# UNIT 13: ELECTION COMMISSION; ELECTORAL REFORMS

## UNIT STRUCTURE


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## 13.1 LEARNING OBJECTIVES

After going through this unit, you will be able to:

- explain the composition of the Election Commission
- observe how the independence of the Election Commission is maintained
- describe the powers and functions of the Election Commission
- analyse the various electoral reforms carried out by the Government of India and the Election Commission along with suggestions for further reforms.

## 13.2 INTRODUCTION

Election is a part and parcel of a democratic system.Since a democracy gives the power of enacting law to the representative of the people, the importance of elections cannot be underestimated. Without a

well organised and stable election system, no democratic system can become effective.

Republic of India is the largest democratic country of the world along with the Parliamentary form of government. So, election system and the machinery for the conduct of election has an important place in the Indian Political System. The framers of the Constitution were fully aware of this and therefore provided an independent machinery i.e. the Election Commission to conduct the elections of the President, the Vice President, the Union Parliament and the State Legislature.

In this chapter, we will discuss in detail about the composition, powers and functions of the election commission as well as various reforms made so far in our election system along with some suggestions for further reforms.

## 13.3 ELECTION COMMISSION

Article 324 of the Constitution of India provides for a single Election Commission to supervise, direct and control all elections to Parliament and to the State Legislatures, to the office of the President and the Vice President. It is a permanent, independent and statutory body.

### 13.3.1. Composition

The Election Commission was established on 25th January 1950 with only one Chief Election Commissioner. In 1989 two more Election Commissioners were appointed to the Commission for the first time during Mr. Rajiv Gandhi's government. But this decision was abolished by Mr. V.P. Singh's government in November 1989. Again in 1993, two additional commissioners were appointed to the commission by an ordinance of the President. Later on, the Parliament enacted the Election Commissioner Amendment Act (1993). Since then, the Election Commission comprises of a Chief Election Commissioner over and two Election Commissioners. As per the verdict of the Supreme Court in 1995, all three Election Commissioners enjoy equal powers and Constitutional status in all

respects. However,the Chief Election Commissioner presides over the meetings of the Election Commission. The decisions are taken unanimously, otherwise by majority votes.

The Secretariat of the Election Commission is situated in New Delhi and comprises of about 300 officials, headed by two Deputy Election Commissioners, selected by the Commission. The Secretariat helps the commission in performing executive functions.

In the state level, the Chief Electoral Officer Supervises the election work who is appointed by the Election Commission in consultation with the State Government.

### 13.3.2 Appointment and Tenure

All the three Election Commissioners are appointed by the President subject to the provisions of the law made by the Parliament in this respect. The President may also appoint Regional Commissioners to assist the Election Commissioner in the discharge of his/her functions before the commencement of the general elections to the Union Parliament and State Legislature.

The term or tenure of service of all the three Election Commissioners is six years. The President may increase their term by one year at a time. But, they cannot remain in their office after attaining 65 years of age.

### 13.3.3 Independence of the Election Commission

The Constitution of India has made certain provisions for maintaining the independence of the Election Commission from the possible influence of the Executive and Legislature to ensure free and impartial election in the country without interference from political parties in power. The following initiatives have been taken by the Constitution to maintain the impartiality and independence of the Commission.

- The Chief Election Commissioner once appointed cannot be removed by the President in an ordinary manner. However, he/she can resign on his/her own. He/she can only be removed by the President if he/

she is presented with a resolution passed by both the Houses of the Parliament by absolute majority coupled with 2/3rd majority of the members present and voting. Other Election Commissioners or Regional Commissioners can be removed from service by the President on the recommendation of the Chief Election Commissioner.

- The conditions of service of the Chief Election Commissioner cannot be changed to his/her disadvantage after his/her appointment.
- The powers of the Election Commissioner in regards to supervision, direction and control of elections are absolute and cannot be questioned by any one.

### 13.3.4 Powers and Functions of the Election Commission of India

The Election Commission under the Chief Election Commissioner performs its functions with the help of People's Representation Acts made in 1950 and 1951. The whole electoral system of the country is run through these two Laws. These two Acts also constitute the basis for the electoral system and its working.

The powers and functions of the Election Commission, as enumerated by the Constitution in Articles 324 to 328 can be described as follows:

- **Administrative Functions**

(1) To prepare electoral rolls for the elections to Parliament, State Legislatures, President, Vice President and Local bodies; suitably revise them after every census and before every general election to the Parliament and State Legislatures.

(2) To supervise the machinery to conduct elections free and fair throughout the country.

(3) To fix and declare the dates of election, submission and withdrawal of nomination papers, scrutiny of nomination papers before election and declaration of election result.

(4) The Commission can advise the President and Governors on the question of disqualifications incurred by the members of the Union or State Legislatures.

(5) To request the President or the Governor of the State as the case may be to make available of the necessary staff for conducting elections.

(6) The Commission may also arrange for a fresh poll in constituencies, where the polling has been unfair due to malpractices.

(7) The election commission deals with matters pertaining to reservation of seats for the Scheduled Caste and scheduled Tribes in Lok Sabha as well as Vidhan Sabhas of the State.

(8) To determine the territorial constituencies of all over India as per recent delimitation act of the Parliament.

(9) To register and recognize political parties, grant them status of National or State parties after election result on the basis of their performance in election and allocate symbols to parties.

(10) The Commission decides disputes regarding election symbol in the event of splits in a political party.

(11) The Election Commission also determines and allocates time to all the political parties for campaigning through the public media i.e, All India Radio and Doordarshan during the time of election.

- **Quasi Judicial Functions**

(i) The Election Commission acts as a court for settling disputes regarding recognition of political parties and allocation of symbols. It appoints officers to enquire into disputes connected with the electoral arrangement.

(ii) The commission has the power to disqualify a candidate who has failed to lodge an account of his/her election expenses within the time and in the manner prescribed by law.

(iii) The Election Commission has also the power of removing or reducing the period of such disqualification as also other disqualification under the law.

- **Model Code of Conduct (M.C.C.)**

Another important function of the Election Commission is to formulate and enforce the Model Code of Conduct (M.C.C.) as soon as election to either State Assemblies or the Lok Sabha are

announced by the Commission.The M.C.C. continues till the entire process of election is completed.

Model Code of Conduct is a set of guidelines or norms issued by the Election Commission of India for conduct of all the political parties including the ruling party/parties and all the contesting candidates during elections mainly with respect of general conducts, speeches, election manifestos, meeting and processions, polling days and polling booths.

These sets of guidelines have been worked out with the consensus of all the political parties of the country who have consented to abide by the norms or instructions incorporated in the said code. The main objective of the Model Code of Conduct is to ensure free and fair elections, to avert communal clashes and corrupt practices.

- **Guidelines for General Conduct**

No party or candidate should involve in any such activities which may aggravate existing differences or cause tension between different castes and religious or linguistic communities.

When criticism is made of other political parties, it should be confined to their policies and programmes, past records and works. Party or candidate should not criticise on the aspects of private life of other opponent candidates.

All parties and candidates should avoid corrupt practices such as bribing of voters, intimidation of voters, impersonation of voters, canvassing within 100 meters of polling stations. On the day of poll, holding public rally during the period of 48 hours before the end of poll and the transport of voters to and from polling station should be avoided.

Mosques, Temples, Churches or other places of worship should not be used as forum for election propaganda. There should be no appeal on grounds of caste, community or language and religion for securing votes.

- **Guidelines relating to Meeting and Processions**

The party or candidate should obtain necessary permission or license from the concerned authority for the use of loudspeakers or any other facilities in connection with any proposed meeting.

The organiser of an election meeting should take permission from the concerned authority for the use of public field, public hall, public buildings etc. well in advance.

The party or candidate should inform the local police authority about the venue and time of any proposed meeting, procession well in time so that the police can control the traffic and maintain peace and order.

The organiser of a procession should intimate the administration well in advance about the beginning and ending point as well as the route of the procession. There should be no deviation in this regard.

- **Guidelines for the Polling Day and the Polling Booth**

All the political parties and candidates or their supporters should refrain from serving or distributing liquor on polling day and during the period of 48 hours before the end of the poll.

Unnecessary crowd should not be encouraged or allowed near the polling booths and temporary party camps or counters by the political parties and candidates.

No one without a valid pass from the Election Commission will be allowed to enter the polling booths except the voters and the recognised polling agents of the candidates.

Disorderly conduct and disturbance in or near a polling station, use of loud speakers and booth capturing should be avoided by the parties and the candidates.

- **Guidelines for the Ruling Party or the Party in Power**

The ruling party whether at the Centre or in the State or States concerned, should not use its official position for the purposes of the election campaign.

The public places or grounds for holding of public meetings

and use of helipads for air flights or helicopters in connection with elections should not be monopolised by the ruling party. Other parties and candidates should also be allowed to use such places and facilities on the same terms and conditions used by the ruling party.

Rest houses, dak bungalows or other government accommodation should also not to be monopolised by the ruling party or its candidates and such accommodations should be allowed to use by other parties and candidates in a fair manner. But, no party or candidates can use such accommodations or its premises as a campaign office or for holding any party meeting for election purpose.

The party in power should avoid issue of advertisement at the cost of public exchequer in the newspapers and other media and the misuse of official mass media during the election period for coverage of political news and publicity regarding achievements of the ruling party.

The code prohibits the ministers and other authorities, in making of announcement of any financial grants in any form or promises thereof, laying of foundation stones of projects or schemes of any kind and adhoc appointments in government or public undertakings etc. which can have the effect of influencing the voters in favour of the ruling party.

Besides, the ministers are not permitted to use their official vehicles for election work. Prohibition of the use of vehicles belonging to local bodies, corporation, public undertakings and municipalities for electioneering by the candidates, MLAs, MPs and the Ministers. In conclusion, we may say that multiple cases of model code of conduct violations come to the notice of the Election Commission of India, but in most cases the guilty are left off with a warning not to repeat the same mistake.



## CHECK YOUR PROGRESS

**Q.1.** The Election Commission is a Constitutional body. (True/False)

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**Q.2.** The Election Commission is a single member commission (True/False)

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**Q.3.** Who appoints the Chief Election Commissioner?

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**Q.4.** What is the tenure of the Election Commissioners?

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**Q.5.** Mention any two initiatives taken to maintain the independence of the Election Commission.

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**Q.6.** Write three important functions of the Election Commission of India.

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## 13.4 ELECTORAL REFORMS IN INDIA

From the above discussion, we may realize the importance of the Election Commission in the democratic political system of our country. No doubt that, the Election Commission has been performing its duties with great efficiency and honesty, but our electoral system has certain defects. Many infirmities and malpractices such as money and muscle power, booth capturing, rigging, poll violence, poverty, Casteism, Communalism,

unemployment, multi cornered contest, march of criminal and antisocial elements in the electoral process, electoral imbalances due to simple majority vote victory system,low voters' turnout, misuse of electoral and official machinery by the ruling party, illiteracy among the vast majority of the voters etc. have creeped into our electoral process.

Therefore, to get rid of these anomalies and defects, there is obviously a need for a wide range of electoral reforms to restore the health of Indian democracy.

The reports of various election reform committees, commissions and a number of formal and informal group discussions at various forums and by individuals, came out with some useful suggestions. Some of the important committees are – V.M. Tarkunde Committee (1974), Dinesh Goswami Committee (1990), Vohra Committee (1993) on Criminalization of Politics, Indrajit Gupta Committee (1998) on state funding of elections, subsequent reports by the Law Commission, Election Commission, National Commission to review the Constitution headed by M.N. Venkatachelliah, Second ARC on ethics in governance headed by Veerappa Moily, Law Commission report headed by A.P. Shaw (2015) etc.

However the government has accepted the recommendations of the reports of many commissions partially. For example- Lowering of voting age from 21 years to 18 years by 61$^{st}$ amendment in 1988, increase in number of proposers to prevent frivolous candidates, introduction of Electronic Voting Machine (EVM) in 1998, fresh poll date or countermanded election in a constituency because of booth capturing, disqualification for contesting election on conviction for insulting the National Honour Act 1971, increase in security deposit, restriction on contesting election for more than two constituencies, prohibition with respect to going armed to or near a polling station, paid holiday to employees on the poll day, prohibition on sale of liquor, time limit for bye-elections, reducing campaigning period from 20 days to 14 days, restriction on exit poll during the election period, ceiling on election expenditure for a Lok Sabha seat has been increased between 16 to 40 lakhs and for assembly seat between 8 to 16 lakhs, voting through postal ballot, grating voting right to citizens of India living abroad, celebration

of National Voters Day on 25th January every year for creation of awareness among the voters, political parties need to report any contribution in excess of Rupees 20,000/- to the Election Commission for claiming income tax benefit, creation of a fully computerised database of electors, comprehensive photo electoral roll, video recording of the polling and counting procedures, exemption of travelling expenditure during elections, declaration of criminal antecedents and assets etc. by the candidates and declaring false information in the affidavit is now a punishable electoral offence, introduction of photo identity card to voters, appointing observer to note the amount of expenditure incurred by the candidates on their poll campaign, introduction of VVPAT to allow voters to verify if their vote has gone to the intended candidate etc.

Yet, the problems tend to be as critical and challenging as ever. Therefore, the following specific reforms can be suggested:

(i) Political parties should be brought under the ambit of R.T.I. Act.

(ii) Conducting elections for Union and State Legislatures at the same time to curtail election expenditure.

(iii) Transparency in funding of political parties and their financial accounts should be mandatory.

(iv) Introduction of common electoral rolls for assembly, Parliamentary and local body election.

(v) Independent candidates should not be allowed to contest in the election who are mostly dummy or non-serious candidates.

(vi) Candidates should be allowed to contest from only one constituency.

(vii) Totaliser should be used for counting of votes to hide booth wise voting patterns and counting fears of intimidation and victimisation.

(viii) The Election Commission should be strengthened by giving equal Constitutional protection to all members of commission in matters of removability and creating a permanent independent secretariat for the Election Commission.

(ix) Trial of election disputes should be expedited for which one or more election benches in each High Court should be introduced.

(x) Regulation of opinion polls or exit polls is necessary to ensure the credentials of the organisations and to assess the validity of the methods used in conducting the opinion polls by the public.

It is expected that the above suggested electoral reforms will contribute to better participation of the citizens in electoral practices, reduce corruption and strengthen democracy in India.



## CHECK YOUR PROGRESS

**Q. 7:** Write the names of the two committee involved with the electoral reforms of India.

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**Q. 8:** Mention any three election reforms implemented so far.

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**Q. 9:** By which amendment the age of the voters of Indian citizen has been decreased from 21 years to 18 years?

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**Q.10:** In which year Electronic Voting Machine (EVM) was first introduced in India?

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**Q.11:** Mention any three suggestions for electoral reforms.

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## 13.5 LET US SUM UP

- Election is part and parcel of a democratic system. Without a well organised and stable election system, no democratic system can become effective.

- Article 324 of the Constitution of India provides for a single Election Commission to supervise, direct and control all elections to Parliament and to the State Legislatures, to the office of the President and the Vice President.
- The Election Commission is a permanent, independent and Constitutional or statutory body, presently comprises of one chief Election Commissioner and two other Election Commissioners along with two Deputy Election Commissioners and a Secretariat.
- The Election Commission was established on 25th January 1950 with only one Chief Election Commissioner. The Chief Election Commissioner presides over the meetings of the Election Commission. The decisions are taken unanimously, otherwise by majority votes.
- The Election Commissioners are appointed by the President subject to the provisions of the law made by the Parliament in this respect.The term or tenure of service of all the three Election Commissioners is six years. But they cannot remain in their office after attaining 65 years of age.
- The Election Commission under the Chief Election Commissioner performs its functions with the help of People's Representation Acts made in 1950 and 1951.
- The Election Commission is to formulate and enforce the Model Code of Conduct (M.C.C.) as soon as election to either State Assemblies or the Lok Sabha is announced by the Commission.
- Model Code of Conduct is a set of guidelines or norms issued by the Election Commission of India for conduct of all the political parties including the ruling party/parties and all the contesting candidates during elections.
- The main objective of the Model Code of Conduct is to ensure free and fair elections, to avert communal clashes and corrupt practices.
- To ensure free and impartial election without any interference from the executive, legislature and the ruling political party, the Constitution

of India has made certain provisions to maintain the independence of the Election Commission.



## 13.6 FURTHER READING

1. Kapur, Anup Chand and Misra, K.K. (2006). *Select Constitutions.*New Delhi: S. Chand and Company.
2. Ghai K.K. (2017).*Indian Government and Politics*. New Delhi, Kalyani Publishers.
3. Chander, Prakash. (2000). *Indian Government and Politics*. New Delhi:Cosmos Bookhive Pvt. Ltd.
4. Pylee, M, V. (2006). *Constitutional Government in India.* New Delhi:S. Chand and Company.



## 13.7 ANSWERS TO CHECK YOUR PROGRESS

**Ans to Q No 1:** True

**Ans to Q No 2:** False

**Ans to Q No 3:**The President of India

**Ans to Q No 4:** 6 years, but they cannot remain in their office after attaining 65 years of age.

**Ans to Q No 5:** (a) The condition of service of the Chief Election Commissioner cannot be changed to his disadvantage after his appointment.

(b) The powers of the Election Commission in regards to Superintendence, direction and control of elections are absolute and cannot be questioned by anyone.

**Ans to Q No 6: a)** To supervise the machinery to conduct elections free and fair throughout the country.

**b)** To fix and declare the dates of election submission and withdrawal of nomination papers, scrutiny of nomination papers before election and declaration of election result.

**Ans to Q No 7:** (a) V.M. Turkunde Committee (1974) (b) Dinesh Goswami Committee (1990)

**Ans to Q No 8:** (a) Introduction of photo identity card to voters.

(b) Lowering of voting age from 21 years to 18 years.

(c) Celebration of 'National Voters Day' on 25th January every year for creation of awareness among the voters.

**Ans to Q No 9:** 61st Amendment in 1988.

**Ans to Q No 10:** 1998

**Ans to Q No 11:** (a) Political Parties should be brought under the ambit of R.T.I. Act.

(b) Candidates should be allowed to contest from only one constituency.

(c) One nation one election principle i.e conducting elections for union and State Legislature at the same time to curtail election expenditure.



## 13.8 MODEL QUESTIONS

**A) Very Short Questions**

**Q. 1:** Which article of the Indian Constitution provides for a single Election Commission in India?

**Q. 2:** In which year the Election Commission was established?

**Q. 3:** In which year two more Election Commissioners were appointed for the first time?

**B) Short Questions** (Answer each question in about 150 words)

**Q.1:** Mention briefly the provisions laid down by the Constitution in order to maintain the independence or impartiality of the Election Commission.

**Q. 2:** What do you mean by Model Code of Conduct? Mention briefly the guidelines or instructions laid down in the Model Code of conduct.

**Q. 3:** Write a short note on the appointment and removal procedures of the Chief Election Commissioner.

**C) Long Questions** (Answer each question in about 300-500 words)

**Q. 1:** Discuss the powers and functions of the Election Commission of India.

**Q. 2:** Do you think that there is a need for electoral reforms in India? If yes, give agreements in favour of your answer.

**Q. 3:** Describe the election reforms implemented so far and suggest some more reforms you think necessary for our electoral system.

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