



INDIA'S INTERNATIONAL MOVEMENT TO UNITE NATIONS

STUDY GUIDE

COMMITTEE: ELECTION COMMISSION OF INDIA

**AGENDA: REVIEWING THE ELECTORAL MODEL CODE OF
CONDUCT IN INDIA**

MANDATE

The Election Commission of India looks after the working of political parties and forms guidelines regarding the conduct of elections over a region, state, or nation. The Commission supervises the Lok Sabha, Rajya Sabha, the Presidential and Vice-President, and the Municipal Corporation. The Commission holds a quasi-judicial function group that advises the body in case there are any malfunctions in the political party or any form of dispute brought under the court.

At present, six political parties have to attain the status of national parties and contest in the Lok Sabha Election. Whereas there are about seventy-two state parties present in the overall nation.

INTRODUCTION

India is a democratic country and a democracy has certain key elements which make it the most preferred form of government today. These elements include participation, accountability, conflict, resolution, and concern for equality and justice. Every citizen not only has the right but they must participate in the decision-making process of the government by casting their vote. In a democracy, there is a free and fair system of election for choosing representatives to the government. People participate in governance by electing the person whom they feel understands their problems the best. This person acts as their representative in the government.

Elections

Elections are core to any ideal Democracy. This act is the heart of the parliamentary system where free and fair elections are held periodically, based on universal adult franchise. In India, elections are like grand festivals that help people to reflect on their aspirations, select their representatives and voice their opinions through the ballot. However, the election impacts almost everyone in the country - citizens, businesses, administration, institutions, leaders and the list goes on but also the future of 1.4 billion citizens. Therefore, it's a tremendous process that goes on in the country in the gap of every few months. The country witnesses 5-7 State Assembly elections every year(except few exceptions) which affects the stakeholders involved.

Elections are used as a tool for selecting representatives in modern representative democracies. India is a Federal Parliamentary Democratic Republic in which the honourable

President is the head of the country and the honourable Prime Minister is the head of Government. Elections determine the credibility of candidates in India to represent specific political parties or offices.

Lok Sabha and Vidhan Sabha (Assembly) elections are held regularly after every five years. After five years the term of all the elected representatives comes to an end. The Lok Sabha and Vidhan Sabha are 'dissolved'. Elections are held in all the constituencies at the same time, either on the same day or within a week. This is called the general election. Sometimes elections are held for only one constituency to fill the vacancy caused by the death or resignation of a member. This is known as a by-election. In India, we follow an area-based system of representation. The country is divided into different areas for elections. These areas are for elections. These areas are called electoral constituencies. The voters who live in an area elect one representative.

For Lok Sabha elections, the country is divided into 543 constituencies. The representative elected from each constituency is called a Member of Parliament or an MP representing the particular constituency. One of the features of a democratic election is that every vote should have equal value. That is the reason why our Constitution requires that each constituency should have a roughly equal population living within it. Similarly, each state is divided into a specific number of Assembly constituencies. In this case, the elected representative is called a Member of the Legislative Assembly or an MLA. Each Parliamentary constituency has within it several assembly constituencies. The same principle applies to Panchayat and Municipal elections.

Types of elections

In India, elections are conducted for Members of the Parliament in Lok Sabha, Members of State Legislative Assemblies, Members of the Parliament in Rajya Sabha, and Members of Local Panchayat or city corporation councils.

Four types of Elections are being conducted in the Republic of India. These include General Elections (Lok Sabha), State Assembly Elections, Rajya Sabha Elections (Upper House), and Local Body Elections.

General Elections (Lok Sabha)

Members of Lok Sabha (House of the People) or the lower house of India's Parliament are elected directly by voting. The candidate is chosen from a set of candidates who participate in

elections in their respective constituencies. This election takes place once in five years to elect 543 members for the Parliament (Lower House). A party needs 272 MPs to hold a claim to form the Central Government. The leader of the party or alliance takes oath as the Prime Minister.

State Assembly Elections

Members of State Legislative Assemblies are elected directly by voting just like Lok Sabha. They are elected from a set of candidates who participate in their respective constituencies. Candidates who win the State Legislative Assemblies Elections are called 'Members of Legislative Assembly'. The elected candidates hold their seats for five years or until the body is dissolved by the Governor. The total strength of each assembly depends on each state, mostly based on size and population. The leader of the majority party or alliance takes oath as Chief Minister of the State.

Rajya Sabha Elections (Upper House)

Candidates for Rajya Sabha (also known as the Council of States) or the upper house of India's Parliament are not elected directly by the citizens. The members of the Rajya Sabha are elected by members of Legislative Assemblies. Each member of the Parliament in Rajya Sabha gets a tenure of six years but one-third of the members change every two years. Rajya Sabha acts as a second-level review body during the procedure of converting a bill into an act.

Local Body Elections

For Local Body Elections, representatives are directly elected by the concerned people for a smaller geographical area. The different types of local bodies include Corporations, Municipalities, Panchayats, etc.

Election Commission Of India

The Election Commission of India is a sovereign constitutional authority responsible for administering Union and State election procedures in India. 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. In our country elections are conducted by an independent and very powerful Election Commission (EC). The body is empowered with the same kind of independence that the judiciary enjoys.

The Election Commission is an all-India body that is common to both the Central government and the State governments. It must be noted here that the commission does not deal with the elections to the Municipalities and Panchayats in the states. Hence, a separate State Election Commission is provided by the Constitution of India.

The Election Commission of India (ECI), is a constitutionally mandated body that was established in 1950 to administer the democratic process in India. Headquartered in New Delhi it is governed by three members - a chief election commissioner and two other commissioners - who are appointed by the Indian President for six-year terms and who cannot be dismissed from office except by parliamentary impeachment. The Election Commission of India, hence nearly invulnerable to political influences and scrupulously nonpartisan, is charged with conducting fair and orderly elections.

The Purpose of the Election Commission:

- i) To supervise, direct, control, and conduct all elections to parliament, State Legislatures, Vice President and President of India.
- ii) To set down general rules for election and determine constituencies.
- iii) To prepare and update electoral rolls and issue voter identity cards.
- iv) To formulate the schedules and program of elections.
- v) To scrutinise candidate applications and check the eligibility of the candidates to contest the election.

Code of conduct

The International Institute of Democracy and Electoral Assistance (International IDEA) has developed a model Code of Conduct for Political Parties Campaigning in Democratic Elections. This voluntary code establishes ground rules for ethical behaviour. It can be applied to political parties and candidates around the world.

Some electoral systems provide for the adoption of a mandatory code of conduct that all parties and candidates must follow if they are competing in elections. Such a code may form a part of the legal or regulatory framework and violators may be subject to administrative and legal sanctions. A candidate who fails to comply could be disqualified and face legal action. Most codes are essentially voluntary but sometimes such codes provide for consultation and mediation concerning the circumstances and effect of violations.

HISTORY

The First General Elections

The First general elections for Lok Sabha and state assemblies were conducted between the duration of 25th October 1951 and 21 February 1952. This election took place after the country attained its independence on 15th August 1947 and established an Election Commission two years later. In March 1950, Sukumar Sen was appointed as the inaugural Chief Election Commissioner. A month later, the Indian Parliament passed the Representation of the People's Act. This act provided a comprehensive framework for conducting elections for the Houses of Parliament and the Houses of Legislature in each state. The act aimed to ensure fair and transparent elections, enabling citizens to exercise their right to vote and participate in the democratic process. Over 1,900 candidates took part in the Lok Sabha elections, competing for 489 seats. The total number of people who were eligible to vote was more than 173 million out of a population of around 360 million. This made it the most prominent election held at that time. Indian National Congress (INC) won 364 out of 489 seats and 45% of the total votes polled. Jawaharlal Nehru was elected as the first Prime Minister of India.

A brief history of elections and amendments post general elections

The Commission functioned as a single-member body from 1950 to October 16th, 1989 but was converted into a three-member body from October 16th, 1989 to January 1st, 1990. In the year 1990, on January 1st, it reverted to the system of a single-member body. However, since October 1st, 1993, the Commission has been functioning as a three-member body.

The Chief Election Commissioner and two Election Commissioners are given the same salary and allowances as a Judge of the Supreme Court. All three Commissioners have equal powers in decision making and in case of any difference of opinion on any issue, the decision is taken by the majority. The term of the office of CEC and ECs is six years or till the age of 65, whichever is earlier.

For the first General Elections to the Lok Sabha and Vidhan Sabhas, the first delimitation order was issued by the President, in consultation with the Election Commission and with the approval of Parliament on August 13, 1951.

To provide a legal framework for the conduct of elections, Parliament passed the Act on May 12th, 1950 (Representation of the People Act, 1950) providing mainly for the preparation of electoral rolls and the second Act on July 17th, 1951 (Representation of the People Act,

1951) laying down the procedure for the conduct of elections to both Houses of Parliament and Vidhan Sabhas for each State.

CURRENT SCENARIO

In a country where democracy is the founding institution of governance, conducting elections becomes an absolute necessity. Elections form the heart and soul of the democratic structure, representing the public voices and opinions. It is the most powerful weapon resting in the hands of people, conferring them with the right to frame their opinions and voice them out by choosing a candidate who matches their priorities and ideas. However, the mere conduction of elections does not ensure the prevalence of a democratic structure. The process needs to be complemented with principles of fair play and justice. In light of increasing electoral malpractices, a free and fair election procedure, ensuring transparency of governmental activities and secrecy of the ballot system needs to be maintained. The working of political parties, campaigners, and the officials in charge needs to be incorporated under the umbrella of proper guidelines regulating their conduct.

India, being one of the largest democracies in the world ensures the prevalence of free and fair elections. The process works on the guidelines determining the course and nature of the election process, as proposed by the Model Code of Conduct brought in by the Election Commission. The Election Commission of India (ECI) is currently evaluating the Model Code of Conduct to address its limitations and improve its ability to guarantee unbiased elections. This evaluation process includes efforts to address modern challenges such as the influence of social media and financial resources. Here are a few specific details and facts regarding the stage:

Consultation Process:

Timeline: The ECI began consultations, in the part of 2022 reaching out to stakeholders for written input and engaging in discussions with representatives, from political parties, civil society groups, and media organisations.

Key areas of focus: Discussions revolved around topics such as the use of media to disseminate false information and promote hateful speech, the impact of financial influence on elections, and the necessity for robust enforcement measures.

Diversity of perspectives: The Election Commission of India (ECI) has made an effort to gather input from stakeholders, such as regional political parties, women's groups, youth organisations and election monitoring bodies.

Public engagement: To promote participation the ECI introduced a platform where citizens can share their suggestions and provide feedback on the review process of the Model Code of Conduct (MCC).

Committee Formation: Five committees have been formed by the ECI, each focusing on a specific aspect of the Model Code of Conduct:

- **Committee on Social Media and Digital Media:** The purpose of this committee is to provide suggestions, for establishing rules and regulations for online campaigning as well as finding ways to tackle the issue of misinformation dissemination, on the internet.
- **Committee on Paid News and False News:** The main focus of this committee is to recognise and tackle the problem of paid news and fake news during elections.
- **Committee on Expenditure Monitoring:** This committee thoroughly examines the system for monitoring expenses. Proposes strategies to limit the impact of financial influence.
- **Committee on Model Code of Conduct for Political Parties:** The committee examines the MCC's applicability to political parties and recommends potential revisions.
- **Committee on Model Code of Conduct for Candidates:** This committee is dedicated to reviewing the MCC's application process, for candidates and suggesting ways to enhance campaign practices.

Every committee comprises professionals and experts from various fields, such as law, media, technology and elections.

Clarifications and Guidelines:

In 2023 the Election Commission of India (ECI) made it a point to provide guidelines on how political parties can utilise media platforms such as Facebook and Twitter during elections. These guidelines include instructions on the use of symbols as well as rules for conducting public meetings and rallies. The ECI has made these guidelines easily accessible, on their website. The body has also taken steps to ensure that stakeholders are well-informed through multiple channels.

Seeking Legal Opinion:

The Election Commission of India (ECI) is working closely with professionals to thoroughly analyse the structure that governs the Model Code of Conduct. Their objective is to identify any shortcomings and consider ways to enhance its implementation. This collaborative effort aims to empower the ECI to take action, against those who violate the code leading to recommendations for revisions, in current laws or even the introduction of new legislation. Overall this endeavour seeks to strengthen and improve the efficacy of the Model Code of Conduct.

Current Challenges:

Limited Effectiveness in Curbing Malpractices: A significant issue that needs attention is the perceived lack of effectiveness in the Model Code of Conduct when it comes to preventing misconduct. This includes concerns about hate speech, news, the use of money to influence elections, capturing of polling booths, voter intimidation and instances of violence. The growing impact of media further complicates matters as it becomes challenging for the Election Commission of India (ECI) to effectively monitor and control the spread of information and propaganda. Unethical practices by parties and candidates often exploit these loopholes, which ultimately undermines the integrity of our process.

Inadequate Scope: The current focus of the Model Code of Conduct is mainly on campaign techniques like rallies and speeches. However, it lacks attention to address emerging campaign strategies like advertising and social media involvement. These new methods provide chances for parties and candidates to bypass regulations and engage in practices that the Model Code of Conduct does not explicitly tackle.

The assessment of the Model Code of Conduct in India is a chance to adjust to the changing scenario and guarantee the fairness of elections. Through the involvement of all parties involved in conducting evaluations and seeking guidance from experts the Election Commission of India is showing its dedication to upholding democratic elections in India.

PROPOSED SOLUTIONS

The Electoral Model Code of Conduct has a primary goal to ensure free and fair elections it has been effective in achieving this but there are still certain challenges, for example: timely implementation and enforcement of before and after elections, misuse of social media in today's time and delayed actions to overcome these key problems and improve with changing time here are some solutions proposed and considerations, along with insights from other countries.

Digital and Social Media guidelines :

In today's world social media has changed the landscape of political campaigns, many national and regional parties have official pages on social media with huge reach and impact on citizens especially the youth so it is necessary for the Model Code of Conduct to include guidelines that lead to prevention from misinformation, hate speech and fake news on these digital platforms, social media and online advertising forums.

Timely enforcement and actions by using technology:

Delays in addressing complaints against parties who indulge in bribery, intimidation, and freebies which can easily manipulate voters if there are no immediate actions taken against such violations will lead to a deterioration of voter's confidence in the democratic process. Hence, the Model Code of Conduct must ensure the responsible officials take immediate action and for this, there can be the use of AI-POWERED chatbots for citizens for immediate complaints, queries, or right to information.

Strict action against Hate speech and Incitement ;

Hate speech has been one of the alarming violations made by political parties and their leaders which often leads to communal clashes and disharmony during elections. Model Code of Conduct needs to implement stricter penalties on parties and disqualification of candidates.

Case Studies:

Germany: Germany follows a public funding mechanism for political parties to reduce dependency on private donations. In Germany, funding is provided based on the party's electoral performance, with those parties that secure a certain percentage of the vote in

elections eligible for public funds. India could follow a similar pattern though considering India's vast population the mechanism can vary.

Canada: The important feature of the Electoral Act in Canada is its stringent rules to maintain the integrity of the electoral process by encompassing campaign spending limits, guidelines for political advertising, and restrictions on contributions. India could have a similar regulation to ensure a fair and equitable environment for political parties and their candidates. The UK and the USA also have similar budget systems for the democratic process of their countries

Reviewing and Reforming: The role of the Model Code of Conduct does not end after the election results. There should be a reviewing committee after elections to understand the mistakes made and how to make the next election more effective and efficient. Many countries like the UK, the US and Australia follow this pattern post-election

BLOC POSITIONS

Indian National Congress (INC)

The INC supports the need for changes to tackle issues such as manipulation on social media and the spread of fake news. They believe it is essential to have measures in place and hold those who break the rules to ensure fair elections. While they are open to reviewing regulations concerning symbols the INC places a value on maintaining social unity and upholding secular values. In general, the INC aims for a rounded approach that enhances the effectiveness of the Model Code of Conduct while also preserving principles.

Bharatiya Janata Party (BJP)

The BJP generally expresses its support for enhancing the Model Code of Conduct in terms of curbing the influence of money and regulating media. They believe that these measures are necessary to address the present-day challenges in the process. However, the BJP remains cautious about granting powers to the Election Commission of India (ECI). They emphasise the importance of having checks and balances in place to prevent any misuse of authority. It is worth noting that the BJP is against imposing restrictions on using symbols during campaigns as they argue that these symbols are a part of Indian culture and democracy.

Aam Aadmi Party (AAP)

The AAP is an advocate for transparency and accountability in campaign finance. They believe that it is important to have regulations on monitoring expenses to ensure fairness among all parties. They also support the use of technology like media monitoring and verification tools to make the electoral process more transparent and trustworthy. The AAP is open to ideas that can improve participation in the Model Code of Conduct review process and help build trust in the electoral system.

All India Trinamool Congress (TMC)

The TMC's main objective is to create competition, among all parties, of their size or available resources. They strongly believe that it is essential to enhance the independence and autonomy of the ECI separating it from any influence. Although they show support for suggested changes the TMC remains cautious about granting powers to the ECI. They stress the importance of oversight to ensure the implementation of the revised Model Code of Conduct and prevent any potential misuse of authority.

Communist Party of India (Marxist) and Communist Party of India (CPI)

The political parties on the Left call for changes to tackle the rooted problems of wealth influence and corporate control in elections. They strongly believe that these issues have an impact on the fairness and trustworthiness of the system. Moreover, they strive for inclusivity and representation of marginalised communities to establish a process that genuinely reflects all segments of society. They also support regulations on paid news. Advocate for a media environment that is more transparent fostering well-informed public opinion and ensuring fair elections.

SUGGESTED MODERATED CAUCUS TOPICS

1. Discussing the role of Social media in electoral procedures
2. Reframing the qualifications of a candidate to contest elections
3. Discussing the impact of hate speech and communal violence with emphasis on recent state elections
4. Analysing the current scope of implementation of the Model Code of Conduct.
5. Revisiting the Representation of Peoples Act, with a scope of ensuing quality participation in elections.

6. Discussing measures to avoid undue influence of freebies and other illegal methods to lure voters
7. Formulating measures to sensitise voters about their rights and duties.
8. Analysing the need to restructure the current electoral structure with emphasis on one nation one election
9. Reviewing the current voting procedure and discussing reforms in the current procedure.
10. Discussing electoral duties for candidates and the election commission

RESEARCH LINKS

(Note: Delegates, some of the links are only meant for light reading and thus are not highlighted, Only refer to the highlighted sources as valid proof as others may or may not be accepted as a source of proof in the Council. The decision of the Presiding Officer regarding the acceptable sources is Final and Binding.)

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3. [\(PDF\) CHANGING FACE OF ELECTION ADVERTISEMENTS IN INDIA \(researchgate.net\)](https://www.researchgate.net/publication/353111111)
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10. [Manual of Model Code of Conduct.pdf \(eci.nic.in\)](http://eci.nic.in)
11. [India's electoral reform: the Model Code of Conduct | Centre For Public Impact \(CPI\)](#)
12. [Manual on Model Code of Conduct - Manuals - Election Commission of India \(eci.gov.in\)](http://eci.gov.in)
13. [Elections 2021: Busting Myths about Election Malpractices | by Polstrat | Medium](#)
14. [Malpractices in elections : The Tribune India](#)
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