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**ROLE OF ELECTION COMMISSION IN STRENGTHENING
DEMOCRACY IN INDIA**- Raghav Sharma¹**INTRODUCTION**

The definition of the word election in most dictionaries is "the act of electing" or "the act of choosing." It is the act of a person exercising their free will, typically through the voting of members of a constituent body. Elections have traditionally been accorded a great deal of significance, particularly in countries whose governments are democratic in nature. The term "democracy" refers to a form of government in which the people rule themselves. Hearn Shaw, when explaining what a democratic state is, said that "A democratic state, in essence, is simply one in which the society as a whole possesses sovereign authority, maintains ultimate control over events, and selects what sort of governmental machinery shall be put up because democracy as a form of State is no merely a style of governance; but is merely a model of appointing, regulating, and dismissing the government."

People in a democratic state have the power to appoint or remove members of the government, giving them the ability to shape the direction the country takes. After a certain number of years, the people hold elections to select a new government, and in doing so, they communicate their preferences regarding significant issues through the media or other channels.

Election is the means by which a contemporary state instils in its populace a feeling of interest and participation in the functioning of the state's government. Elections are held every four years. There are two varieties of democracy: 1) direct democracy, and 2)

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indirect or representative democracy. The first form, which originated in the city-states of ancient Greece, is characterised by citizens' direct and unmediated participation in the decision making process pertaining to matters of public concern. Switzerland is known for adhering to this standard. During the periods when Buddhism was prevalent in India, this form of democracy was also practised there.

When considering population, land area, and average length of term in office for both national and state governments, India stands alone as the world's largest democracy. The term of office for these authorities is for a period of five years. There are many millions of eligible voters in the Indian subcontinent, and they all cast ballots in the election that determines who will represent them in both the Parliament and the State Legislatures. The voter acts in this manner in the expectation that its representatives will defend their interests, strive toward the objective of advancing India into a state of growth, prosperity, unity, and integrity, and also protect the rights and liberties of the people. In this indirect form of democracy, elections are crucial because they determine the direction of the populace, and because the people, by exercising their right to vote, are the elections' true source of power². This is because the people make their choice and vote for only those candidates in whom they have faith.

ELECTION COMMISSION OF INDIA

There is a permanent organisation in India called the Election Commission whose role it is to direct and oversee the entire electoral process. This responsibility was given to the Election Commission after it was vested with the authority of conducting elections. By upholding the principle of holding elections that are both free and fair, as specified in the Constitution, the commission has established a strong reputation for itself. The Election Commission of India is the official name for this organisation.

²Katju, Manjari. "Election Commission and Functioning of Democracy." *Economic and Political Weekly*, vol. 41, no. 17, 2006, pp. 1635–40. JSTOR, <http://www.jstor.org/stable/4418140>. Accessed 2 Jan. 2023.

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- **ELECTION PROCESS IN INDIA**

During an election, a number of candidates from a number of different parties compete against one another, and the voters then elect a representative from among those candidates. Delimitation of constituencies is one of the stages in the election process in India. At this point, the entire region (the entirety of the country in the case of elections to the Lok Sabha, and that particular state in the case of elections to the Legislative Assembly) is split into constituencies. Constituents are then demarcated, voter lists are generated and made public, and nomination papers are filed with the relevant authorities. After then comes the examination of the nomination documents. The next step is the campaigning that will be done by all of the parties and candidates. The election campaign will come to an end forty-eight hours before the polls open. The final process consists of the counting of votes and the announcement of the results.

- **HISTORY & DEVELOPMENT OF ELECTION COMMISSION**

The Election Commission was established on January 25, 1950, with the goal of overseeing all elections held in India, including those for the position of President and Vice-President of India, as well as elections held for state legislatures and the Parliament of India. Since the commission's creation, its purpose has remained unaltered in any way. There was a Chief Election Commissioner in charge of the organisation for the first few decades that the commission was in operation (CEC). Sukumar Sen was India's first Chief Election Commissioner when he was appointed to that position.

A considerable amount of time later, in the year 1989, two additional commissioners were initially appointed to the commission. Despite this, they continued to hold office for a short while longer. As a result of the passage of The Election Commissioner Amendment Act (1993), the poll commission evolved into a body consisting of multiple individuals. After the appointment of two more Election Commissioners, the previously dormant concept of multimember commissions was given new life and put back into action³.

³ FADIA, B. L. "REFORMING THE ELECTION COMMISSION." *The Indian Journal of Political Science*, vol. 53, no. 1, 1992, pp. 78–88. JSTOR, <http://www.jstor.org/stable/41855597>. Accessed 2 Jan. 2023.

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The introduction of EVMs, or electronic voting machines, was one of the most significant changes that the poll panel was responsible for bringing about. The goal of this programme was to increase the level of transparency in the voting process while also reducing the number of instances of electoral fraud. In 1993, in an effort to make elections as open and honest as possible, Electoral Photo Identity Cards (EPICs) were distributed for the very first time. 1998 was the year that the Commission first launched its website, and in that same year, it decided to begin the process of computerising voter registration rolls.

At this time, there is one Chief Election Commissioner, in addition to two Election Commissioners serving on the Election Commission. According to Article 324 of the Indian Constitution, the President is the one who is responsible for appointing "such other Commissioners" and the Chief Election Commissioner. The President can set "such other Commissioners" at any moment. Election Commissioners, including the Chief Election Commissioner (CEC), can serve for a term of up to six years, or until they reach the age of 65, whichever comes first. The Chief Electoral Officer (CEO) assumes the role of Commission Chairman whenever a new Election Commissioner is chosen.

If two-thirds of the members of both houses of Parliament agree with a decision to remove the Chief Election Commissioner from office on the basis of misbehaviour or incapacity, the Chief Election Commissioner could be removed from his position. If the Central Electoral Commission (CEC) suggests that other Election Commissioners should be removed, the President has the authority to do so. It is possible for the President to appoint regional commissioners to help the Election Commission in carrying out its responsibilities in advance of national elections as well as elections for individual states.

The Commission is assisted in the performance of its executive tasks by the Secretariat, which is composed of approximately 300 people. The Commission will choose two individuals from within the national civil service to serve as deputy election commissioners. These individuals will then manage the secretariat. The chief electoral officer (CEO) is the one responsible for overseeing the election process on a state level. The electoral officer is chosen by the

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Commission from among the top public workers that have been recommended by the state government⁴.

ROLE OF ELECTION COMMISSION

1. Guardian of Free & Fair Elections.

The holding of elections at regular intervals is one of the most essential components of a democratic political system. The phrase "Government of the people, By the people, and for the people" describes democracy perfectly. The periodic holding of elections that are both free and fair are necessary components of a democratic system. It is an integral component of the Constitution's fundamental framework. It has been held in *T. N. Sheshan V/s Union of India*⁵. The Commission has made a significant number of measures to ensure that elections, and by extension, democracy, are carried out successfully. As a result, it is considered to be the Guardian of both democracy as well as free and fair elections⁶.

2. Model Code of Conduct

It is a widely held belief that the Election Commission is responsible for ensuring that voting is conducted in a manner that is both free and fair. Before every election, it releases a Model code of Conduct for political parties and candidates to follow in order to guarantee the free and fair conduct of the vote. The Commission issued its initial code in 1971 (for the 5th Election), and it has been revised on a number of other occasions ever then. It established guidelines for how political parties and candidates should conduct themselves during the entire election process. There have been cases of code violations by political parties, and complaints have been lodged against candidates' improper use of government resources.

⁴ *Deshpande, J. V. "Election Commission: Separating Basics from Frills." Economic and Political Weekly, vol. 34, no. 40, 1999, pp. 2838–2838. JSTOR, <http://www.jstor.org/stable/4408475>. Accessed 2 Jan. 2023.*

⁵ (1995) 4 S.C.C. 611

⁶ *Ross, Derek H. "PROTECTING THE DEMOCRATIC PROCESS IN INDIAN COUNTRY THROUGH ELECTION MONITORING: A SOLUTION TO TRIBAL ELECTION DISPUTES." American Indian Law Review, vol. 36, no. 2, 2011, pp. 423–56. JSTOR, <http://www.jstor.org/stable/41784767>. Accessed 2 Jan. 2023.*

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Because of the controversial statements that Mr. Narendra Modi and Ms. Sonia Gandhi made during the election campaign for the Gujarat Assembly elections in 2007, the Election Commission took action against them for breaking the Model code of Conduct. The High Court of Kerala ruled in the case *I.D. Systems (India) Pvt. Ltd. v/s. Chief Election Commissioner*⁷ that the model code of conduct is not intended to limit any and all government actions, but rather to forbid only those that may have an impact on a certain group of voters. In the aim of having elections that are free and fair, there is a need for such a code. Nevertheless, the code does not derive its authority from any particular statute. The only effect it has is one of persuasion. It includes a set of guidelines referred to as "rules of electoral morality." However, the absence of statutory support does not prohibit the Commission from carrying out its enforcement responsibilities. According to Article 324, it has the authority to enforce drawing force⁸.

3. Registration of Political Parties

The existence of political parties is an indispensable component of parliamentary democracies. A number of parties later registered with the Commission once law relevant to this registration process was implemented in the year 1989. The value of this is enormous, as it helps the administrative apparatus run smoothly and the electorate make informed decisions. It is only through their registration that political parties are allowed to participate in democratic processes.

4. Limits on Poll Expenses

The Election Commission has offered a number of suggestions in this context in order to avoid the growing influence of money as well as the obscene display of it during elections. The Election Commission is responsible for establishing the legal restrictions on how much money a candidate can spend on election campaigns. These restrictions have undergone periodic reevaluation and amendment. The Election Commission keeps a close

⁷ *AIR 2006 Ker 229*

⁸ *Rao, Alapati Rajeswara. "REFORMS IN INDIAN POLITICS AND PARTICULARLY IN THE ELECTIONS." The Indian Journal of Political Science, vol. 76, no. 3, 2015, pp. 392–96. JSTOR, <https://www.jstor.org/stable/26534853>. Accessed 2 Jan. 2023.*

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eye on the individual accounts of election expenditures by appointing observers to monitor the process. In addition, the participants are obliged to furnish particular information regarding their financial expenditures within a period of thirty days following the announcement of the findings. However, political parties do not adhere to the financial 'LakshmanRekha,' spending massive amounts of money while hiding it from the public.

In order to lower the amount of money spent on elections, the Election Commission cut the number of days candidates have to campaign from 21 to 14. This change applies to both the Lok Sabha and Assembly elections. The Elections Commission's recent attempt to implement these measures is encouraging because it shows that they are serious about doing so. In addition, when a candidate submits their nomination paper, the Election Commission requests an affidavit listing all of the candidate's assets.

In *Common Cause: A registered Society v/s. Union of India*⁹, It was brought to my attention that financial support is a major factor in electoral competition in India. The Court came to the conclusion that maintaining the honesty of elections is crucial to the operation of a democratic system, and that the Commission has the jurisdiction to interrogate candidates regarding the costs that were incurred for the election by both the candidates and their political parties¹⁰.

5. Use of Scientific and Technological Advancements.

One of the tactics that the Election Commission is utilising in an effort to bring about improvements to the voting process is taking advantage of the scientific and technological developments that have occurred in recent years. In order to move in that direction, one of the measures that is currently being taken is the implementation of EVMs, which is short for electronic voting machines. It was implemented with the goals of cutting down on wasteful practises while simultaneously raising productivity levels. The elections for the

⁹*Air 2018 SC 1665*

¹⁰ *Ratava, Steven. "The Pre-Election cold War: The Role of the Fiji Military during the 2006 Election." From Election to Coup in Fiji: The 2006 Campaign and Its Aftermath, edited by Jon Fraenkel and Stewart Firth, ANU Press, 2007, pp. 26–45. JSTOR, <http://www.jstor.org/stable/j.ctt24hbbn.14>. Accessed 2 Jan. 2023.*

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Legislative Assembly in the state of Kerala in 1982 were the first ones in which this method was used on an experimental basis. Following the conclusion of fruitful testing and exhaustive legal investigation, the commission made the momentous decision to proceed with the implementation of EVMs.

On February 28, 1998, the Election Commission of India (ECI) established its own website at the domain name www.eci.gov.in by making use of information and communication technology (ICT). It helps to ensure that accurate information is provided, that management and administration are carried out effectively, and that immediate results are reported from elections. In the year 1998, the Election Commission took a bold step and made the decision to put into action a programme for the "computerization" of the electoral records. This was a very forward-thinking decision.

In 1993, in an effort to combat voter fraud, Electors Photo Identity Cards (EPICs) were distributed to eligible voters. In the elections that took place in 2004, having a card was required. As a result of losing her voter's card, Parneet Kaur, a Patiala representative at the time, was unable to cast her ballot until the late afternoon during the Punjab Assembly Elections of 2007. During the elections in 2008, the state of Karnataka made history by becoming the first to compile voter registration rolls that included pictures of voters. The State Election Commission was responsible for developing the software for managing electoral rolls that is known as "STEERS."

6. Multi –Member Election Commission

The idea of having multiple members on the Election Commission is one that has been proposed for a long time. In the case *S. S. Dhanoba v/s. Union of India*¹⁹, the Hon. Supreme Court of India

Since the Election Commission has been given crucial responsibilities and is vested with wide-ranging authority to carry them out, it is essential that no one person—regardless of how well-versed they may be in the subject matter—exercises all of the Commission's authority. In addition to this, it adheres to the fundamental principles of democratic rule²⁰.

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The Constitution Amendment Act of 1993 expanded the number of people who might serve on the Election Commission. It would no longer be possible for a single member of the Election Commission to hold unchecked power. Because of the size of the country and the number of votes that need to be tallied, the Election Commission came up with a plan to reduce the amount of work that rests on its shoulders by delegating regional election commissioners to different zones. This plan was put forward in response to the fact that there are a large number of votes that need to be counted.

EVALUATING ROLE OF ELECTION COMMISSION OF INDIA

The Election Commission is the second most credible and trustworthy organisation in the country, behind the Judiciary. Analyze the function of ECI, the factors that contributed to its success, and the challenges it faces in its work in India.

- The most important elections in the country, such as those for the Lok Sabha and the State Legislative Assemblies, are supervised, directed, and controlled by the Election Commission of India, as stipulated by **Article 324 of the Constitution of India**. This provision gives the Election Commission of India the authority to exercise this authority. ECI's autonomy is bolstered even more as a result, as it ensures both job stability and favourable working circumstances for employees.
- **Rudolph & Rudolph** point out that the Election Commission is at the centre of the Indian state's new regulatory centralism since it is responsible for enforcing "laws that guarantee the democratic legitimacy of the electoral system."
- **According to McMillan**, the constitutional provisions addressing the Election Commission were an innovative reaction to the goal to establish a democratic process that was institutionally rooted while also maintaining a distance from party-political or state influence. Therefore, it was envisioned that the ECI would serve as the cornerstone of electoral democracy in India¹¹.
- The Election Commission of India (ECI) has been a progressive institution that has taken on measures to ingrain democracy, such as the adoption and national

¹¹ Dhavan, Rajeev. "INFORMATION AND DEMOCRACY IN INDIA." *Journal of the Indian Law Institute*, vol. 47, no. 3, 2005, pp. 295–325. JSTOR, <http://www.jstor.org/stable/43951978>. Accessed 2 Jan. 2023.

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stocktaking of electronic voting machines (EVMs), the ensuring of elections in remote and underdeveloped regions, the curbing of money power and corrupt practises, the developing and implementation of the moral code of conduct, etc.

- The credibility and independence of ECI have both been maintained thanks to a number of factors, including the following:

Constitutional Factors

- Article 324 grants the ECI clear authority over superintendence, direction, and control of the preparation of electoral rolls. Subsequent articles (Art 325-Art 329) provide it with Supreme authority over the conduct of elections, including isolating the ECI from political and judicial interference during the course of the elections.
- Although the institution began as a one-member body, in 1989 it expanded to a threemember body in response to the recommendations of the Tarkunde and Goswami committees as well as the requirements of Indian democracy.
- The expansion of the ECI into a body with multiple members has prevented dictatorial tendencies as well as corruption and nepotism from occurring within the institution.

Leadership and activism of institution:

- The ECI has attempted to strengthen its grassroot level organisation in order to rid elections of evils such as booth capturing, violence, and the use of money;
- The CECs and ECs have played a major role in ensuring the integrity of the institution; officers such as T.N. Seshan have become exemplars for successors.
- The Election Commission of India (ECI) has also emerged as a campaigner against the criminalization of politics. Former Commissioner G.V.G.

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Krishnamurthy made the astute observation that "no law-breaker should ever be a law-maker," and the ECI has taken up this cause¹².

- In 2002, the ECI made it mandatory for candidates to submit an affidavit detailing any criminal convictions, personal assets, educational qualifications, and other relevant information in an effort to combat criminalization.

Regulation and Registration of Political Parties:

- In the Indian electoral democracy, political parties are considered to be the very heart and blood of the system. The Election Commission is responsible for a variety of duties, including the control of political parties, the registration of new parties, and the distribution of party emblems.
- Importantly, the Election Commission of India (ECI) has the authority to revoke a party's registration and the right to use its symbol if it is determined that the party engaged in electoral fraud by breaking the "model code of conduct."
- It regulates the maximum amounts that candidates and parties can spend on their election campaigns and monitors those expenditures to ensure that elections in India are conducted in an honest and transparent manner.

Technological and other innovations:

- The Election Commission of India (ECI) has been at the forefront of a number of developments that have been made to ensure free and fair elections across India. These developments include the VVPAT, the ECI 360 degree, the SVEEP Programme, and the computerization of electoral rolls, amongst other things. ○The ECI has been brought into issues of media regulation over concerns of broadcasting related elections. ○Former Chief Election Commissioner S.Y. Quraishi highlights

¹² Srinivasrao, Mouneshwara. "PARLIAMENTARY DEMOCRACY AND COALITION GOVERNMENTS IN INDIA." *The Indian Journal of Political Science*, vol. 72, no. 4, 2011, pp. 961–70. JSTOR, <http://www.jstor.org/stable/41856532>. Accessed 2 Jan. 2023.

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to the success of the ECI in holding elections during the COVID epidemic by establishing regulations regarding attention to sanitising and social distancing as well as providing the postal ballot option to older residents over the age of 80, COVID-positive patients, individuals with disabilities, and voters employed in important services¹³. The ECI has With the rise of social media, the Election Commission of India (ECI) has also made efforts to ensure that elections are conducted fairly by issuing guidelines for campaigning on social media and having digital corporations also put down a voluntary code of ethics for the same purpose.

Despite these advancements and ECI's courageous role in preserving a free and fair democratic process in India, certain concerns have been voiced about the organization's functioning and politicisation.

- Financial and administrative autonomy continues to be one of the primary concerns, and there have been proposals to bill the Consolidated Fund of India for the expenses incurred by the Election Commission of India (ECI) in its capacity as an administrative body, along with a dedicated secretariat and staff.
- There have been requests made for the establishment of improved procedures for the appointment of ECI members in order to guarantee both their quality and their autonomy. Despite the fact that the Constitution establishes the CEC, the position of election commissioner is not as safe and has historically been plagued by problems caused not only by internecine conflict but also by other factors (N. Gopalaswamy case).
- Opposition parties, many of which have accused the ECI of being a "puppet" of the government or of being politicised, have also cast doubt on the integrity of the ECI, raising additional issues about the organisation. The decisions made by the ECI regarding the loss of star campaigner designation and hate speech have been called into doubt. There have also been allegations of manipulation with electronic

¹³Kumar, Virendra. "PEOPLE'S RIGHT TO KNOW ANTECEDENTS OF THEIR ELECTION CANDIDATES: A CRITIQUE OF CONSTITUTIONAL STRATEGIES." *Journal of the Indian Law Institute*, vol. 47, no. 2, 2005, pp. 135–57. JSTOR, <http://www.jstor.org/stable/43951963>. Accessed 2 Jan. 2023.

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voting machines (EVMs). Even if the process is completely foolproof, allegations of this nature cast doubt on the validity of both the institution and the elections. The Election Commission of India continues to struggle with the challenge of regulating social media, fake news, and rumour mongering in order to ensure free and fair elections.

The ECI is the cornerstone of democracy in India, and certain changes are necessary to ensure that it will continue to be successful.

- The Representation of the People Act, which was passed in 1951, should have Section 125A revised to include provisions for harsher penalties for those who conceal information or supply incorrect information.
- The Election Commission ought to be given the authority to take decisive action based on the reports of returning officers, election observers, or members of civil society concerning the intimidation of voters or the taking over of voting booths.
- Provide every Election Commissioner with the same level of constitutional protection that is afforded to the Chief Election Commissioner.
- The Election Commission's budget need to be considered to be "Charged on the Consolidated Fund of India."
- The Election Commission has to be given clear powers to de-register political parties if they fail to observe and fulfil the requirements of proposed law for the registration and the regulation of the operation of political parties.
- All functions touching the Secretariat of the Election Commission, consisting of officers and staff at all levels, such as their appointments, promotions, etc., be exclusively vested in the Election Commission.
- The Election Commission needs to be given exclusive control over the Secretariat of the Election Commission.

Criticism

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However, if we witness the circumstances during the election, it would appear that there is no democracy in India at all, despite the fact that democracy is considered to be a fundamental element in the country. The concept of democracy is revised to read as follows: government that is not of the people, government that buys the people, and government that serves the people.

As a result of the Election Commission's decision to link certain elections in the most recent elections in a manner that was different from how they were tied to the elections for the Lok Sabha and the Legislative Council of State, the people experienced some level of annoyance as a result. In the course of the process, the Commission carried out a number of reforms; nonetheless, its effectiveness has not been demonstrated, and disagreements have arisen as a result of its inefficient performance.

Conclusion:

Over the course of its existence, the Commission has been responsible for a number of commendable electoral changes, all with the goal of making elections more fair and democratic. By utilising modern electoral technology, the commission has taken the greatest possible measures to prevent election fraud and misconduct. Nevertheless, the measures that have been taken by the Election Commission will assist to enhance democracy and the faith that people have in it. The Supreme Court has never shied away from investigating both the legal and non-legal aspects of elections. Furthermore, it has never stopped stressing the need of preserving the cornerstones of democracy, and this has been reflected in the court's decisions. The Commission need to have the authority to impose sanctions on those avaricious politicians who violate the Code, the Laws, and the Orders of the Courts. The governance of a nation ought to be run not by the gun but by the people's votes.

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