allows it to use a yanking force if necessary. **(Crossette 1989)**

3. The Process of Political Party Registration

The Parliamentary democracy relies heavily on the party system. In 1989, legislation was created to regulate this registration procedure, and thereafter, many organisations registered with the Commission. It aids in avoiding headaches and misunderstanding within the administrative apparatus, as well as among the electorate. Only registered political parties are allowed to engage in democratic activities. **(De Souza, Palshikar and Yadav 2008)**

4. Cost Caps for Vote Counting

The Elections Commission has suggested many changes to put a stop to the pervasive influence of money in politics and the concomitant display of riches that has become all too typical in recent years. There is now a limit on how much candidates may spend on their campaigns according to the Elections Commission. These limits have been steadily refined over time. The Election Commission is responsible for monitoring voter spending by placing observers at voting sites. All contestants are obligated to provide a comprehensive budget breakdown within 30 days of the results release. Political parties, however, often violate the financial 'Lakshman Rekha' by spending extensively to win over votes. The Election Commission reduced the total campaign period for the Lok Sabha and Assembly elections from 21 to 14 days in order to save expenditures. The Elections Commission's attempts to adopt these changes are positive. The Elections Commission also requires him to file a financial affidavit with his nomination paperwork. Motives That Align: In the case of *A Registered Society v. Union of India*, the importance of financial contributions to electoral campaigns in India was highlighted. After a court determined that disclosure of election expenditure by individuals and political parties was necessary for a healthy democracy, the Commission may now question candidates about these matters. **(Devi, and Mendiratta 2009)**

5. Taking Advantage of Modern Innovations in Science and Technology.

The Election Commission is making an effort to make advantage of scientific and technical advances to update election procedures. The introduction of electronic voting machines (EVMs) in electoral processes is one step in that direction. The need to clean up the system and reduce waste led to its implementation. The first time it was tried out was in the 1982 elections for the Legislative Assembly in the Indian state of Kerala. After rigorous testing and evaluation under the law, the commission reached the historic decision to use EVMs. The Election Commission of India (ECI) launched its own website on February 28, 1998 (at the domain name www.eci.gov.in). This helps in providing timely election results, accurate data, efficient management, and streamlined processes. When it came time to "computerise" the electoral rolls in 1998, the Election Commission took the bold step of actually doing it. In 1993, EPICs (Electoral Photo Identity Cards) were created as a means of preventing voter impersonation fraud. A government-issued picture ID was necessary to cast a ballot in the 2004 election. Patiala Assemblywoman Parneet Kaur lost her voter's card the day of the 2007 election, therefore she had to wait until late in the day to cast her ballot. Karnataka was the first state to add photographs of voters in its electoral rolls, which was done in the 2008 election. The State Election Commission developed a programme called Electoral Roll Management Software (STEERS). **(Gilmartin 2009)**

6. Commission of Electors, Multiple

For a long time, people have debated how beneficial it would be to have a large number of people serving on the Election Commission. The Election Commission has an important mandate and wide jurisdiction to carry it out, so the Indian Supreme Court ruled in the case

S. S. Dhanoba vs. Union of India that no one person, no matter how knowledgeable or experienced they may be, should have complete control over the activities of the Election Commission. Also, it does it in a manner that is in line with democratic ideals. Because to the Constitutional Amendment Act of 1993, there are now more people who may serve on the Election Commission. One Election Commission member could no longer have uncontrolled power. According to the Election Commission's proposal, the counting process should be broken down into geographically distinct zones, each of which would be overseen by a regional election commissioner. With this, we want to make it easier for the Commission to do its job. (Gilmartin, and Moog 2012)

7. Commission on Elections: A Court of Law

It's illegal to ask the Supreme Court to step into an election. In light of this, the Election Commission's role as a tribunal is called into question. Can the Commission really expect to have success by appealing to the Supreme Court? U/A - 136 Do they have the authority to hold hearings and issue decisions? When pressed for more explanation, the Supreme Court cited Article 136, noting that the Commission meets the criteria for a tribunal under the law. This issue was resolved in the case A.P.H.L. Conference, Shillong v. W. A. Sangama.

In addition, the court found that an order restricting the use of loudspeakers during electioneering is constitutional after analysing the Commission's jurisdiction and conduct in Mohinder Singh v/s. Chief Election Commissioner.

8. Checking Criminalization of Politics.

The criminalization of politics is a serious problem in India. The outbreak of this illness began in Bihar and has now spread across the nation. In 2003, a bill was presented that would have made it unlawful to elect those who were convicted of crimes to seats in legislative bodies. Despite this, there are still people serving as lawmakers or in state legislatures who have convictions on their record. It's not only unacceptable, but also demeaning, when former lawbreakers take up legislative roles. The Commission has conveyed its displeasure with recent antisocial trends. The commission's guidelines and recommendations to the government dealt with the criminalization of politics. As a result of their investigation, they determined that

“All political parties to reach a consensus that, no person with a criminal background will be given the party ticket”.

An affidavit detailing the applicant's criminal history, including any convictions, acquittals, and ongoing cases, must be submitted in accordance with the guidelines. Candidates are free to share their replies to these questions with whatever media source they want, both conventional and digital.

However, the Returning Officer may reject nomination papers if they are incomplete or incorrect. Inadequate or false information provided may potentially have legal

consequences. The public and traditional and digital news outlets may access this content for free. Those who are elected should be obligated to update their constituents on a frequent basis on the progress they have made in addressing their concerns. This sense of personal responsibility must be codified in law, and those who shirk their responsibilities must be held accountable. Major progress has also been made toward a more honest electoral process and better-prepared candidates. The role of invigilators is critical from the beginning to the end of the voting process. **(Goertz and Mahoney 2012)**

Conclusion:

The Commission has, during the course of its history, carried out a substantial number of electoral changes, with the aim of both enhancing democracy and boosting the fairness of elections. These reforms have been carried out over the length of its existence. The commission has prevented voter fraud and other types of wrongdoing throughout the whole election process by making use of cutting-edge technology and taking the most proactive efforts feasible to do so. On the other hand, the execution of all of these initiatives by the Election Commission would assist enhance people's faith in democracy and its institutions as a whole, which will help the country move forward. The Supreme Court routinely assessed the legal as well as other elements of elections, and it made it a point to insist that the principles of democracy be safeguarded, both of which were reflected in the decisions that it issued. This was done in order to guarantee that the elections were held in an honest and open manner. The Commission must have the ability to inflict punishment on egotistical politicians who have broken the code, the laws, and the rulings of the courts in order for it to be effective. Voting ought to be the fundamental method of choosing candidates for administrative posts in a country, serving as the primary vehicle for doing so.

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