

# **A Study on the Assessment of Election Procedure and the Role of Election Commission in Maintaining Electoral Integrity in Contemporary Indian Context**

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## **Abstract**

India, the world's largest democracy, conducts elections that are both multifaceted and huge in scale, involving millions of voters and thousands of polling stations. Ensuring the integrity and fairness of these elections is crucial for sustaining democratic governance and public trust. The research examines the multifaceted electoral procedures, including voter registration, candidate nomination, campaigning, voting, and counting processes. It highlights the technological progressions, such as the introduction of Electronic Voting Machines (EVMs) and Voter Verifiable Paper Audit Trails (VVPATs), and assesses their impact on the transparency and accuracy of elections. A significant focus is placed on the role of the Election Commission of India as the guardian of electoral democracy. The study analyzes the ECI's regulatory framework, its powers, and the mechanisms it employs to enforce electoral laws and standards. It evaluates the effectiveness of measures taken by the ECI to address challenges such as voter fraud, booth capturing, and the influence of money and muscle power in elections. The research also investigates into recent controversies and allegations of EVM tampering and manipulation, examining the ECI's responses and the resultant public perception. Through a review of case studies and analysis of secondary data, the study aims to provide an inclusive understanding of the strengths and weaknesses of the current electoral system. Eventually, the study seeks to propose recommendations for enhancing electoral integrity in India. These recommendations include technological innovations, policy reforms, and strategies for increasing public awareness and participation in the electoral process. By development a deeper understanding of election procedures and the role of the Election Commission, this research aims to contribute to the ongoing discourse on solidification democratic institutions in India.

**Keywords:** Election, ECI, EVM, VVPAT, Ballot Box, Voting Offence, Judiciary, Election Procedure, Democracy, LokSabha, RajyaSabha, State Election, Local body Election, Integrity of Election

**Abbreviations**

ECI – Election Commission of India

SEC- State Election of India

RPA- Representation of Peoples Act

ERO: Electoral Registration Officers

BLO: Booth Level Officers

MCC – Model Code of Conduct

ERO: Electoral Registration Officer

VVPAT: Voter Verifiable Paper Audit Trail

EVM: Electronic Voting Machine

NCRWC: National Commission to Review the Working of the Constitution

EMB: Electoral Management Bodies

ECIL: the Electronics Corporation of India Ltd

BEL: The Bharat Electronic Ltd.

CU: Control Unit, BU: Balloting Unit

STQC: standardization testing and quality directorate

NOTA: None of The Above

DRE: Direct Recording Electronic

VSDU: VVPAT status display unit

NVSP: National Voter Service Portal

GIS: Geographical Information System

DEO: District Electoral Officers

CEO: Chief Electoral Officers

RO: Returning Officers

MoU: Memorandum of Understandings

“Voting is the most precious right we have and we have moral obligation to ensure the integrity of our voting process”.....Hilary Clinton

**Chapter I: Introduction**

“India is a sovereign, socialist, secular, democratic republic. Democracy runs like a golden thread in the social, economic and political fabric woven by the Constitution given by ‘We, the People of India’ unto ourselves. The concept of democracy as visualised by the Constitution pre-supposes the representation of the people in Parliament and State legislatures by the method of election. The Constitution of India adopted a Parliamentary form of government. Parliament consists of the President of India and the two Houses — Rajya Sabha and Lok Sabha. India, being a Union of states, has separate state legislatures for each state. State legislatures consist of the Governor and two Houses: Legislative Council and Legislative Assembly — in seven states, namely, Andhra Pradesh, Telangana, Bihar, Jammu & Kashmir, Karnataka, Maharashtra and Uttar Pradesh, and of the Governor and the state Legislative Assembly in the remaining 22 states. Apart from the above, two out of the seven Union Territories, namely, National Capital Territory of Delhi and Puducherry, also have their Legislative Assemblies. The country has been divided into 543 Parliamentary Constituencies, each of which returns one MP to the Lok Sabha, the lower house of the Parliament. The Federal Democratic Republic of India

has thirty-six (36) constituent units. All the twenty - eight (28) States and three (3) of the eight (8) Union Territories have their own assemblies - VidhanSabhAs. The thirty-one (31) Assemblies have 4123 Constituencies as reported by ECI”(Election, n.d.)

The democratic material of a nation rests on the integrity of its electoral processes. In the context of India a country renowned for its vibrant democracy, the election procedure and the role of the Election Commission stand as most important supports in upholding the sanctity of the electoral system. India, with its massive and varied population, geographies, and political opinions, faces many challenges in ensuring fair and transparent elections. It is within this framework that the examination of the election procedure and the fundamental role played by the Election Commission in maintaining electoral integrity becomes prevailing. At the heart of India's democratic spirit lies the principle of free and fair elections, where every eligible citizen has the right to vote without coercion or discrimination. However, achieving this ideal is no easy task in a country as gigantic and populated as India. The election procedure includes a complex processes, ranging from voter registration and candidate nomination to polling, counting, and declaration of results. Each step in this journey is troubled with complexities and demands thorough attention to detail to prevent malpractices and ensure the expression of the people's will.

The history of elections in India is deeply tangled with the nation's struggle for independence and its subsequent journey towards democratic governance. Following independence in 1947, India adopted a Constitution that preserved the principles of democracy, equality, and justice. The first general elections held in 1951-52 marked a watershed moment in Indian history, where millions of citizens exercised their right to vote, shaping the destiny of the nation. Since then, India has witnessed a healthy tradition of periodic elections at the national, state, and local levels, setting its status as the world's largest democracy. The constitution of India enumerated election procedure in article-324 to 329. And the Election Commission of India (ECI) Established in 1950 as per above article, the Election Commission operates as an independent constitutional body entrusted with the responsibility of overseeing the conduct of elections at various levels – from the Lok Sabha (Lower House of Parliament) to state legislative assemblies and local bodies. Vested with quasi-judicial powers, the Election Commission operates autonomously, insulated from undue political influence to safeguarding the integrity of the electoral process. The Election Commission's role extends far beyond mere administrative oversight. It serves as the guardian of electoral integrity, charged with upholding the principles of democracy and ensuring a level playing field for all stakeholders. Through its multi-layered functions, the Election Commission endeavors to eliminate electoral malpractices, promote voter awareness, and facilitate the smooth conduct of elections across the nation.

In the context of maintaining electoral integrity, the Election Commission exercises a wide array of powers, including the enforcement of the Model Code of Conduct (MCC), which lays down guidelines for ethical conduct during elections. Additionally, the Election Commission supervises the distribution of security forces to ensure the safety and security of voters, candidates, and election officials, thereby preventing attempts at intimidation or violence aimed at subverting the electoral process. Moreover, the Election Commission employs technological innovations to enhance the transparency and efficiency of elections. The introduction of Voter-Verified Paper Audit Trails (VVPATs), Electronic Voting Machines (EVMs), and online voter registration systems signifies significant milestones in India's electoral journey, bolstering public confidence in the electoral process and minimizing the scope for electoral fraud. Thus the election commission hold huge power in respect

of election conduction. Although in contemporary time we can say that election commission of India somewhere failed to maintain and regulate all these steps and procedure.

Election commission consisting with 3 members one is chief among them. The constitution of India only told about election commission and did not give any direction that how they will be recruited and who will recruit them. So ab initio to the contemporary era it is very challenging task to recruit the election commission in as way as the integrity of election will not be contaminated cause the commission vests with the most important task of the democracy. If election commission selection procedure is influenced by politics then the commission will lost its holiness and the democracy will be in danger. This chapter is structured to provide a coherent framework for understanding the complexities of elections in India and the imperative of electoral integrity. It begins by providing a historical overview of elections in India, tracing their evolution from the colonial era to the present day. Subsequently, it delves into the significance of electoral integrity, elucidating its multifaceted implications for democracy, governance, and society at large. The chapter then delineates the purpose and scope of the study, outlining the key research questions and objectives. Finally, it outlines the structure of the subsequent chapters, offering a roadmap for navigating the discourse on election procedure and electoral integrity in contemporary India. The paper will assess the election procedure and the role of the Election Commission in maintaining electoral integrity in India underscores the critical importance of upholding democratic values and principles. As India continues its democratic journey, it must remain vigilant against emerging threats to electoral integrity while fortifying the institutional mechanisms designed to safeguard the sanctity of the electoral process. Through sustained efforts aimed at transparency, accountability, and inclusivity, India can aspire to realize the vision of free, fair, and credible elections, thereby strengthening its democratic foundations.

### **Evolution & Identification of the Problem**

In my research paper the problem is to assess the election procedure's sanctity and the role of the election commission in maintaining electoral integrity in contemporary Indian context. At very first I had chosen the whole topic "Democracy" and then divided it into various important species of democracy i.e. Independent Judiciary, free and fair election, freedom of speech and so on. Then I had focused on "Election" as per my interest. After that I had identified the gaps exist in the electoral system of contemporary India. And eventually raised my questions and objectives.

During the choosing of research problem I had considered the following things:- the availability of data on this topic whether it is easily accessible or not, the total expenditure to conduct this research, whether I have required expertise on this topic or not and the relevancy of this topic.

### **Research Problem**

In my research paper the problems are: Assess the election procedure's sanctity and the role of the election commission in maintaining electoral integrity in contemporary Indian context. Election which is the heart of democracy so procedure of this election must be free and fair and shall not be contaminated by any kind of immoral and illegal act which might hamper the sanctity of the election. The election commission of India vests with the task to maintain the sanctity of the election and set out the procedure through which the integrity of election can be maintained. In this research we will try to explore the complex procedure of election and evolution in India and also assess the role of election commission whether they able to protect the electoral integrity or not in contemporary Indian context.

## Literature Review

We have gone through several books and e-journals found following literature work on this topic: -

- (CB, 2021) Stated that The institution of election commission was a constitutional body which was established in 1950 as per the article 326 of constitution of India . Mandate for universal equal suffrage emanates from article 326 of the constitution . The mandate was further enhanced with the constitution [sixty-first Amendment] Act , 1988 that reduced the voting age to 18 years . As per its mandate , the election commission made sustained efforts to enroll all eligible electors . On 25 January , 2020 , national voters' day [NVD] celebration is completing a decade . Every year this day is observed at over 10 lakh locations all over the country that include polling station areas , sub-division , division , district , and at state headquarter . On this day , the entire nation reverberates with the festivities of democracy as cores of Indian celebrate their right to vote.
- The eminent researcher (Mauk, 2020) stated that It introduces a causal mechanism that links political losing to political trust via evaluations of electoral fairness: citizens who voted for the losing camp are more likely to view the electoral process as unfair than citizens who voted for the winning camp, resulting in political distrust. It further suggests that the effects of political losing on political trust depend on the level of electoral integrity. In conditions where the elections were conducted in a free and fair manner, even those who voted for the losing camp have little reason to suspect foul play and therefore political losing should barely affect perceptions of the electoral process. Whenever there are actual indications of electoral malpractice, however, political losers have much more reason to doubt the integrity of the electoral process than those who are content with the outcome of the election.
- (Purohit, 2016) Said that Elections are a complex, multi-dimensional social and political event which can be captured only through a variety of methods: this literature review underlines how the different approaches complete each other and are therefore equally necessary. While Indian election studies, at least at the national and state levels, have been dominated, since the 1990s, by survey research, the Lokniti based project of 'Comparative Electoral Ethnography' should contribute to restoring some balance between various types of studies. Also, academic debates around the scientific and political implications and limitations of election studies seem to lead to a convergence: while questionnaire-based surveys evolve towards a finer apprehension of the opinions and attitudes of Indian voters, anthropological studies strive to overcome the limitations of fieldwork based on a single, limited area. Finally, at a time when election surveys have acquired an unprecedented visibility, due to their relationship with the mass media, one can only lament the absence of rigorous studies on the role of the media, both print and audio-visual, in funding, shaping and publicizing election studies.
- (Rashid Manzoor Bhat, 2022) Stated that Modern democracy, or representative democracy, is the subject of this paper. Voters or Electors are the ones who cast ballots, and we'll analyse the merits and demerits of universal adult franchise. The current electoral system does not provide adequate representation for all voters, resulting in a large number of votes being cast in vain. However, a proportional representation system does exist. A candidate has been proclaimed victorious in state assembly elections where the margin of victory was less than 100 votes. Unless there is some unusual circumstance, a candidate usually wins an election with only 30 to 35 percent of the total votes cast. As a result, he or she cannot be considered the result of a



popular vote. As the world's most populous democracy, the United States will be the focus of this investigation.

- (Chhokar, 2019) This paper discusses the challenges faced by the Indian electoral system in maintaining integrity. It examines issues such as voter bribery, electoral violence, and malpractices. It also highlights the role of the Election Commission of India (ECI) in addressing these challenges and suggests reforms for enhancing electoral integrity.
- (Cameron, 2019) This comparative study examines the levels of electoral integrity in India compared to other countries. It assesses various factors such as electoral laws, electoral administration, and political culture. The paper discusses the strengths and weaknesses of the Indian electoral system and provides recommendations for enhancing electoral integrity

### **Objective of the study**

- To analyze the evolution of the electoral process in India and its current state.
- To examine the legal framework governing elections in India.
- To assess the effectiveness of the Election Commission of India (ECI) in ensuring free, fair, transparent elections, and the sanctity of election in contemporary Indian context.

### **Scope & Limitation**

#### ***Scope:***

- **Election Procedure.** The assessment can delve into various aspects of the election procedure in India, including voter registration, candidate nomination, campaigning, polling, and vote counting.
- **Role of Election Commission.** It should analyze the functions and responsibilities of the Election Commission of India (ECI) in ensuring free, fair, and transparent elections.
- **Electoral Integrity.** Explore the concept of electoral integrity and its significance in the Indian context. This involves examining issues such as voter intimidation, electoral fraud, money power, and the role of political parties.
- **Legal Framework.** Discuss the legal framework governing elections in India, including relevant laws, regulations, and constitutional provisions.
- **Challenges and Solutions.** Identify challenges to maintaining electoral integrity and propose solutions or recommendations to address them.
- **Case Studies.** Include case studies or examples of past elections in India to illustrate points and analyze specific instances of electoral integrity or malpractice.

#### ***Limitations***

- **Geographical Focus.** Limit the study to India and do not compare the electoral systems or procedures with other countries.
- **Temporal Scope.** Focus on recent elections and developments, but acknowledge historical context where necessary. However, avoid extensively covering elections prior to the last decade.
- **Data Availability.** The assessment might be limited by the availability of reliable data, especially regarding internal processes of the Election Commission and instances of electoral malpractice.

- **Language Barrier.** Limitations may arise due to language barriers in accessing regional or local-level electoral data or reports, particularly in areas where regional languages are predominant.
- **Political Bias.** Ensure neutrality and objectivity in analyzing the role of the Election Commission and political parties, avoiding any perceived bias.
- **Resource Constraints.** Consider limitations in terms of time, funding, and access to experts or stakeholders, which might restrict the depth of the analysis or the breadth of topics covered

### Research Question

- What are the key components of the election procedure in India, and how have they evolved over time?
- What are the major challenges to electoral integrity faced by the Indian electoral system?
- What are the legal mechanisms in place to address electoral malpractices such as voter fraud, bribery, and violence during elections?
- How does the Election Commission of India ensure the impartiality and fairness of elections?

### Hypothesis

The contemporary Indian election is somehow being interfered by various political party and election commission failed to maintain its sanctity and integrity.

### Research Methodology

The research particularly based on doctrinal methodology. That is why the maximum data are collected to through secondary data though some data are collected from primary sources.

#### *Secondary Data Collection Method*

Secondary data are those which are collected from already established work of researcher i.e. books, journals, thesis, and census. In this topic we will collect through various primary method such as:-

**Internet.** *The use of the Internet has become one of the most popular secondary data collection methods in recent times. This method is a fast and easy way of data collection, you should only source from authentic sites while collecting information. The maximum data are collected for this research has been collected from e-books, e-journals, e-periodicals and e-magazines. We have visited several websites to collect the data.*

**Libraries.** *As the library is the store house various published & Un- published data. We Have also collected data from various sources like books, published thesis, journals and newspapers which is available in library.*

#### *Primary data collection method*

Primary data are those which are collected by researcher himself/herself. Here some primary methods such as: Reading Constitution of India, various bare act and Case laws.

**Selection of Sample.** *As this is a Doctrinal research which is based on already*

Established theories or fact. That is why we did not need to conduct any field work. Basically our universe is various books, journals and magazines related to this topic which we collected from various local libraries and websites which is easily accessible for me.

### **Data Analysis**

We had particularly followed the qualitative research analysis method but in some cases we also used quantitative method. The data had been interpreted through descriptive, analytical, exploratory and correlational method.

## **Chapter- II: Evolution of Election Procedures in India**

The development of election procedures in India is an evidence to the nation's promise to solidification its democratic foundations and expanding political participation. From the colonial era to the present day, India's electoral scenery has undergone significant transformations, shaped by historical demands, constitutional requirements, and socio-political dynamics. The evolution of election procedures in India reflects the nation's unwavering commitment to democratic ideals, inclusive governance, and electoral integrity. While significant progresses have been made in expanding political participation and enhancing transparency, the journey towards a more robust and robust electoral framework is an ongoing endeavor, requiring continuous innovation, vigilance, and citizen engagement.

### **Historical Overview of Indian Elections**

The journey of electoral procedures in India can be outlined through several key phases:

#### **British Period**

The beginnings of electoral processes in India were sown during the colonial period under British rule. Limited electoral representation was introduced through various legislative councils, though with significant limits and exclusive qualifications. The Indian Councils Act of 1909 and afterward reforms gradually expanded the franchise but maintained a hierarchical and exclusionary system based on property qualifications and communal representation. Subsequently during British colonial rule, electoral laws in India were primarily shaped by imperial decrees and legislative enactments. The Government of India Act, 1935, introduced limited electoral representation through provincial and central legislative councils, albeit with significant restrictions and elitist qualifications.

#### **Post-Independence**

With independence in 1947 and the adoption of the Constitution in 1950, India boarded on a transformative journey towards democratic governance. The Constituent Assembly deliberated broadly on electoral principles and mechanisms, laying the groundwork for universal adult suffrage, proportional representation, and the establishment of an independent Election Commission.

**First General Elections.** The watershed moment in India's electoral history came with the first general elections held in 1951 and first lok Sabha had been constituted on 02.04.1952 at the beginning of lok sabha there were 489 seats and now there are 543 seats , there Spanning over four months, these elections witnessed unprecedented participation, with over 85% voter turnout. The Election Commission, led by Chief Election Commissioner Sukumar Sen, conducted the elections minutely through ballot paper and setting high standards for fairness, impartiality, and transparency.



**Expansion of Franchise.** Subsequent decades saw the gradual expansion of the electoral franchise, with the lowering of the voting age from 21 to 18 years in 1989, additional democratizing the electoral process. Special provisions were also created to ensure political representation for marginalized communities, including Scheduled Castes, Scheduled Tribes, and women, through reserved constituencies and quotas.

**Technological Advancements.** The turning of the 21st century saw a standard shift in electoral procedures with the introduction of technology. Electronic Voting Machines (EVMs) replaced traditional paper ballots, restructuring the voting process, enhancing accuracy, and minimizing electoral fraud. Moreover, initiatives such as the Voter Verified Paper Audit Trail (VVPAT) system were introduced to enhance transparency and voter confidence.

## **Development of Electoral Laws and Procedures**

### ***Constitutional Provision***

The adoption of the Constitution of India in 1950 laid the foundation for a complete legal framework governing elections. Part XV of the Constitution, titled "Elections," defined the powers and functions of the Election Commission, the qualifications for voters and candidates, and the conduct of elections at the national, state, and local levels delimitation of constituencies, and other related matters. Here is an elaboration of the key components of Part XV:

**Article 324.** This Article says Superintendence, direction, and control of elections to be vested in an Election Commission. This article establishes the Election Commission of India (ECI) as the constitutional authority responsible for superintendence, direction, and control of elections to Parliament, State Legislatures, and the offices of the President and Vice-President. The ECI is vested with the authority to conduct free and fair elections, resolve disputes related to elections, and ensure compliance with electoral laws and codes of conduct.

**Article 325.** The stated that No person to be ineligible for inclusion in, or to claim to be included in a special, electoral roll on grounds of religion, race, caste or sex. This article ensures that no citizen of India shall be ineligible for inclusion in or claim to be included in any electoral roll on the grounds of religion, race, caste, sex, or any of them.

**Article 326.** Elections to the House of the People and to the Legislative Assemblies of States to be on the basis of adult suffrage. Article 326 provides for the conduct of elections to the House of the People (Lok Sabha) and State Legislative Assemblies on the basis of adult suffrage. It mandates that every citizen who is not less than eighteen years of age shall be entitled to vote in elections to elect members of Parliament and State Legislatures.

**Article 327.** Power of Parliament to make provision with respect to elections to Legislatures. This article grants Parliament the power to make laws regarding the conduct of elections to both Houses of Parliament and State Legislatures. It empowers Parliament to regulate matters such as the qualifications and disqualifications of members, the delimitation of constituencies, and the allocation of seats in the legislature.

**Article 328.** Power of Legislature of a State to make provision with respect to elections to such Legislature. Similar to Article 327, Article 328 confers upon the State Legislature the authority to enact laws pertaining to the conduct of elections to the State Legislature. It allows the State Legislature to make provisions regarding matters such as the conduct of elections, qualifications and disqualifications of members, and the delimitation of constituencies within the state.

**Article 329.** This article imposes bar to interference by courts in electoral matters. Article 329 imposes restrictions on the jurisdiction of courts in electoral matters. It prohibits the interference by any court in the electoral process, including the validity of any law relating to the delimitation of constituencies or the allocation of seats to the legislature. However, this provision does not bar the jurisdiction of the Supreme Court under Article 32 (right to constitutional remedies) or the High Courts under Article 226 (power of High Courts to issue certain writs). (The Constitution of India)

### ***Representation of the People Act, 1950 and 1951***

The Representation of the People Act, 1950 and the Representation of the People Act, 1951, together known as the RPA, are key legislations in India that govern various aspects of the electoral process. These acts were enacted to provide for the conduct of elections to the Parliament of India and the State Legislatures, as well as to ensure the integrity and fairness of the electoral system. Following are the detailed discussion on the Representation of the People Act:

**Representation of the People Act, 1950.** The Representation of the People Act, 1950 lays down the basis for the preparation and revision of electoral rolls, which are lists of eligible voters in each constituency. It provides the statutory outline for the appointment of Electoral Registration Officers (EROs), Assistant Electoral Registration Officers (AEROs), and Booth Level Officers (BLOs) responsible for the maintenance of electoral rolls at various levels. The Act outlines the qualifications and disqualifications for voter registration, including age, citizenship, residence, and mental competency. It also stipulates procedures for the inclusion, correction, and deletion of names in the electoral rolls. The Representation of the People Act, 1950 is a foundational statute in Indian electoral law that deals with the allocation of seats in the House of the People (Lok Sabha) and in the State Legislative Assemblies, the delimitation of constituencies for elections, and the preparation and revision of electoral rolls. It sets the basis for ensuring that the democratic process in India functions efficiently and fairly. Here's a comprehensive review of the Act:

### ***Key Provisions of the Representation of the People Act, 1950.***

- ***Allocation of Seats (Sections 3-4).*** The Act specifies the number of seats allocated to each State and Union Territory in the Lok Sabha (House of the People) and the State Legislative Assemblies. It provides the basis for the periodic adjustment of seat allocation based on population data from the latest census, ensuring equitable representation.
- ***Delimitation of Constituencies (Sections 8-9).*** The Act establishes the guidelines for delimiting parliamentary and assembly constituencies. Delimitation is carried out to ensure that each constituency has, as far as practicable, an equal population, considering geographical features, existing boundaries, and the communication facilities available.
- ***Preparation of Electoral Rolls (Sections 14-25).*** The Act mandates the preparation of electoral rolls for each constituency, which is essential for identifying eligible voters. It outlines the procedures for revising these rolls, ensuring that they are up-to-date and include all eligible voters while excluding ineligible ones. Regular and special summary revisions are conducted to maintain the accuracy of the electoral rolls.

- ***Inclusion and Correction of Names in Electoral Rolls (Sections 21-22).***

Provisions are made for the inclusion of names of eligible voters who are omitted from the rolls and for the correction of entries that are incorrect or have become obsolete. It also provides for the deletion of names of those who are no longer eligible to vote due to reasons such as death or disqualification.

- ***Qualifications for Registration in Electoral Rolls (Sections 19-20).*** The Act specifies the qualifications required for registration in the electoral rolls. Every person who is a citizen of India and is not less than 18 years of age is eligible to be registered. It also includes provisions for the disqualification of certain individuals from registration, such as those of unsound mind or convicted of certain offenses.

- ***Special Provisions for Service Voters (Section 20).*** Special provisions are made for service voters, such as members of the armed forces, ensuring their inclusion in the electoral rolls and facilitating their ability to vote.

- ***Special Provisions for Overseas Electors (Section 20A).*** The Act includes provisions for the registration of overseas Indian citizens as voters, enabling them to participate in the electoral process.

### **Significance of the Representation of the People Act, 1950.:**

- ***Ensuring Fair Representation.*** By providing for the allocation of seats and the delimitation of constituencies based on population data, the Act ensures fair and equitable representation of the people in legislative bodies.

- ***Maintaining Accurate Electoral Rolls.*** The thorough provisions for the preparation and revision of electoral rolls ensure that only eligible voters are included, thus maintaining the integrity of the electoral process.

- ***Facilitating Inclusive Participation.*** Special provisions for service voters and overseas electors, as well as mechanisms for including and correcting voter details, promote inclusive participation in elections.

### **Representation of the People Act, 1951.** The Representation of the People Act, 1951

(RPA 1951) is a inclusive legislation in India that governs the conduct of elections to the Parliament and state legislatures. It outlines the procedures for the election of representatives, the qualifications and disqualifications for membership, and the resolution of electoral disputes. The Act is a foundation of India's electoral framework, ensuring the conduct of free and fair elections. Following are the detailed scrutiny of the Act:

### **Key Provisions of the Representation of the People Act, 1951. :**

***Qualifications for Membership.*** Sections 3 to 5 of The Act describes the qualifications for members of the Lok Sabha (House of the People), Rajya Sabha (Council of States), and state legislative assemblies and councils. The age requirements for the Lok Sabha and state legislative assemblies, a candidate must be at least 25 years old, while for the Rajya Sabha and state legislative councils, the minimum age is 30.

#### ***Disqualifications for Membership. :***

- ***Section 8.*** Lists disqualifications for membership based on criminal convictions. Conviction for certain offenses leads to disqualification for six years from the date of conviction.

- **Section 9.** Disqualification for government contracts and services.
- **Section 10.** Disqualification on grounds of corrupt practices and disqualification orders from the President.
- **Section 11.** Removal or reduction of the period of disqualification.

***Conduct of Elections. :***

- **Sections 30 to 38.** Details the nomination process, including submission of nomination papers, scrutiny, and withdrawal of candidatures.
- **Section 58.** Allows for re-polling in cases where elections are declared void due to malpractices or irregularities.
- **Model Code of Conduct.** Though not part of the Act, the ECI enforces the Model Code of Conduct during elections to ensure fair play.

***Electoral Rolls.***

- **Section 21.** Provides for the preparation and revision of electoral rolls. The ECI oversees the inclusion of eligible voters and removal of ineligible entries.
- **Section 23.** Allows for corrections in the electoral rolls.

***Election Expenses. :***

- **Section 77.** Mandates candidates to maintain accounts of election expenses and submit them to the ECI. There are limits on how much a candidate can spend during an election.
- **Section 78.** Requires the submission of these accounts within a specified time after the election.

***Corrupt Practices and Electoral Offenses.***

- **Section 123.** Defines corrupt practices, including bribery, undue influence, impersonation, and booth capturing.
- **Section 125.** Addresses electoral offenses, including promoting enmity between groups, bribery, and intimidation of voters.
- **Section 126.** Regulates election campaign methods, prohibiting public meetings 48 hours before the conclusion of polling.

***Election Disputes.***

- **Section 80.** Establishes the jurisdiction of High Courts to hear election petitions.
- **Section 86.** Prescribes the procedures for filing and adjudicating election petitions.

**Landmark Amendments.** Representation of the People (Amendment) Act, 1988 has Introduced stringent disqualification criteria for those convicted of certain offenses. Representation of the People (Amendment) Act, 2002: Following the Supreme Court's directives in the **Union of India**

**vs. Association for Democratic Reforms** ((2002) 3 S.C.R. 294) case, amendments were made to ensure candidates declare their criminal records, assets, liabilities, and educational qualifications.

### **Electoral Reforms in India**

In the essence, the evolution of election procedures in India imitates the nation's unwavering commitment to democratic ideals, inclusive governance, and electoral integrity. While significant steps have been made in expanding political participation and enhancing transparency, the journey towards a more vigorous and strong electoral framework is an ongoing endeavor, requiring continuous innovation, vigilance, and citizen engagement. Electoral reforms in India represent a continuous process of enhancing the fairness, transparency, and efficiency of the electoral system. These reforms aim to address emerging challenges, strengthen democratic institutions, and promote inclusive political participation. This elaborative clarification explores the evolution, significance, and key components of electoral reforms in India. India's electoral reforms have been shaped by its democratic journey from colonial rule to becoming the world's largest democracy. The adoption of the Constitution in 1950 laid the groundwork for a comprehensive legal framework governing elections, emphasizing principles such as universal adult suffrage, free and fair elections, and proportional representation. The first general elections held in 1951-52 marked a watershed moment, setting high standards for fairness, transparency, and inclusivity in the electoral process.

### ***Committees on Electoral Reforms***

There are several committees have formed to find out exactly in where the reform is needed among them the **Dinesh Goswami Committee (1990)** and the **Indrajit Gupta Committee (1998)**, have recommended various reforms. These recommendations have influenced subsequent reforms in areas like political funding, transparency, and election administration. And **The National Commission to Review the Working of the Constitution (NCRWC)** was set up vide Government Resolution dated 22 February, 2000. The terms of reference stated that the Commission shall examine, in the light of the experience of the past 50 years, as to how best the Constitution can respond to the changing needs of efficient, smooth and effective system of governance and socio-economic development of modern India within the framework of Parliamentary democracy, and to recommend changes, if any, that are required in the provisions of the Constitution without interfering with its basic structure or features. The Commission was required to complete its work and make recommendations within one year. The tenure of the Commission was extended from time to time upto 31st March, 2002. The commission recommended various reforms to promote free and fair election and to enhance the integrity of election. Followings are the recommendations of (Ministry of Law, 2002):

### **Electoral Processes. :**

- A foolproof method of preparing the electoral roll right at the Panchayat level constituency of a voter and supplementing it by a foolproof voter ID card which may in fact also serve as a multi-purpose citizenship card for all adults. A single exercise should be enough for preparing common electoral rolls and ID cards. The task could be entrusted to a qualified professional agency under the supervision of the Election Commission of India (EC) and in coordination with the SECs. The rolls should be updated constantly and periodically posted on the web site of the Election Commission and CDROMs should be available to all political parties or anyone interested. Prior to elections, these rolls



should be printed and publicly displayed at the post offices in each constituency, as well as at the panchayats or relevant constituency headquarters. These should be allowed to be inspected on payment of a nominal fee by anyone. Facilities should also be provided to the members of the public at the post offices for submitting their applications for modification of the electoral rolls.

- Introduction of Electronic Voting Machines (EVMs) in all constituencies all over the country for all elections as rapidly as possible.
- Under section 58A of the Representation of the People Act, 1951, the Election Commission should be authorised to take a decision regarding booth capturing on the report of the returning officers, observers or citizen groups. Also, the EC should be empowered to countermand the election and order a fresh election or to declare the earlier poll to be void and order a re-poll in the entire constituency. Further, the EC should consider the use of tamper-proof video and other electronic surveillance at sensitive polling stations/ constituencies.
- Any election campaigning on the basis of caste or religion and any attempt to spread caste and communal hatred during elections should be punishable with mandatory imprisonment. If such acts are done at the instance of the candidate or by his election agents, these would be punishable with disqualification.
- The Representation of the People Act should be amended to provide that any person charged with any offence punishable with imprisonment for a maximum term of five years or more, should be disqualified for being chosen as or for being a member of Parliament or Legislature of a State on the expiry of a period of one year from the date the charges were framed against him by the court in that offence and unless cleared during that one year period, he shall continue to remain so disqualified till the conclusion of the trial for that offence. In case a person is convicted of any offence by a court of law and sentenced to imprisonment for six months or more the bar should apply during the period under which the convicted person is undergoing the sentence and for a further period of six years after the completion of the period of the sentence. If any candidate violates this provision, he should be disqualified. Also, if a party puts up such a candidate with knowledge of his antecedents, it should be derecognised and deregistered.
- Any person convicted for any heinous crime like murder, rape, smuggling, dacoity, etc. should be permanently debarred from contesting for any political office.
- Criminal cases against politicians pending before Courts either for trial or in appeal must be disposed off speedily, if necessary, by appointing Special Courts.
- A potential candidate against whom the police have framed charges may take the matter to the Special Court. This court should be obliged to enquire into and take a decision in a strictly time bound manner. Basically, this court may decide whether there is indeed a prima facie case justifying the framing of charges.
- The Special Courts should be constituted at the level of High Courts and their decisions should be appealable to the Supreme Court only (in similar way as the decisions of the National Environment Tribunal). The Special Courts should decide the cases within a period of six months. For deciding the cases, these Courts should take evidence through Commissioners.
- The benefit of sub-section (4) of section 8 of the Representation of the People Act, 1951 should be available only for the continuance in office by a sitting Member of Parliament or a State Legislature. The Commission recommends that the aforesaid provision should be suitably amended providing that this benefit shall not be available for the purpose of his contesting fresh elections.



- The proposed provision laying down that a person charged with an offence punishable with imprisonment for a maximum period of five years or more should be disqualified from contesting elections after the expiry of a period of one year from the date the charges were framed in a court of law should equally be applicable to sitting members of Parliament and State Legislatures as to any other such person.
- In matters of disqualification on grounds of corrupt practices, the President should determine the period of disqualification under section 8A of the Representation of the People Act, 1951 on the direct opinion of the EC and avoid the delay currently experienced. This can be done by resorting to the position prevailing before the 1975 amendment to the said Act.
- The election petitions should also be decided by special courts proposed in para. In the alternative, special election benches may be constituted in the High Courts and earmarked exclusively for the disposal of election petitions and election disputes.
- The existing ceiling on election expenses for the various legislative bodies be suitably raised to a reasonable level reflecting the increasing costs. However, this ceiling should be fixed by the Election Commission from time to time and should include all the expenses by the candidate as well as by his political party or his friends and his well-wishers and any other expenses incurred in any political activity on behalf of the candidate by an individual or a corporate entity. Such a provision should be the part of a legislation regulating political funding in India. Further, Explanation 1 to section 77(1) of the Representation of the People Act, 1951 should be deleted.
- The political parties as well as individual candidates should be made subject to a proper statutory audit of the amounts they spend. These accounts should be monitored through a system of checking and cross-checking through the income-tax returns filed by the candidates, parties and their well-wishers. At the end of the election each candidate should submit an audited statement of expenses under specific heads.
- Every candidate at the time of election must declare his assets and liabilities along with those of his close relatives. Every holder of a political position must declare his assets and liabilities along with those of his close relations annually. Law should define the term 'close relatives'.
- Any system of State funding of elections bears a close nexus to the regulation of working of political parties by law and to the creation of a foolproof mechanism under law with a view to implementing the financial limits strictly. Therefore, proposals for State funding should be deferred till these regulatory mechanisms are firmly in position.
- All candidates should be required under law to declare their assets and liabilities by an affidavit and the details so given by them should be made public. Further, as a follow up action, the particulars of the assets and liabilities so given should be audited by a special authority created specifically under law for the purpose. Again, the legislators should be required under law for the purpose. Again, the legislators should be required under law to submit their returns about their liabilities every year and a final statement in this regard at the end of their term of office.
- Campaign period should be reduced considerably.
- Candidates should not be allowed to contest election simultaneously for the same office from more than one constituency.
- The election code of conduct, which should come into operation as soon as the elections are announced, should be given the sanctity of law and its violation should attract penal action.

- The Commission while recognizing the beneficial potential of the system of run off contest electing the representative winning on the basis of 50% plus one vote polled, as against the first-past-the-post system, for a more representative democracy, recommends that the Government and the Election Commission of India should examine this issue of prescribing a minimum of 50% plus one vote for election in all its aspects, consult various political parties, and other interests that might consider themselves affected by this change and evaluate the acceptability and benefits of this system. The Commission recommends a careful and full examination of this issue by the Government and the Election Commission of India.
- Intra-State delimitation exercise may be undertaken by the Election Commission for Lok Sabha and Assembly constituencies and the Scheduled Castes and Non-Scheduled Area Scheduled Tribe seats should be rotated. The Delimitation Body should, however, reflect the plural composition of society.
- The provisions of the Tenth Schedule of the Constitution should be amended specifically to provide that all persons defecting - whether individually or in groups - from the party or the alliance of parties, on whose ticket they had been elected, must resign from their parliamentary or assembly seats and must contest fresh elections. In other words, they should lose their membership and the protection under the provision of split, etc. should be scrapped. The defectors should also be debarred to hold any public office of a minister or any other remunerative political post for at least the duration of the remaining term of the existing legislature or until, the next fresh elections whichever is earlier. The vote cast by a defector to topple a government should be treated as invalid. Further, the power to decide questions as to disqualification on ground of defection should vest in the Election Commission instead of in the Chairman or Speaker of the House concerned.
- The practice of having oversized Council of Ministers should be prohibited by law. A ceiling on the number of Ministers in any State or the Union government be fixed at the maximum of 10% of the total strength of the popular house of the legislature.
- The practice of creating a number of political offices with the position, perks and privileges of a minister should be discouraged and at all events, their number should be limited to two per cent of the total strength of the lower house.
- Independent candidates should be discouraged and only those who have a track record of having won any local election or who are nominated by at least twenty elected members of Panchayats, Municipalities or other local bodies spread out in majority of electoral districts in their constituency should be allowed to contest for Assembly or Parliament.
- In order to check the proliferation of the number of independent candidates and the malpractices that enter into the election process because of the influx of the independent candidates, the existing security deposits in respect of independent candidates may be doubled. Further, it should be doubled progressively every year for those independents who fail to win and still keep contesting elections. If any independent candidate has failed to get at least five percent of the total number of votes cast in his constituency, he/she should not be allowed to contest as independent candidate for the same office again at least for 6 years.
- An independent candidate who loses election three times consecutively for the same office as such candidate should be permanently debarred from contesting election to that office.
- The minimum number of valid votes polled should be increased to 25% from the current

16.67% as a condition for the deposit not being forfeited. This would further reduce the number of non-serious candidates.

- It should be possible without any constitutional amendment to provide for the election of the Leader of the House (Lok Sabha/State Assembly) along with the election of the Speaker and in like manner under the Rules of Procedure. The person so elected may be appointed the Prime Minister/Chief Minister.
- The issue of eligibility of non-Indian born citizens or those whose parents or grandparents were citizens of India to hold high offices in the realm such as President, Vice-President, Prime Minister and Chief Justice of India should be examined in depth through a political process after a national dialogue.
- The Chief Election Commissioner and the other Election Commissioners should be appointed on the recommendation of a body consisting of the Prime Minister, Leader of the Opposition in the Lok Sabha, Leader of the Opposition in the Rajya Sabha, the Speaker of the Lok Sabha and the Deputy Chairman of the Rajya Sabha. Similar procedure should be adopted in the case of appointment of State Election Commissioners.
- All candidates should be required to clear government dues before their candidature are accepted. This pertains to payment of taxes and bills and unauthorised occupation of accommodation and availing of telephones and other government facilities to which they are no longer entitled. The fact that matters regarding Government dues in respect of the candidate are pending before a Court of Law should be no excuse.
- In order to obviate the uncertainty in identifying certain offices as offices of profit or not, suitable amendments should be made in the Constitution empowering the Election Commission of India to identify and declare the various offices under the Government of India or of a State to be „offices of profit“ for the purposes of being chosen, and for being, a member of the appropriate legislature.

**Political Parties.** *The committee had recommended some reform for political parties these are:*

- A comprehensive law regulating the registration and functioning of political parties or alliances of parties in India [may be named as the Political Parties (Registration and Regulation) Act] should be made. The proposed law should –
  - Provide that political party or alliance should, in its Memorandum of Association, Rules and Regulations provide for its doors being open to all citizens irrespective of any distinctions of caste, community or the like. And 30% reservation for Woman. Failure to do so should invite the penalty of the party losing recognition.
  - Make it compulsory for the parties to maintain accounts of the receipt of funds and expenditure in a systematic and regular way. The form of accounts of receipt and expenditure and declaration about
    - The sources of funds may be prescribed by an independent body of Accounts & Audit experts, created under the proposed Act. The accounts should also be compulsorily audited by the same independent body, created under the legislation which should also prepare a report on the financial status of the political party which along with the audited accounts should be open and available to public for study and inspection.
  - Make it compulsory for the political parties requiring their candidates to declare their

assets and liabilities at the time of filing their nomination before the returning officers for election to any office at any level of government.

- provide that no political party should sponsor or provide ticket to a candidate for contesting elections if he was convicted by any court for any criminal offence or if the courts have framed criminal charges against him.

- Specifically provide that if any party violates the provision mentioned at sub-para (d) above, the candidate involved should be liable to be disqualified and the party deregistered and derecognised forthwith.

- The Election Commission should progressively increase the threshold criterion for eligibility for recognition so that the proliferation of smaller political parties is discouraged. Only parties or a pre-poll alliance of political parties registered as national parties or alliances with the Election Commission be allotted a common symbol to contest elections for the Lok Sabha. State parties may be allotted symbols to contest elections for State legislatures and the Council of States (Rajya Sabha).

- In a situation where no single political party or pre-poll alliance of parties succeeds in securing a clear majority in the Lok Sabha after elections, the Rules of Procedure and Conduct of Business in Lok Sabha may provide for the election of the Leader of the House by the Lok Sabha along with the election of the Speaker and in the like manner. The Leader may then be appointed as the Prime Minister. The same procedure may be followed for the office of the Chief Minister in the State concerned.

- An amendment in the Rules of Procedure of the Legislatures for adoption of a system of constructive vote of no confidence should be made. For a motion of no-confidence to be brought out against a government at least 20% of the total number of members of the House should give notice. Also, the motion should be accompanied by a proposal of alternative Leader to be voted simultaneously.

- A comprehensive legislation providing for regulation of contributions to the political parties and towards election expenses should be enacted by consolidating such laws. This new law should –

- aim at bringing transparency into political funding;
- permit corporate donations within higher prescribed limits and keep them transparent;
- make all legal and transparent donations up to a specified limit tax exempt and treat this tax loss to the state as its contribution to state funding of elections;
- contain provisions for making both donors and donees of political funds accountable.

The Government should encourage the corporate bodies and agencies to establish an electoral trust which should be able to finance political parties on an equitable basis at the time of elections;

- provide that audited political party accounts like the accounts of a public limited company should be published yearly with full disclosures under predetermined account heads; and
- Provide for immediate de-recognition of the party and enforcement of penalties for filing false or incorrect election returns.

### ***Various Reforms in the Election Procedure***

While some broad reforms in the electoral processes are needed though no major constitutional amendment is required. The necessary reformations could be achieved by normal legislation modifying the existing laws, or in many cases, merely by rules and executive action. Some recommendations of

above mentioned committees are accepted and various reforms had been taken place though several recommendations are yet to implement. Here are some landmark electoral reforms in India:

**Introduction of Electronic Voting Machines (EVMs).** First introduced of EVM in a limited manner in the 1982 Kerala Legislative Assembly elections, wholly adopted in the 2004 general elections. EVMs have reduced the incidence of electoral fraud, such as ballot stuffing and booth capturing, and have made the counting process faster and more accurate.

**Voter Verifiable Paper Audit Trail (VVPAT).** VVPAT had been implemented on a trial basis in 2013; made mandatory in all polling stations by the 2019 general elections. VVPAT provides a physical verification of the vote cast, enhancing transparency and voter assurance in the electoral process.

**Disclosure of Candidate Information.** In *Union of India vs. Association for Democratic Reforms (2002 AIR 2112)* the apex court held that Candidates are required to disclose their criminal records, assets, liabilities, and educational qualifications. This reform has amplified transparency, allowing voters to make more informed decisions.

**Anti-Defection Law.** The Anti-Defection Law Introduced by the 52nd Amendment Act of 1985, adding the Tenth Schedule to the Constitution. The law aims to check political defections by disqualifying members of Parliament and state legislatures who defect from one party to another, therefore promoting political stability.

**Introduction of Photo Electoral Rolls.** The reform has been initiated in 2008. Photo electoral rolls have helped eradicate duplicate and fraudulent entries, ensuring that each voter can only vote once.

**NOTA (None of the Above) Option.** This concept Introduced in 2013 resulting from a Supreme Court directive. NOTA allows voters to reject all candidates if they do not find any suitable, thus providing a way to express dissent within the electoral process.

**Political Funding Reforms.** Electoral bond had been introduced in 2018 for political funding. Amendments to the Companies Act to allow companies to donate up to 7.5% of their average net profits of the last three years to political parties. These reforms aim to decrease black money in elections and bring transparency to political donations, although the efficiency and transparency of electoral bonds have been debated.

**Limiting Election Expenditure.** The ECI occasionally revises the expenditure limits for candidates in elections to control excessive spending. Helps in creating a level playing field among candidates, although challenges in monitoring and enforcement persevere.

**Criminalization of Politics.** In the land mark case *Lily Thomas vs. Union of India ((2013)7 SCC 653)* the apex court held that Immediate disqualification of MPs and MLAs convicted of crimes with a minimum punishment of two years. Aims to decriminalize politics by ensuring that convicted individuals cannot contest elections, thus improving the quality of elected representatives.

**Mandatory Voter ID Cards.** Election Commission of India introduced the EPIC (Elector's Photo Identity Card) program in 1993. Voter ID cards have aided in establishing the identity of voters and reducing electoral fraud.

**Ceiling on Election Expenditure.** This imposes Limits on candidate spending in elections have been occasionally revised by the ECI. Safeguards that elections are not improperly influenced by wealth, promoting a fair competition among candidates.



**Model Code of Conduct.** The MCC First launched in the 1960s, officially issued by the ECI in 1979. The Model Code of Conduct controls the behavior of political parties and candidates during elections, ensuring a level playing field and maintaining the sanctity of the electoral process.

**Online Voter Registration and Facilitation.** Over the past decade, the ECI has gradually adopted digital tools. Online registration and facilitation services have made it easier for citizens to register and update their details, improving voter participation and accuracy of electoral rolls.

**Lowering of Voting Age.** The 61st Amendment Act to the Constitution reduced the minimum age for voting from 21 to 18 years.

**Deputation to Election Commission.** All employees working in preparing, revising and correcting the electoral rolls for elections shall be considered to be on deputation to the EC for the period of such employment, and they shall be superintended by the EC.

**Increase in the number of proposers and the security deposit.** The number of electors required to sign as proposers in the nomination papers for elections to the Rajya Sabha and the State Legislative Councils has been raised to 10% of the electors of the constituency or ten such electors, whichever is less chiefly to prevent frivolous candidates. The security deposit has also been hiked to prevent non-serious candidates.

**Restriction on exit polls.** The EC issued a statement before the 2019 Lok Sabha elections saying that exit poll results could be broadcast only after the final phase of the elections were over. This was done to avoid future voters being misguided or prejudiced in any manner.

**Postal ballot.** In 2013 this concept had been introduced for service voters; special voters; wives of service voters and special voters; voters subjected to preventive detention; voters on election duty and Notified voters. They can cast their vote through postal.

### **Crime Relating to Election and Legal Provision to Prevent Them**

In India, election crimes or electoral offenses are administered by various legal provisions defined in the Representation of the People Act, 1951, and other related statutes. These laws aim to uphold the integrity of the electoral process, prevent electoral malpractices, and ensure fair and transparent elections. Here are the key legal provisions relating to election crimes in India:

#### ***Corrupt Practices (Section 123 of the Representation of the People Act, 1951)***

Section 123 of the Representation of the People Act, 1951, defines corrupt practices that are considered to be electoral offenses. These consist of bribery, undue influence, appealing for votes on the grounds of religion, race, caste, community, or language, and systematic appeal for votes by a candidate or his agent on the grounds of his religion, race, caste, community, or language.

#### ***Bribery (Section 171B of the IPC, 1860 and 173 of the BNS, 2023)***

Section 171B of the Indian Penal Code and 173 of the BNS deals with bribery in linked to elections. It prohibits the receiving of gratification by a public servant or by another person on behalf of a public servant as a motive for voting or refraining from voting in an election.

#### ***Undue Influence (Section 171C of the IPC, 1860 and 171 of the BNS, 2023)***

Section 171C of the IPC and 171 of the BNS talks about undue influence in elections. It prohibits the use of force, coercion, or undue influence by any person to force or induce a voter to vote or refrain from voting.

#### ***Personation (Section 171D of the IPC, 1860 and 172 of the BNS, 2023)***



Section 171D of the IPC and 172 of the BNS talk about impersonation at elections. It forbids any person from impersonating another voter or voting more than once in an election.

***Illegal Payments in Connection with an Election (Section 171E of the IPC, 1860 and 176 of the BNS, 2023)***

Section 171E of the IPC and 176 of the BNS forbids the payment of money or other valuable consideration to a person as an inducement for voting or refraining from voting in an election.

***Promoting Enmity between Different Groups (Section 153A of the IPC, 1860 and 196 of the BNS, 2023):***

Section 153A of the IPC and 196 of the BNS forbids the promotion of enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and acts prejudicial to the maintenance of harmony, which may disrupt the electoral process.

***Election Offenses (Section 135A of the Representation of the People Act, 1951)***

Section 135A of the Representation of the People Act, 1951, talks about numerous election offenses, including illegal hiring or procuring of vehicles, illegal payments for conveyance of voters, and illegal hiring or procuring of conveyance at elections.

***Other Provisions:***

Furthermore, there are provisions in the BNS (Bhartiya Naya Sanhita), 2023 such as Sections 175 and 177, which talk about false statement in connection with election and failure to keep election accounts respectively.

### **Chapter – III: Electoral Integrity; Meaning, Procedures and Mechanisms**

Electoral integrity is the basis of democratic governance, stating the principles of transparency, fairness, and accountability in the electoral process. It confirms that elections are conducted in a manner that correctly reflects the will of the people, free from fraud, coercion, and undue influence. In modern democracies, maintaining electoral integrity is indispensable not only for the legitimacy of elected representatives but also for public trust in the political system. Comprehension of electoral integrity includes describing its meaning, inspecting the procedures that uphold it, and discovering the mechanisms that safeguard it. This includes a range of elements, from the legal frameworks and institutional arrangements to the technological innovations and civil society oversight that collectively ensure the credibility of elections. The procedures and mechanisms constituted to maintain electoral integrity are critical in preventing and addressing issues such as voter fraud, electoral malpractices, and disqualification.

#### **Definition of Electoral Integrity**

Electoral integrity can be defined as the following to a set of principles and standards that assured that elections are conducted in a manner that is free, fair, and transparent, and that the results are a true reflection of the electorate's will. It involves the methodical prevention of electoral fraud, manipulation, and coercion, and ensures equal opportunity for all eligible citizens to participate in the electoral process. Electoral integrity is essential to the functioning of a healthy democracy. It requires inclusive legal frameworks, independent and capable electoral management bodies, inclusive and accurate voter registration, fair candidate nomination, regulated campaign finance, free and fair media, transparent electoral processes, effective dispute resolution mechanisms, and active engagement of civil society and observers.

## **Components of Electoral Integrity**

### ▪ ***Legal Outline***

Electoral laws must be clear, complete, and reliable with international standards. This includes laws governing voter registration, campaigning, voting procedures, and dispute resolution. Elections should be conducted under the rule of law, ensuring that all participants are subject to the same rules and regulations.

### ▪ ***Electoral Management Bodies (EMBs)***

EMB means those bodies who are accountable to conduct election such as the Election Commission of India, must operate independently from government influence and political pressure to ensure impartiality. EMBs should have adequate resources, professional staff, and the capacity to efficiently manage all aspects of the electoral process.

### ▪ ***Voter Registration***

Voter registration processes should be inclusive, ensuring that all eligible citizens, including downgraded and minority groups, have the opportunity to register to vote. Voter lists must be accurate and up-to-date to prevent exclusion and fraudulent voting.

### ▪ ***Candidate Nomination.***

The conditions for candidate eligibility and nomination should be fair, transparent, and non-discriminatory. The nomination process should be transparent to prevent partiality and corruption.

### ▪ ***Campaign Finance***

There should be strong regulations governing campaign finance, including limits on spending and contributions to ensure equality level of candidate. Candidates and parties is required to disclose their funding sources and expenditures.

### ▪ ***Media and Access to Information***

The media should operate freely, providing impartial coverage of the electoral process and candidates. Voters should have access to accurate information about candidates, parties, and electoral procedures.

### ▪ ***Electoral Process***

Voting processes should be free from coercion, intimidation, and fraud. This comprises the secure and secret casting of ballots. Polling stations should be accessible to all voters, including those with disabilities and those in remote areas.

### ▪ ***Vote Counting and Results***

Vote counting should be conducted transparently and in the presence of observers to ensure accuracy and prevent fraud. Election results should be declared in a timely manner to maintain public confidence in the electoral process.

### ▪ ***Electoral Justice***

There should be strong instruments for the resolution of electoral disputes and complaints, with the ability to address grievances on time and fairly. Individuals and parties who violate electoral laws should be held responsible through legal and administrative sanctions.

### ▪ ***Role of Civil Society and Observers***

Domestic and international observers play a critical role in observing the electoral process to ensure its integrity. Civil society organizations should be actively engaged in voter education, advocacy, and monitoring to enhance the overall integrity of the electoral process.

**Importance of Electoral Integrity in Democratic Systems**

Electoral integrity is vigorous to the functioning and sustainability of democratic systems. It incorporates the principles and practices that ensure elections are conducted fairly, transparently, and inclusively, reflecting the unaffected will of the people. The importance of electoral integrity in democratic systems are:

***Legitimacy of Elected Governments***

Electoral integrity ensures that the products of elections precisely reflect the voters' choices, providing elected officials with a legitimate directive to govern. When elections are perceived as free and fair, the public is more likely to trust and accept the results, reducing the likelihood of post-election conflicts and disputes.

***Political Stability***

High electoral integrity enables the peaceful transfer of power, a foundation of stable democracies. It avoids political calamities and violence that can arise from disputed elections. Transparent and reliable electoral processes reduce the risk of electoral fraud and manipulation, which can lead to political unrest and conflict.

***Accountability and Responsiveness***

Elections with high integrity maintain that elected representatives are accountable to the electorate. Politicians are more expected to fulfill their campaign promises and act in the public's interest when they know they can be voted out in fair elections. When leaders are elected through a fair process, they are more receptive to the needs and concerns of their constituents, leading to healthier governance.

***Public Trust and Engagement***

Electoral integrity nurtures trust in democratic institutions and processes, which is indispensable for the overall health of a democracy. When citizens have faith in the integrity of the electoral process, they are more likely to participate in elections, increasing voter turnout and civic engagement.

***Social Solidity***

Electoral integrity guarantees that all eligible citizens, irrespective of their socio-economic status, race, gender, or ethnicity, have an equal opportunity to take part in the electoral process. Fair and transparent elections help to alleviate societal divisions and tensions by ensuring that all groups feel represented and heard.

***Economic Development***

Political stability resulting from high electoral integrity creates a favorable environment for economic growth and development. Credible elections increase investor confidence, as stable and expected political environments are attractive to both domestic and foreign investors.

***International Standing***

Countries with high electoral integrity are observed positively on the international stage, increasing their diplomatic standing and ability to form strategic alliances. Democracies with trustworthy electoral processes are more likely to receive international aid and support, which can be tied to governance and development goals.

***Legal and Ethical Standards***

Electoral integrity ensures that the electoral process obeys to established laws and regulations, promoting the rule of law and justice. It sustains the ethical standards of political conduct, discouraging corruption, bribery, and undue influence in the electoral process.

**Key Mechanisms to Ensure Electoral Integrity****▪ *Independent Electoral Commissions***

Bodies like the Election Commission of India are indispensable for supervising and ensuring fair conduct of elections.

**▪ *Voter Education***

Educating voters about their rights and the electoral process is essential for informed participation. And they will be able to choose the better candidate to vote.

**▪ *Transparent Processes***

Transparent procedures for voter registration, ballot casting, and vote counting are vital. Transparent voting system is necessary for electoral integrity.

**▪ *Legal Frameworks***

There is a high requirement of a stipulated legal framework a vigorous laws and regulations governing elections help prevent and address electoral malpractices.

**▪ *Observation and Monitoring***

Domestic and international spectators play a key role in monitoring elections and ensuring adherence to democratic norms.

**▪ *Dispute Resolution Mechanisms***

Operative mechanisms for addressing electoral disputes and grievances are indispensable for upholding trust in the electoral process.

**Factors Influencing Electoral Integrity in India:****• *Electoral Legislation***

The efficiency of electoral laws, including the Representation of the People Act, 1950 and 1951, is crucial. These laws need to be clear, comprehensive, and up-to-date to address emergent challenges. Robust instruments to enforce these laws, including punitive measures for violations, are essential to maintaining electoral integrity.

**• *Role and Independence of the Election Commission***

The Election Commission of India must operate autonomously, free from political and governmental influence, to impartially oversee the electoral process. Suitable resources, both financial and human, are necessary for the ECI to efficiently conduct elections, manage logistics, and enforce regulations.

**• *Electoral Administration***

Effective administration and management of the electoral process, from voter registration to the declaration of results, are necessary. The use of technology, such as EVM and VVPAT increases transparency and accuracy in voting and counting processes.

**• *Voter Registration***

Confirming that all eligible citizens, including marginalized and remote populations can register to vote is fundamental. Upholding exact and updated electoral rolls to prevent duplication and ensure that only eligible voters participate in the elections.

**• *Campaign Finance***

Stringent regulations on campaign finance, including limits on spending and mandatory disclosure of funding sources, are essential to prevent undue influence and corruption. Operative monitoring and auditing mechanisms to supervise campaign expenditures and adherence to finance laws.

- ***Media and Information***

An autonomous and impartial media plays a crucial role in providing voters with accurate information about candidates, parties, and the electoral process. There should be stringent mechanism to counter misinformation, fake news, and propaganda that can distort the electoral process.

- ***Political Environment***

The assurance of political parties and leaders to uphold democratic principles and the rule of law is vital. Obedience to ethical standards by candidates and parties, including respect for the Model Code of Conduct, is indispensable to maintain public trust in the electoral process.

- ***Civic Education and Voter Awareness***

Creativities to educate voters about their rights, the importance of voting, and the electoral process support to increase informed participation. Encouraging active citizen engagement and participation in the electoral process.

- ***Security and Electoral Violence***

Confirming the security of voters, candidates, and electoral staff, and preventing electoral violence and intimidation. Operative instruments to address and resolve electoral conflicts and disputes peacefully.

- ***Judiciary and Legal Recourse***

An independent judiciary that can impartially adjudge electoral disputes and grievances. Ensuring sensible resolution of election-related cases to maintain confidence in the judicial process and electoral outcomes.

- ***International and Domestic Observation***

The existence of domestic and international election observers' aids ensure transparency and credibility. Their reports and commendations can also guide future reforms.

- ***Electoral Reforms***

Current reforms to address emerging challenges, improve processes, and incorporate best practices from around the world. Relating various stakeholders, including political parties, civil society, and the public, in the reform process.

### ***Challenges to Electoral Integrity***

Notwithstanding its importance, maintaining electoral integrity can be challenging due to factors such as:

- **Electoral Fraud.** Practices like vote-buying, ballot stuffing, and manipulation of voter lists weaken electoral integrity.
- **Political Violence.** Intimidation, coercion, and violence can mislead the electoral process and disenfranchise voters.
- **Technological Threats.** Cyber security threats, such as hacking and misinformation, pose new challenges to upholding electoral integrity in the digital age.
- **Institutional Weaknesses.** Insufficient resources, absence of independence, and corruption within electoral management bodies can negotiate the electoral process.

### ***Voter Registration and Electoral Rolls in India***

The conduct of elections in India is a multifaceted and highly systematized process planned to ensure transparency, accuracy, and fairness. From meticulous preparations and secure polling to rigorous counting and transparent declaration of results, each step is crucial in upholding the democratic values of

the country. Continuous improvements and innovations in the electoral process help in addressing emerging challenges and maintaining the integrity of elections in the world's largest democracy. Voter registration and the preparation of electoral rolls are critical components of the electoral process in India, ensuring that every eligible citizen has the opportunity to participate in elections. This elaborate explanation covers the significance, process, and challenges related to voter registration and electoral rolls in India.

***Significance of Voter Registration and Electoral Rolls:***

**Inclusion:** *Ensures all eligible citizens can exercise their right to vote.*

**Accuracy:** *Maintains updated records to prevent electoral fraud and errors.*

**Transparency:** *Enhances public confidence in the electoral process.*

**Accessibility:** *Facilitates the organization of polling stations and efficient conduct of elections.*

***Process of Voter Registration:***

**Eligibility.** *A person can be a voter if s/he:*

- Are an Indian citizen.
- Have attained the age of 18 years on the qualifying date i.e. 1 Jan, 1 April, 1 July and 1 Oct of the year of revision of electoral roll.
- Are ordinarily resident of the part/polling area of the constituency where you want to be enrolled.
- Are not disqualified to be enrolled as an elector.

**Registration Methods. :**

- **Offline Registration** Submission of Form 6 (application for inclusion of name) to the Electoral Registration Officer (ERO) or Booth Level Officer (BLO).
- **Online Registration:** Through the National Voter Service Portal (NVSP) or mobile applications like Voter Helpline App. General Voters need to fill Form 6. This is only for the Registration of new voters. Overseas Voter need to fill form 6A .For Deletion or Objection in electoral roll fill form 7. Please fill Form 8 for shifting of Residence/Correction of Entries in Existing Electoral Roll/Replacement of EPIC / Marking of PwD.
- **Special Drives:** Periodic voter registration drives conducted by the ECI, often before Elections.

**Verification Process.** *The ERO verifies the details provided in the application through field verification by BLOs or other means. Verification may involve checking proof of age, address, and citizenship. Verified applications result in the inclusion of the applicant's name in the electoral roll of the respective constituency. Voters receive an Electoral Photo Identity Card (EPIC), commonly known as a Voter ID card.*

**Meaning of Electoral Roll.** *An electoral roll, also known as an electoral register or voter roll, is an official list of people who are entitled to vote in a particular electoral district. The electoral roll is used to ensure that only eligible voters participate in elections and to help manage the process of voting.*



**Types of Electoral Rolls. :**

- **General Electoral Roll.** Lists all registered voters in a particular constituency.
- **Supplementary Electoral Roll.** Contains names added after the publication of the final electoral roll, used to update the main roll during revisions.

**Revision and Updating of Electoral Rolls.** *The electoral roll is regularly updated to add new eligible voters, remove those who are no longer eligible (due to reasons such as death or change of residence), and to correct any errors.*

**Annual Revision.** Conducted annually to update the electoral rolls based on additions, deletions, and corrections. Typically involves a draft publication, inviting claims and objections, and a final publication.

**Continuous Updating.** The ECI allows continuous updating to accommodate new registrations, deletions due to death or disqualification, and corrections.

**Challenges in Voter Registration and Electoral Rolls**

The integrity and functionality of democratic systems worldwide pivot significantly on the accuracy and inclusivity of voter registration and electoral rolls. These components form the backbone of the electoral process, ensuring that every eligible citizen can exercise their right to vote and that elections are conducted fairly and transparently. However, maintaining accurate and up-to-date electoral rolls is fraught with challenges. These challenges range from administrative and logistical hurdles to socio-political and technological issues. Inaccurate voter rolls can lead to disenfranchisement, electoral fraud, and diminished public trust in the electoral system. Understanding and addressing these challenges is crucial for strengthening democratic institutions and ensuring fair representation. The various challenges are:

**Inclusion and Exclusion Errors.** *Ensuring all eligible citizens are included while preventing the inclusion of ineligible individuals.*

**Migratory Population.** *Addressing the registration needs of internal migrants, homeless individuals, and other transient populations.*

**Duplication and Deletion.** *Avoiding duplicate entries and ensuring timely deletion of deceased or disqualified voters.*

**Technological and Administrative Issues.** *Leveraging technology effectively while managing administrative challenges in rural and remote areas.*

**Public Awareness.** *Ensuring citizens are aware of registration processes and their voting rights through comprehensive voter education campaigns.*

**Conduct of Elections: Polling, Counting, and Declaration of Results in India**

The conduct of elections in India involves several critical stages: polling, counting, and declaration of results. Each of these stages is meticulously planned and executed to ensure free, fair, and transparent elections. Here's an elaborate explanation of each phase:

**Polling:**

**Preparation before Polling.** *The Election Commission of India (ECI) announces the election schedule, including the dates for polling, counting, and the declaration of results. Officers such as Presiding Officers, Polling Officers, and security personnel are appointed and trained. Locations are selected to maximize accessibility. Each polling station is equipped with necessary materials such as*

Electronic Voting Machines (EVMs), Voter Verifiable Paper Audit Trail (VVPAT) devices, ballot papers (for certain elections), indelible ink, and voter lists.

**Polling Day Activities.** *Polling stations are set up early on the day of the election. EVMs and VVPATs are tested in the presence of polling agents. Voters are identified using the electoral roll and a valid identification document. The ECI issues guidelines on acceptable ID proofs.*

**Voting Process.** *Voters are marked with indelible ink to prevent double voting. Voters cast their vote by pressing the button on the EVM corresponding to their preferred candidate. The VVPAT prints a slip showing the chosen candidate, which the voter can view before it falls into a sealed box. At the end of the voting period, EVMs are sealed and transported to secure counting centers. Polling agents can accompany the transportation to ensure transparency.*

### **Counting of Votes**

**Preparation for Counting.** *Designated secure locations where EVMs are stored and where counting will take place. Stringent security measures are in place to safeguard the EVMs and ensure a smooth counting process.*

**Counting Process.** *Counting staff, including supervisors and observers, are appointed and trained to conduct the counting in legal and transparent way.*

**Stages of Counting.** *There are multiple for counting these are:*

- **First Level Check.** *EVMs are checked to ensure they are not tampered with.*
- **Counting of Votes.** *Votes are counted in a systematic manner. Each EVM is opened, and the votes are tallied. Results from the EVM are cross-verified with VVPAT slips for a random selection of polling stations to ensure accuracy.*
- **Compilation.** *Votes are compiled for each candidate from all EVMs used in the constituency.*
- **Transparency.** *Candidates, their agents, and election observers can be present during the counting process to ensure transparency and address any disputes.*

**Handling of Discrepancies.** *Any discrepancies or issues raised by candidates or their agents are promptly addressed by the returning officer.*

### **Declaration of Results**

The returning officer compiles the final results and verifies them before announcement. The candidate with the highest number of votes is declared the winner. Results are declared publicly by the returning officer and are also published on the ECI's website. Winning candidates are issued certificates of election.

### **Post-Election Activities**

All election materials are securely stored for a specified period in case of disputes or recounts. The ECI conducts post-election reviews to identify any issues and improve future electoral processes.

### **Challenges and Measures:**

**Security Concerns.** *Before, during and after the election there are lot security threats which are facing by ECI. There safety measures are being implemented such as: Deployment of security personnel, use of CCTV cameras, and strict protocols for transportation and storage of EVMs.*

**Technical Issues.** *The ECI are not only facing security threats but they are facing technical issues as well for they are taken various measures i.e. Regular maintenance of EVMs and VVPATs, mock polls, and technical support teams on standby.*

**Fraud Prevention.** *There are lot of election fraud are being done by various criminal during the voting. For that reason ECI introduced unique procedure such as: Robust voter identification processes, use of indelible ink, and real-time monitoring.*

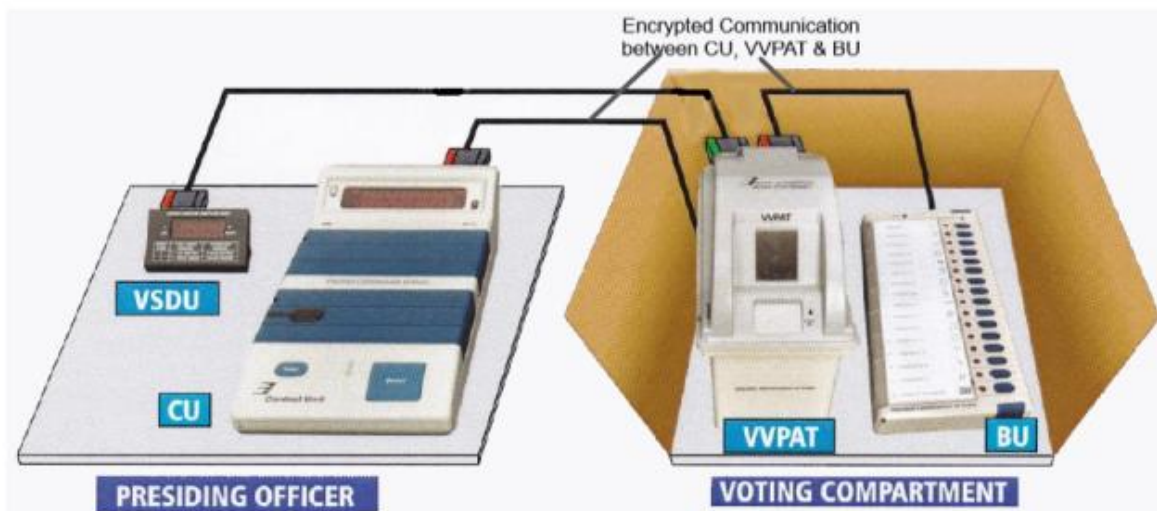
**Inclusivity.** *Special provisions has been introduced for differently-abled voters, elderly voters, and those in remote areas. So The inclusivity principle of ECI are being maintained.*

## Use of Technology in Electoral Processes in India

The use of technology in electoral processes in India has significantly enhanced the efficiency, transparency, and integrity of elections. The Election Commission of India (ECI) has progressively integrated various technological innovations to streamline different aspects of the electoral process. Here's an elaborate discussion on the use of technology in India's electoral processes:

### Figure: 1

*The schematic of ECI's EVM (original diagram from ECI's EVM & VVPAT manual [Election Commission of India, 2021]).*



## EVM Mechanism

### Electronic Voting Machines (EVMs)

EVMs were first introduced in a limited manner during the Kerala Legislative Assembly elections in 1982 and were widely adopted across the country by the 2004 general elections. An EVMs consist of a control unit (CU) managed by polling officers and a balloting unit (BU) where voters cast their votes. Control Unit (CU) and Balloting Unit (BU) connected with a cable (5 mt. long). A Balloting Unit caters upto 16 candidates. There are number of variants available for the EVMs. Time-to-time, it has evolved and has become more robust. In case of pre-2006 (M1) and post-2006 EVMs (M2), 4 (Four) Balloting Units can be cascaded together to accommodate upto a maximum of 64 candidates (including NOTA), which can be used with one Control Unit. In case of upgraded post-2006 EVMs (M3), 24

(Twenty Four) Balloting Units can be cascaded together catering to 384 candidates (including NOTA) which can be used with one Control Unit. It runs on a power pack (Battery) having 7.5 volts. In case of M3 EVM, power packs are inserted in 5th, 9th, 13th, 17th & 21st Balloting Units, if more than 4 BUs are connected to a Control Unit. On the right side of the BU along the candidates' vote button, digits 1 to 16 are embossed in Braille signage for guidance of visually impaired electors (ECI). That Faster voting and counting process compared to paper ballots. EVMs are designed to be tamper-proof with multiple layers of security, including one-time programmable microchips. It Reduced costs associated with printing, storing, and transporting paper ballots. The ECI has consistently addressed concerns about EVM tampering by inviting public demonstrations and independent security audits. Extensive training programs for polling staff and public awareness campaigns to educate voters about EVM functionality and reliability.

#### ***Voter Verified Paper Audit Trail (VVPAT)***

First Use of VVPAT was introduced in a phased manner starting in 2013 and was implemented across all polling stations in the 2019 general elections. VVPAT provides a physical printout of the vote cast, which the voter can verify before the slip is deposited in a sealed box. This ensures transparency and builds voter confidence in the electronic voting process. It allows for cross-verification of EVM results, enhancing the credibility of the electoral process. Increases transparency and public trust by providing a tangible record of each vote.

The main features of the EVM design are as follows. It is a Direct Recording Electronic (DRE) voting protocol. The EVM consists of a control unit (CU) which is placed on the presiding officer's desk. The CU is connected to the Voter Verifiable Paper Audit Trail (VVPAT) printer which is then connected to the ballot unit (BU). The VVPAT printer and the BU are kept in the voter booth. The VVPAT status display unit (VSDU) is kept with the presiding officer and displays the status of the VVPAT printer. The different components authenticate each other using digital certificates. The system is designed to stop functioning if paired with unauthorised components (Adan Lokur, 2018) (see figure: 1).

#### ***National Voter Service Portal (NVSP)***

NVSP was launched in 2015 to provide various online services to voters. Through this website online application for new voter registration, correction of details, and shifting of residence can be possible. And also have Facility to check voter ID status, search for polling stations, and download digital voter ID cards. It has been set up Platform for voters to lodge complaints and track the status of their grievances.

#### ***Voter Helpline App***

The Voter Helpline App was introduced to provide easy access to electoral services via mobile devices. Mobile-based application for voter registration and correction of details. Provides election-related information, including candidate details, polling schedules, and results. Enables voters to register complaints and track their status.

#### ***Geographical Information System (GIS)***

GIS technology is used to map polling stations, ensuring optimal location and accessibility for voters. Helps in the efficient allocation of resources, such as security personnel and polling staff, based on geographical data.

#### ***E-Procurement and E-Tendering***

The ECI uses e-procurement and e-tendering systems to streamline the procurement of election materials and services. It Reduces opportunities for corruption and ensures transparent procurement processes. And Speeds up the procurement process and ensures timely availability of election materials.

### ***Social Media and Digital Platforms***

We are living in digital where all are connected through social media and this social has great ability to disseminate information. And nowadays Use of social media for campaigning and voter engagement on the peak. This social media plays a role of disseminator who is spreading information about various parties such as facebook, whatsapp are being used for campaigning by various political parties. Political parties and candidates use digital platforms for campaigning, reaching a wider audience more effectively. Online platforms facilitate the transparent dissemination of information regarding political candidates and party manifestos. The ECI monitors social media for any violations of the Model Code of Conduct and takes action against misinformation and hate speech.

### ***Remote Voting Solutions***

The ECI has been exploring blockchain technology for remote voting to facilitate voting for migrant workers and overseas citizens. Initiatives to test remote voting systems have been undertaken to address the challenges of voter mobility and accessibility.

### ***E-Pass for Election Duty***

E-pass systems are being used for the efficient management of election duty personnel. Digital issuance of passes for polling and security personnel, ensuring smooth coordination and deployment. And the ECI can track them and management of personnel on election duty.

## **Electoral Dispute Resolution Mechanisms in India**

Electoral dispute resolution mechanisms are essential for maintaining the integrity and credibility of the electoral process in India. These mechanisms ensure that any grievances related to elections are addressed promptly and fairly, thereby reinforcing public confidence in the democratic system. Here's an elaborate discussion on the electoral dispute resolution mechanisms in India:

### ***Legal Framework***

***Constitutional Provisions.*** Article 324: Empowers the Election Commission of India (ECI) to supervise, direct, and control the preparation of electoral rolls and the conduct of all elections to Parliament and state legislatures. Article 329: Bars courts from intervening in electoral matters before the completion of the electoral process, with disputes to be addressed post-election through election petitions.

***Representation of the People Act, 1950.*** Governs the preparation and revision of electoral rolls and lays down procedures for resolving disputes related to the electoral rolls.

***Representation of the People Act, 1951.*** Provides comprehensive rules for the conduct of elections, qualifications and disqualifications for membership of Parliament and state legislatures, and the resolution of election disputes through election petitions.

### ***Pre-Election Dispute Resolution***

***Electoral Rolls.*** Voters can raise claims and objections regarding the inclusion or exclusion of names in the electoral rolls. These are addressed by the Electoral Registration Officer (ERO) through a quasi-judicial process. Decisions of the ERO can be appealed to higher authorities within the ECI framework.



**Nomination of Candidates.** Returning Officers (ROs) scrutinize the nomination papers of candidates. Objections to nominations are heard, and decisions are made regarding the acceptance or rejection of nominations.

Aggrieved candidates can appeal to the ECI or approach the judiciary through election petitions post-election.

### ***Election Day Dispute Resolution***

Complaints regarding polling irregularities, such as booth capturing, voter intimidation, or malfunctioning EVMs, can be lodged with the Presiding Officer or the ECI. The ECI can order re-polling at affected polling stations if significant irregularities are confirmed.

### ***Post-Election Dispute Resolution***

Election disputes are primarily resolved through election petitions filed under the Representation of the People Act, 1951. Any candidate or voter can file a petition challenging the election of a candidate. Election petitions are filed in the High Court of the respective state where the election was held. Common grounds include corrupt practices (e.g., bribery, undue influence), non-compliance with electoral laws, and improper acceptance or rejection of nominations. Election petitions must be filed within 45 days of the declaration of results. The High Court hears and adjudicates election petitions. The process involves the examination of evidence, witness testimonies, and legal arguments. The petitioner bears the burden of proving the allegations made in the petition. Decisions of the High Court on election petitions can be appealed to the Supreme Court of India.

### ***Role of the Election Commission of India (ECI)***

**Quasi-Judicial Powers.** *The ECI has quasi-judicial powers to adjudicate certain types of electoral disputes, such as disqualification of candidates for failing to lodge accounts of election expenses or engaging in corrupt practices.*

**Advisory Role.** *The ECI advises the President and Governors on matters of disqualification of Members of Parliament and State Legislatures based on the provisions of the Representation of the People Act, 1951.*

**Model Code of Conduct (MCC).** *The ECI enforces the Model Code of Conduct during elections. Complaints regarding violations of the MCC are investigated by the ECI, which can issue warnings, censure, or recommend legal action against violators.*

### ***Alternative Dispute Resolution Mechanisms***

**Internal Party Mechanisms.** *Political parties often have internal mechanisms to resolve disputes among party members, including those related to candidate selection and campaign conduct.*

**Lok Adalats and Mediation.** *Lok Adalats (People's Courts) and mediation are sometimes used for resolving minor electoral disputes to reduce the burden on formal judicial processes.*

### ***Challenges in Electoral Dispute Resolution***

**Delays in Adjudication.** *Judicial delays can lead to prolonged resolution of election petitions, sometimes extending beyond the term of the contested office. There is a need for mechanisms to expedite the adjudication of electoral disputes to ensure timely justice.*

**Accessibility and Awareness.** *Voters and candidates may lack awareness of the available dispute resolution mechanisms and their rights under the law. Ensuring access to legal assistance for filing and pursuing election petitions is crucial, especially for marginalized groups.*

**Chapter- IV: Role and Functions of the Election Commission of India (ECI)**

The Election Commission of India (ECI) plays a pivotal role in the world's largest democracy, ensuring the conduct of free, fair, and transparent elections. Established on 25<sup>th</sup> January, 1950, under Article 324 of the Indian Constitution, the ECI is an autonomous constitutional authority responsible for administering election processes in India at both national and state levels. This institution is tasked with the critical function of maintaining the democratic fabric of the nation by overseeing the election process for the President and Vice President of India, the Parliament, and state legislatures, as well as the offices of local bodies.

The ECI's role extends beyond mere supervision of voting processes; it encompasses a wide range of functions that include the preparation and revision of electoral rolls, monitoring election campaigns to ensure adherence to laws and guidelines, and implementing reforms to enhance the electoral process. Its functions are guided by a commitment to uphold the principles of democracy, transparency, and equality.

As the guardian of electoral integrity, the ECI's responsibilities include enforcing the Model Code of Conduct, regulating political parties and candidates, and addressing grievances related to electoral malpractices. Its ability to adapt to changing times through technological advancements and procedural innovations ensures that it remains a robust pillar of Indian democracy. Through this introduction, we set the stage to explore in detail the multifaceted role and functions of the Election Commission of India, which are crucial in safeguarding the democratic rights of over a billion citizens.

**Establishment and Constitutional Mandate of the Election Commission of India (ECI)**

The Election Commission of India (ECI) is an autonomous constitutional authority responsible for administering election processes in India at both the national and state levels. Its primary aim is to ensure free, fair, and transparent elections. Here is an elaborate explanation of its establishment and constitutional mandate:

***Establishment of the Election Commission of India***

India is a Socialist, Secular, Democratic Republic and the largest democracy in the World. The modern Indian nation state came into existence on 15<sup>th</sup> of August 1947. Since then free and fair elections have been held at regular intervals as per the principles enshrined in the Constitution, Electoral Laws and System.

The Constitution of India has vested in the Election Commission of India the superintendence, direction and control of the entire process for conduct of elections to Parliament and Legislature of every State and to the offices of President and Vice-President of India.

Election Commission of India is a permanent Constitutional Body. The Election Commission was established in accordance with the Constitution on 25<sup>th</sup> January 1950. The Commission celebrated its Golden Jubilee in 2001. Originally the commission had only a Chief Election Commissioner. It currently consists of Chief Election Commissioner and two Election Commissioners.

For the first time two additional Commissioners were appointed on 16<sup>th</sup> October 1989 but they had a very short tenure till 1<sup>st</sup> January 1990. Later, on 1<sup>st</sup> October 1993 two additional Election Commissioners were appointed. The concept of multi-member Commission has been in operation since then, with decision making power by majority vote.

***Constitutional Basis***

Before independence, elections in India were conducted under British rule with limited franchise. With the adoption of the Constitution of India on January 26, 1950, the need for an independent and impartial electoral authority was recognized to manage the democratic process of elections. The Constitution of India establishes the Election Commission of India under Article 324. This article provides the ECI with the power to supervise, direct, and control the entire process of elections to Parliament, state legislatures, and the offices of the President and Vice-President of India. Articles 325 and 326 ensure that no person is ineligible for inclusion in the electoral rolls on grounds of religion, race, caste, or sex, and that elections to the House of the People and the Legislative Assemblies of States are based on adult suffrage. Article 327 and 328 empowers Parliament and the state legislatures, respectively, to make provisions with respect to elections.

### ***Representation of the People Acts***

The 1950 act provides for the preparation of electoral rolls and the delimitation of constituencies. The 1951 act details the actual conduct of elections, qualifications and disqualifications for membership of Parliament and state legislatures, and the resolution of election disputes through election petitions.

### **Organizational Structure and Composition of election commission of India**

The Election Commission of India (ECI) is a constitutionally established body with the primary function of supervising and administering elections in India. The organizational structure and composition of the ECI are designed to ensure independence, efficiency, and transparency in the conduct of elections. Here's an elaborate description of the organizational structure and composition of the ECI:

#### ***Composition of the Election Commission***

Article 324 of the Indian Constitution provides for the establishment of the ECI, headed by the Chief Election Commissioner (CEC) and assisted by other Election Commissioners as determined by the President. The ECI became a multi-member body in October 1993, comprising one CEC and two Election Commissioners. This structure ensures a balance of power and enhances decision-making capabilities. The CEC is responsible for implementing the directives of the ECI at the state level. Currently Shri Rajiv Kumar is the Chief Election Commissioner. Sh. Rajiv Kumar, Election Commissioner in ECI since 1st September 2020, took charge as the 25th Chief Election Commissioner on 15th May 2022. Shri Gyanesh Kumar is the Election Commissioner. Shri Gyanesh Kumar took charge as Election Commissioner in Election Commission of India on the 15th of March, 2024. He is a 1988 Batch Kerala Cadre Officer of the Indian Administrative Service and Dr. Sukhbir Singh Sandhu is the 2<sup>nd</sup> Election Commissioner. Dr. Sukhbir Singh Sandhu joined as Election Commissioner in Election Commission of India on 15th March, 2024. He is 1988 batch IAS officer from Uttarakhand Cadre. The CEC and Election Commissioners are appointed by the President of India. They hold office for a term of six years or until they reach the age of 65, whichever is earlier. The appointments are generally made from among senior civil servants and individuals with substantial experience in public administration.

#### ***Tenure and Service Conditions***

The CEC and Election Commissioners hold office for a term of six years or until they attain the age of 65 years, whichever is earlier. The CEC can only be removed from office in a manner similar to a judge of the Supreme Court, through impeachment by Parliament on the grounds of proven misbehavior or incapacity. This provision ensures the independence of the CEC. Election Commissioners can be removed by the President on the recommendation of the CEC.

#### ***Organizational Structure***

The headquarters of the ECI is located in Nirvachan Sadan, New Delhi. The ECI headquarters is divided into several divisions, each responsible for specific functions related to the electoral process. The Commission has a separate Secretariat at New Delhi, consisting of about 550 officials, in a hierarchical set up. Five or Six Deputy Election Commissioners and Director Generals who are the senior officers in the Secretariat assist the Commission. They are generally appointed from the national civil service of the country and are selected and appointed by the Commission with tenure. Directors, Principal Secretaries, and Secretaries, Under Secretaries and Deputy Secretary support the Deputy Election Commissioners and Director Generals in turn. There is functional and territorial distribution of work in the Commission. The work is organised in Divisions, Branches and Sections; each of the last mentioned units is in charge of a Section Officer. The main functional divisions are Administration, Electoral Roll, Election Expenditure Management, Information Systems, International Cooperation, Judicial, Media, Planning, Political Parties, Secretariat Co-ordination, and Systematic Voters' Education and Electoral Participation (SVEEP). The territorial work is distributed among separate units responsible for different Zones into which the 36 constituent States and Union Territories of the country are grouped for convenience of management.

The gigantic task force for conducting a countrywide general election consists of more than twelve million polling personnel and civil police forces. This huge election machinery is deemed to be on deputation to the Election Commission and is subject to its control, superintendence and discipline during the election period, extending over a period of one and half to two months.

**Key divisions include. :**

- **Administration.** Manages internal administration, personnel, and logistics.
- **Election Management.** Oversees the conduct of elections, including polling arrangements, security, and logistics.
- **Voter Services.** Focuses on voter registration, maintenance of electoral rolls, and voter education.
- **Information Technology.** Manages IT infrastructure, electronic voting machines (EVMs), and digital services.
- **Media and Communication.** Handles media relations, public communication, and voter awareness campaigns. The Commission has a comprehensive policy for the media. It holds regular briefings for the mass media-print and electronic, on a regular basis, at close intervals during the election period and on specific occasions as necessary on other occasions. The representatives of the media are also provided facilities to report on actual conduct of poll and counting. They are allowed entry into polling stations and counting centres on the basis of authority letters issued by the Commission. They include members of both international and national media. The Commission also publishes statistical reports and other documents which are available in the public domain.
- **Legal.** Deals with legal matters, litigation, and election petitions.

**Regional and Field Offices. :**

**Chief Electoral Officers (CEOs).** Each state and union territory has a Chief Electoral Officer, an officer from the Indian Administrative Service (IAS), appointed by the ECI.

**District Electoral Officers (DEOs).** In each district, a District Electoral Officer, usually the District Magistrate or Deputy Commissioner, supervises election-related activities.

***Electoral Registration Officers (EROs).*** EROs are responsible for the preparation and revision of electoral rolls in their respective areas.

***Returning Officers (ROs).*** ROs oversee the conduct of elections in individual constituencies, including the nomination process, polling, and counting of votes.

***Presiding Officers and Polling Officers.*** These officers manage the polling stations on Election Day, ensuring smooth voting processes.

## **Functions and Responsibilities**

The Election Commission of India (ECI) plays a pivotal role in the functioning of India's democratic system. Its key functions are broad and multifaceted, ensuring the conduct of free, fair, and transparent elections across the country. Here's an elaborate description of the key functions of the ECI:

### ***Superintendence, Direction, and Control of Elections***

The ECI is empowered by Article 324 of the Indian Constitution to oversee the preparation of electoral rolls and the conduct of elections to Parliament, state legislatures, and the offices of the President and Vice-President.

***Election Scheduling.*** *The ECI is responsible for preparing and announcing the schedule for general elections, state elections, and elections for the President and Vice-President of India.*

***Model Code of Conduct (MCC).*** *The ECI enforces the Model Code of Conduct, which sets guidelines for political parties and candidates during elections to ensure fair play and ethical conduct. error-free electoral rolls. Monitoring compliance with the MCC to prevent activities like vote-buying, hate speech, and misuse of government resources for electoral gains. Taking disciplinary action against violators of the MCC, which can include warnings, reprimands, or legal proceedings. In **People's Union for Civil Liberties (PUCL) vs. Union of India** (AIR 1997 SC 568) The Apex Court affirmed the ECI's authority to enforce the MCC and take necessary actions to ensure fair elections. This judgment reinforced the legal standing of the MCC and the ECI's role in maintaining electoral integrity.*

***Election Expenditure Monitoring.*** *Setting and enforcing spending limits for candidates and parties during elections to ensure a level playing field. Monitoring election expenditures through flying squads, video surveillance, and audits to detect overspending and financial irregularities. Requiring candidates and parties to submit detailed accounts of their election expenditures. Auditing these accounts and taking action against those who exceed spending limits or engage in undisclosed spending.*

***Voter Education and Awareness.*** *The ECI conducts extensive voter education programs to increase voter participation and awareness about the electoral process. Systematic Voters' Education & Electoral Participation (SVEEP) is a Multi-intervention programme that reaches out to educate citizens about the electoral process in order to increase awareness and participation. The objectives of SVEEP are to increase electoral participation through voter registration and turnout, to increase qualitative participation in terms of ethical and informed voting and continuous electoral and democracy education.*

***Voter Registration.*** *Facilitating the registration of new voters and updating details of existing voters through online and offline mechanisms. Managing claims and objections regarding the inclusion or exclusion of names in the electoral rolls.*



**Electoral Roll Management.** *Continuous revision and updating of the electoral rolls to Ensure that all eligible voters are registered.*

**Political Party Registration and Regulation.** *Registering political parties under the Representation of the People Act, 1951. Ensuring that parties meet the necessary criteria for registration, such as having a certain number of active members and fulfilling legal requirements. Ensuring compliance with financial reporting and auditing requirements by political parties. Allocating election symbols to parties and candidates, and adjudicating disputes regarding symbols.*

**Dispute Resolution.** *Acting as a quasi-judicial body to adjudicate disputes related to elections, such as disqualification of candidates, registration issues of political parties, and election malpractice cases. Handling election petitions filed post-election through High Courts and Supreme Court for issues like corrupt practices and election result disputes.*

**Voter Education and Awareness.** *Conducting extensive voter education and awareness campaigns to inform citizens about their electoral rights and responsibilities. Implementing special initiatives targeting first-time voters, women, differently-abled voters, and other marginalized groups to increase voter participation. Providing voter assistance through helpline services and mobile applications like the Voter Helpline App to facilitate voter registration and grievance redressal. Using various media platforms, including social media, to disseminate information and engage with the electorate.*

#### ***Technological Integration***

##### ***Electronic Voting Machines (EVMs) and Voter Verifiable Paper Audit Trail (VVPAT).***

The ECI oversees the deployment and management of EVMs and VVPAT systems to ensure secure and transparent voting. In **Subramanian Swamy vs. Election Commission of India** (2013 AIR SCW 5615) **case** The Supreme Court directed the ECI to introduce VVPATs in a phased manner to ensure greater transparency and reliability in the voting process. This judgment highlighted the judiciary's role in promoting technological advancements in the electoral system.

##### ***Digital Services. Implementation of digital services like the National Voter Service***

**Portal (NVSP) and the Voter Helpline App to facilitate voter registration, grievance redressal, and dissemination of election-related information.**

#### ***Regulatory and Adjudicatory Functions:***

**Political Parties.** *Registration and regulation of political parties, monitoring of their election expenditures, and ensuring compliance with electoral laws.*

**Dispute Resolution.** *Acting as a quasi-judicial body to resolve disputes related to electoral processes, including disqualification of candidates and enforcement of election laws.*

#### ***Conduct of Presidential and Vice-Presidential Elections***

Supervising and conducting the elections for the offices of the President and Vice-President of India as per the constitutional provisions. Ensuring the proper functioning of the Electoral College, which comprises Members of Parliament and Members of Legislative Assemblies for Presidential elections, and Members of Parliament for Vice-Presidential elections.

#### ***Inter-Agency Coordination***

Coordinating with central and state security agencies to ensure law and order during elections. Working with various government departments to mobilize resources and support for the electoral process. Engaging with international electoral bodies and participating in global forums to share best practices and learn from global experiences. Hosting and participating in international election observation missions to enhance the credibility and transparency of electoral processes globally.

Election Commission of India is a founding member and past Chair of the Association of World Election Bodies (A-WEB), a body comprising 119 Election Management Bodies from around the globe as its members; founding member and Chair of the Association of the Asian Election Authorities (AAEA), past chair of the Forum of Election Management Bodies of South Asia (FEMBoSA), member of International Institute for Democracy and Electoral Assistance (Intl. IDEA), Stockholm and Commonwealth Electoral Network (CEN) (2010). ECI has always championed the need for international cooperation among democracies, nurtured steady collaborations, learning from each other and sharing experiences and best practices in the areas of Electoral Management and Administration, Electoral Laws and Reforms, Information & Technology with a view to strengthen democracy worldwide.

ECI has signed Memorandum of Understandings (MoUs) with 28 Electoral Management Bodies (EMBs) and 3 International Organisations i.e. International Foundation for Electoral Systems (IFES), International IDEA and United Nations. These MoUs provide institutional framework for collaborative activities like experience sharing, capacity building, technical cooperation and exchange, visits and study missions.

Consequent to the decision taken in the Extraordinary Executive Board Meeting of A-WEB held on 2nd September, 2019, the Election Commission of India has established a Regional Centre of A-WEB in New Delhi namely 'India A-WEB Center'. The Centre is mandated to take up 'Documentation, Research and Training' for A-WEB Members for sharing best practices and capacity building among the members of A-WEB in election management.

Since 2011, ECI, through its premier training institute IIIDEM, successfully imparted trainings to the 69,362 Election Officials from the 109 countries. The Commission has also provided experts and observers for elections to the various countries i.e. Fiji, Cambodia, Thailand, Nepal, Uzbekistan, Kazakhstan, Zimbabwe and Sri Lanka etc. Nepal, Bhutan and Namibia are using the Electronic Voting Machines manufactured in India and the Election Commission of India provided them necessary technical assistance.

International Election Visitors' Program (IEVP) is a flagship program of the Election Commission of India for international cooperation and engagement with the Election Management Bodies (EMBs) of other countries and International Organizations. IEVPs provide the participants an overview of the large canvas of Indian electoral process, the new initiatives taken by ECI on voter facilitation, transparency and accessibility of electoral system, enhanced use of Information and Communication Technology to Strengthen Citizen's participation and transparency. The Commission has organized IEVPs for international community since 2014 and the last three International Election Visitors' Programmes (IEVPs) in 2020, 2021 and 2022 were organized in virtual format amid the Covid-19 pandemic.(ECI)

### **Independence and Autonomy of the Election Commission of India**

The independence and autonomy of the Election Commission of India (ECI) are foundational principles that underpin its effective functioning and credibility. Ensuring that the ECI operates free from undue influence or interference is crucial for upholding the integrity of India's electoral processes. Here's an elaborate description of the independence and autonomy of the ECI:

#### ***Constitutional Autonomy***

The ECI derives its powers and authority from Article 324 of the Indian Constitution, which vests it with the superintendence, direction, and control of the conduct of all elections in India, including

those to Parliament, state legislatures, and the offices of the President and Vice-President. This constitutional provision gives the ECI broad autonomy and authority to oversee the electoral process independently. And Article 329 safeguard the any law relating to election from judiciary and also the conduct of will be protected from parliamentary interference. Though the election can be challenged in court through election petition.

### ***Appointment Process***

The Chief Election Commissioner (CEC) and Election Commissioners are appointed by the President of India. However, the Constitution does not provide for the removal process of the CEC and Election Commissioners, except through impeachment by Parliament, similar to the removal process for judges of the Supreme Court.

### ***Security of Tenure:***

The Constitution ensures the security of tenure for the CEC and Election Commissioners by specifying their term of office as six years or until they attain the age of 65 years, whichever is earlier. This provision shields them from arbitrary removal or dismissal and helps preserve their independence.

### ***Functional Autonomy***

**Decision-Making Powers.** *The ECI exercises wide-ranging decision-making powers in matters related to the conduct of elections, including the scheduling of elections, nomination process, polling arrangements, and declaration of results. Its decisions are binding and must be adhered to by all stakeholders involved in the electoral process.*

**Discretionary Authority.** *The ECI has discretionary authority to take necessary actions to ensure free, fair, and transparent elections, even if such actions are not explicitly provided for in the statute. his discretion allows the ECI to address emerging challenges and unforeseen circumstances effectively.*

### ***Administrative Independence***

The ECI functions as an autonomous body with its own administrative structure, separate from the executive branch of government. It has its own secretariat, staff, and infrastructure to facilitate the smooth conduct of elections.

### ***Financial Autonomy***

The ECI enjoys financial autonomy, with its budgetary allocations made directly by the Parliament of India. This financial independence ensures that the ECI is not reliant on external sources for funding and can operate impartially.

### ***Public Confidence and Trust***

The independence and autonomy of the ECI are essential for maintaining public confidence and trust in the electoral process. Citizens trust that the ECI will act impartially and with integrity to uphold the sanctity of elections and protect the democratic rights of voters. The ECI operates in a non-partisan manner, without favoritism towards any political party or candidate. This non-partisanship is crucial for ensuring that electoral processes are conducted fairly and without bias.

### ***Global Standards***

The independence and autonomy of the ECI are recognized internationally as essential components of a robust electoral system. International organizations and electoral bodies often cite the ECI as a model institution that upholds democratic values and principles.

## **Chapter – V: Challenges & Efforts towards Enhancing Electoral Integrity in India**

India the world's largest democracy, conducts elections that are monumental in scale and complexity. The cornerstone of its democratic process is the integrity of these elections, ensuring that every citizen's vote is accurately counted and fairly represented. However, maintaining electoral integrity is fraught with challenges, ranging from logistical hurdles and technological vulnerabilities to issues of political corruption and voter misinformation. Addressing these challenges is critical to safeguarding the democratic process and ensuring public trust in the electoral system.

The Election Commission of India (ECI), tasked with overseeing and administering elections, plays a pivotal role in this endeavor. Over the years, the ECI has implemented various measures and reforms to enhance electoral integrity, such as adopting advanced technologies, enforcing stringent regulations, and promoting voter education. Despite these efforts, evolving challenges continue to test the robustness of India's electoral framework.

This discussion aims to delve into the key challenges facing electoral integrity in India and the concerted efforts made by the ECI and other stakeholders to overcome these obstacles. By examining these aspects, we can better understand the dynamic interplay between maintaining electoral integrity and fostering a resilient democratic process in contemporary India. The challenges include money power and vote buying, electoral violence and intimidation, voter suppression and disenfranchisement, electoral malpractices and irregularities, and the need for electoral reforms and robust administrative oversight. Here's an elaborate discussion on these challenges and the efforts to enhance electoral integrity:

### **Money Power and Vote Buying**

Candidates and political parties often spend exorbitant amounts of money to influence voters, leading to an uneven playing field. Direct monetary incentives, gifts, or other material benefits offered to voters in exchange for their votes compromise the fairness of elections. One of the most direct forms of vote buying is the distribution of cash to voters. This practice is widespread, especially in rural areas, where cash payments can influence large numbers of voters. Candidates or their agents distribute cash during election campaigns or on the eve of elections to sway voters' decisions. Apart from cash, candidates often resort to offering gifts, such as household items, liquor, and even food packets. In some cases, promises of future benefits, such as job offers or contracts, are made to secure votes.

#### ***Efforts and Measures***

**Expenditure Limits.** *The Election Commission of India (ECI) sets expenditure limits for candidates to curb excessive spending.*

**Expenditure Monitoring Committees.** *Special committees monitor election expenditure, scrutinize accounts, and report violations.*

**Seizure of Illicit Goods.** *ECI collaborates with law enforcement agencies to seize cash, liquor, and other items meant for vote buying.*

### **Electoral Violence and Intimidation**

Incidents of violence at polling stations, attacks on candidates and supporters, and clashes between rival groups can disrupt the electoral process. Threats and coercion directed at voters, especially in conflict-prone areas, can suppress voter turnout and skew results.

#### ***Efforts and Measures***

**Security Deployment.** *ECI ensures heavy deployment of police and paramilitary forces in sensitive areas to maintain law and order.*

**Peace Committees.** *Formation of peace committees involving local leaders and civil society to promote peaceful elections.*

**Strict Penalties.** *Legal provisions for stringent punishment against those involved in electoral violence and intimidation.*

### **Voter Suppression and Disenfranchisement**

Errors in electoral rolls, including missing names of eligible voters and inclusion of ineligible voters, lead to disenfranchisement. Systematic exclusion of marginalized communities, women, and minority groups from voting due to social and administrative barriers.

#### **Efforts and Measures**

**Regular Roll Revision.** *Continuous and periodic revision of electoral rolls to ensure accuracy and inclusivity.*

**Awareness Campaigns.** *Initiatives to educate voters about their rights and the importance of registering and voting.*

**Facilitating Voting.** *Special measures like postal ballots, absentee voting for the differently-abled, and dedicated polling stations for marginalized groups.*

### **Electoral Malpractices and Irregularities**

#### **Booth Capturing**

Illegal seizure of polling stations by armed groups to manipulate voting.

#### **False Voting**

Impersonation and voting by ineligible individuals, including minors and non-citizens.

#### **Rigging and Tampering**

Manipulation of voting machines and other electoral frauds.

#### **Efforts and Measures**

**EVM and VVPAT.** *Introduction of Electronic Voting Machines (EVMs) and Voter Verifiable Paper Audit Trail (VVPAT) systems to enhance transparency and prevent tampering.*

**Strict Monitoring.** *Deployment of observers, including general and expenditure observers, to oversee the conduct of elections.*

**Robust Complaint Reprisal.** *Establishment of helplines and complaint mechanisms for reporting and addressing electoral malpractices.*

### **Electoral Reforms and Legislative Measures**

#### **Outdated Laws**

Existing electoral laws may not adequately address contemporary challenges and technological advancements.

#### **Loopholes**

Legal ambiguities that allow for exploitation and manipulation by vested interests.

#### **Efforts and Measures**

**Comprehensive Reforms.** *Proposals for comprehensive electoral reforms, including amendments to the Representation of the People Act.*

**Consultative Processes.** *Engagement with stakeholders, including political parties, civil society, and experts, to draft robust electoral laws.*



**Strengthening Penalties.** *Enhancing penalties for electoral offenses to deter violations and ensure accountability.*

**Strengthening Election Administration and Oversight.** *Ensuring timely and efficient administration of elections across a vast and diverse country. Adequate resources and trained personnel to manage the electoral process.*

**Capacity Building.** *Regular training programs for election officials to enhance their capabilities and knowledge.*

**Technological Integration.** *Use of technology for voter registration, election management, and real-time monitoring to improve efficiency.*

**Independent Oversight.** *Strengthening the role of the ECI and ensuring its independence from political and executive influence.*

### **Civil Society and Media Engagement**

Ensuring informed and active participation of citizens in the electoral process. Addressing media biases and misinformation that can influence voter behavior.

#### ***Efforts and Measures***

**Voter Education Programs.** *Extensive voter education campaigns to inform citizens about their electoral rights and responsibilities.*

**Media Partnerships.** *Collaborations with media organizations to promote accurate and unbiased reporting on elections.*

**Monitoring Misinformation.** *Initiatives to monitor and counter misinformation and fake news during election periods.*

### **Role of Indian judiciary in maintaining electoral integrity with landmark judgments**

The Indian judiciary plays a crucial role in maintaining electoral integrity by interpreting and enforcing laws, adjudicating disputes, upholding the independence of the Election Commission of India, and ensuring that the principles of free and fair elections are upheld. Through landmark judgments, the judiciary has reinforced the independence of the Election Commission of India (ECI), addressed electoral issues such as the criminalization of politics, transparency in candidate information, hate speech, electoral malpractices, and protected voters' rights. These judicial interventions have significantly strengthened the electoral process in India, ensuring that it remains robust, credible, and reflective of the democratic aspirations of the people. Continuous vigilance and proactive measures by the judiciary are essential to safeguard the principles of free and fair elections in India. Here is an elaborate description of the role of the Indian judiciary in maintaining electoral integrity, along with key landmark judgments:

#### ***Upholding the Independence of the Election Commission of India***

**In S.S. Dhanoa vs. Union of India (AIR 1991 SC 1745)** The Supreme Court emphasized the independence of the Election Commission by ruling that the Chief Election Commissioner (CEC) cannot be removed from office except through impeachment by Parliament, similar to the process for Supreme Court judges. This judgment reinforced the autonomy of the ECI, ensuring that it can operate free from executive interference and maintain the integrity of elections.

#### ***Ensuring Free and Fair Elections***

**In Mohinder Singh Gill vs. Chief Election Commissioner (1978 (1) SCC 405)** The Supreme Court ruled that the ECI has plenary powers under Article 324 of the Constitution to ensure free and fair elections. It can take any necessary action, if it is not explicitly mentioned in the law, to achieve this objective. This judgment significantly empowered the ECI, allowing it to address various challenges and irregularities in the electoral process proactively.

#### ***Disclosure of Candidates' Information***

In the **Union of India vs. Association for Democratic Reforms ((2002) 3 S.C.R. 294)** Case, The Supreme Court directed the ECI to implement measures requiring candidates to disclose their criminal records, assets, liabilities, and educational qualifications. This judgment enhanced transparency in the electoral process, enabling voters to make more informed choices and promoting accountability among candidates.

#### ***Combating Criminalization of Politics***

In the **Lily Thomas vs. Union of India ((2013)7 SCC 653)** case, The Supreme Court ruled that any Member of Parliament, Member of the Legislative Assembly, or Member of the Legislative Council who is convicted of a crime and sentenced to imprisonment for two years or more shall be disqualified from their position immediately. This judgment aimed to cleanse the political system by disqualifying convicted individuals from holding public office, thereby enhancing the integrity of the electoral process.

#### ***NOTA Case***

In the **People's Union for Civil Liberties (PUCL) vs. Union of India ((2013) 10 SCC 1)** case, The Court held that for a democratic country to survive it is important that an individual shall be elected to run the nation. The Court said if NOTA option is provided to voter then this will force the political parties to work hardly and deserving and better people will be nominated. Free and fair election being the basic feature of Indian Constitution protects the identity of electors which indirectly maintains the secrecy. A difference between the person giving vote and the voter who chooses not to will be violation of Article 14. The Court distinguished between freedom of voting and right to vote. Right to vote is a statutory right but the decision of voter whether he will vote or not is a freedom of expression under Article 19 (1)(a). The Court held the right of citizen to give negative vote in election and held constitutional validity of Rules 41(2) and (3) and 49-O of the Conduct of Election. The Court directed the Election Commission to establish the option of NOTA (None of the Above) into electronic voting machine. This NOTA option is similar Abstain. (Srivastava, 2020)

#### ***Curbing Hate Speech and Communalism***

In the **Abhiram Singh vs. C.D. Commachen (2017 (2) SCC 629)** case, The Supreme Court held that any appeal for votes on the grounds of religion, race, caste, community, or language is a corrupt practice under the Representation of the People Act, 1951. This judgment aimed to curb divisive politics and communalism, promoting secularism and ensuring that elections are fought on developmental and policy issues rather than on religious or caste lines.

#### ***Addressing Defections and Party Discipline***

In the **KihotoHollohan vs. Zachillhu (1992 Latest Caselaw 53 SC)** case, The Supreme Court upheld the validity of the anti-defection law, stating that the Speaker's decision on disqualification of members is subject to judicial review. This judgment reinforced the provisions of the Tenth Schedule of the Constitution, which aims to prevent political defections and maintain the stability of elected governments.

***Preventing Electoral Malpractices and Irregularities***

In the **Indira Nehru Gandhi vs. Raj Narain (1975 AIR 865)** case, The Allahabad High Court found Prime Minister Indira Gandhi guilty of electoral malpractices and invalidated her election. This decision was subsequently upheld in part by the Supreme Court. This landmark case underscored the judiciary's role in addressing electoral malpractices, even at the highest levels of government, and demonstrated that no individual is above the law.

***Right to Vote and Voter Education***

In the **PUCL vs. Union of India ((2003) 2 S.C.R. 1136)** case, The Supreme Court ruled that the right to vote is a constitutional right and that the ECI must ensure voter education and facilitate informed voting. This judgment highlighted the importance of voter awareness and education, emphasizing the role of the ECI in empowering voters and ensuring their participation in the democratic process.

***Modified the appointment procedure of ECI***

In **Anoop Baranwal v. Union of India [Election Commission Appointments ((2023) 6 SCC)]** the Supreme Court of India has significantly impacted the functioning and independence of the Election Commission of India (ECI). In March 2023, a five-judge Constitution Bench ruled that the Chief Election Commissioner (CEC) and the Election Commissioners (ECs) will be appointed by the President of India based on the recommendation of a committee. This committee will include the Prime Minister, the Leader of the Opposition in the Lok Sabha (or the leader of the largest opposition party), and the Chief Justice of India. This change aims to reduce executive influence over the appointments, enhancing the independence of the ECI.

This ruling addresses long-standing concerns regarding the impartiality and independence of the ECI. The Court emphasized the need for a law to regulate these appointments, reflecting the intent of the Constitution's framers. Until such a law is enacted by Parliament, the Court's directive will remain in effect.

Another crucial aspect of the judgement is the establishment of a permanent secretariat for the ECI and the recommendation that its expenditure be charged to the Consolidated Fund of India, similar to other constitutional bodies like the Supreme Court and the Comptroller and Auditor General (CAG). This is intended to ensure the ECI's financial independence and operational autonomy. This judgement is seen as a step towards safeguarding the democratic process in India by ensuring free and fair elections, devoid of undue political influence.

***Electoral Bonds Scheme***

In **State Bank of India Versus Association for Democratic Reforms and Others (Writ Petition (Civil) No 880 of 2017)**, The Supreme Court declared the Electoral Bond Scheme and the provisions of the Finance Act 2017 unconstitutional. The State Bank of India (SBI) was ordered to submit details of electoral bonds purchased by contributors and redeemed by political parties between April 12, 2019, and February 15, 2024. The SBI sought an extension of time to comply with the order, citing the complexity of matching donor and bond details. The court dismissed the SBI's application, directing the bank to disclose the information by March 12, 2024. The Election Commission of India (ECI) was ordered to publish the information on its website by March 15, 2024. Chandigarh Mayor Election. (Indiankanoon, 2024)

In that **Kuldeep Kumar v. U.T. Chandigarh, (2024 SCC OnLine SC 175)** case, The Supreme Court invalidated the January 30, 2024, election results for the Mayor of Chandigarh, declaring the Congress-Aam Aadmi Party alliance candidate as the rightful winner. The court found the presiding

officer guilty of misconduct for manipulating the election results, initiating criminal proceedings against him under Section 340 of the Code of Criminal Procedure for making false statements. These judgments highlight the Supreme Court's ongoing role in shaping the legal landscape around elections, addressing issues of transparency, misconduct, anti-defection laws, and the balance of power in election-related corruption cases.

## Chapter – VI: Case Studies; Assessing Electoral Integrity in India

India is the largest democracy in the world and election is the main base for any democracy so the free and fair election is required to protect this democracy. The ECI is the main constitutional body who is equipped with such power and responsibilities to conduct the election. India as a Quasi federal country has two sets of government one is Union and Another is State. Union have two houses i.e. loksabha and RajyaSabha. As per report of ECI there are 543 seats in loksabha and election of this 543 seats is known as general election. The country has been divided into 543 Parliamentary Constituencies, each of which returns one MP to the Lok Sabha, the lower house of the Parliament. The Federal Democratic Republic of India has thirty-six (36) constituent units. All the twenty - eight (28) States and three (3) of the eight (8) Union Territories have their own assemblies - VidhanSabhas. The thirty-one (31) Assemblies have 4123 Constituencies.

### Figure: 2

*The Survey Report of ECI about population, polling Station, Service Electors and Seat.*

Total Population	1.2 billion(2011 census)
Total Electors	950.65 million
Service Electors	19.23 lakh
Polling Stations	12 lakhs
No. of PCs	543 (No. of PCs reserved for SCs & STs are 84 & 47 respectively)
No. of ACs	4123 (No. of ACs reserved for SCs & STs are 613 & 565 respectively)

### Survey Report

The country have 1.2 billion population and 950.65 million eligible voters so it is really great responsibilities for ECI to conduct this freely and in fair way without any kind of interference of the political parties. Because if this have been corrupted then the entire country's voters right will be hampered. The commission started to conduct general election from 1951 and it is continuing. the voters and turn out rate day by day are increasing. The last loksabha election has been conducted on 2019(See Figure 2).

The Election Commission of India (ECI) has generally been praised for its ability to manage the world's largest democratic elections. However, there have been instances in several elections where the ECI faced significant challenges in maintaining electoral integrity. Here are some notable cases where the ECI struggled:

## General Election

### ***Lok Sabha Election 2004***

Accusations of electoral malpractices, including vote-buying, booth capturing, and intimidation, were reported in several constituencies. In states like Andhra Pradesh and Tamil Nadu, reports of money distribution and threats to voters were common. While the ECI took steps to address these issues, including deploying additional security forces and ordering re-polling in affected areas, the prevalence of such practices pointed to gaps in enforcement and monitoring.

### ***Lok Sabha Election 2009***

Certain regions, particularly in states like Bihar and Uttar Pradesh, experienced incidents of booth capturing and electoral violence. Reports of armed gangs taking control of polling stations, coercing voters, and tampering with ballot boxes were prevalent. The ECI ordered re-polling in several affected areas, but the initial inability to prevent these incidents raised concerns about the effectiveness of the security measures. The 15th Lok Sabha elections were crucial with intense competition among major national parties. Significant discrepancies were found in voter lists, with numerous complaints about missing names and wrongful inclusions. The ECI worked to rectify the lists, but many issues remained unresolved by the time of the elections. This led to disenfranchisement of eligible voters and the inclusion of ineligible voters. The ECI faced backlash for its inadequate handling of the voter list management, impacting its reputation for ensuring comprehensive and accurate electoral rolls.

### ***Lok Sabha Election 2019***

Several opposition parties accused the ECI of bias towards the ruling Bharatiya Janata Party (BJP). They alleged that the ECI did not act impartially in handling complaints against the Prime Minister and other BJP leaders for violating the Model Code of Conduct. The ECI cleared Prime Minister Narendra Modi and BJP President Amit Shah of multiple complaints regarding hate speech and the use of the armed forces for political gains, leading to accusations of selective enforcement. (Bench, 2019) This perceived bias undermined public confidence in the ECI's neutrality.

The introduction of VVPATs was intended to enhance transparency and voter confidence in EVMs. Concerns were raised about the effectiveness and reliability of EVMs and VVPATs. There were various Reports submitted about EVMs malfunctioning in various constituencies led to delays and confusion. Opposition parties demanded that 50% of VVPAT slips be matched with EVM results. The Supreme Court directed in **N Chandrababu Naidu v Union of India ((2019) 9 SCC 564)**, that VVPAT verification should be increased to five randomly selected EVMs per assembly segment. Critics argued this was insufficient to ensure full transparency. The ECI's handling of EVM and VVPAT issues was seen as inadequate by some political parties, fueling suspicions about the integrity of the voting process.

**EVM Vote Count Mismatch In 370+ Seats and EC Refuses to Explain.** *The Quint* has deep-dived into two sets of data shared by the Election Commission of India (ECI); first, the voter turnout/votes polled data on the Electronic Voting Machines (EVMs) and second, the votes counted data on EVMs in the Lok Sabha Elections 2019. We have found serious discrepancies in the two sets of data in 373 constituencies which went to polls in the first four phases of the election.

- In Kancheepuram, Lok Sabha seat in Tamil Nadu, the EC data says 12,14,086 EVM votes were polled, and 12,32,417 EVM votes counted – a surplus of 18,331 EVM votes. Why? No answer from EC.
- In Dharmapuri, Lok Sabha seat in Tamil Nadu, the EC data says 11,94,440 EVM votes were polled, and 12,12,311 EVM votes counted – a surplus 17,871 EVM votes. Why? No answer from EC.



- In Sriperumbudur, Lok Sabha seat in Tamil Nadu, the EC data says 13,88,666 EVM votes were polled, and 14,03,178 EVM votes counted. A surplus of 14,512 EVM votes. Why? No answer from EC.
- In Mathura, Lok Sabha seat in Uttar Pradesh, the EC data says 10,88,206 EVM votes were polled, and 10,98,112 EVM votes counted. A surplus of 9,906 EVM votes. Why? No answer from EC.

These are four of highest surpluses in the data. Of the 373 constituencies polled in the first four phases, there were surplus votes counted in over 220 of them – in the rest, vote deficits were recorded. After asking by Quint about discrepancies the ECI has deleted the data from their website. (Quint, 2024)

### ***Lok Sabha Election 2024***

The ECI received over 79,000 complaints through its cVigil app, reflecting widespread concerns about violations of the Model Code of Conduct (MCC) These complaints included allegations of vote-buying, misuse of government machinery, and unlawful campaign practices. There were allegations that high-ranking officials, including Prime Minister Narendra Modi, violated election laws without facing substantial consequences. Opposition parties accused the ECI of inaction in the face of these violations, which included using religious references in speeches and misusing state resources for campaigning. The spread of misinformation and disinformation was a significant issue. Despite efforts to combat fake news, the ECI struggled to control the proliferation of false narratives that could influence voter behavior. Social media platforms were frequently used to disseminate misleading information, complicating the ECI's regulatory efforts. And as per the report EVM dumped in pond, bombs hurled as violence mars last day of polling in West Bengal. The sheer scale of the election, being one of the largest in history, posed logistical challenges that the ECI sometimes struggled to manage effectively. Issues with voter lists, EVM malfunctions, and administrative delays were reported, affecting the voting process in various constituencies as reported by (Times, EC: More than 79,000 complaints on violations of poll code so far, 2024)

### **State Election**

The Election Commission of India (ECI) is tasked with ensuring free and fair elections across the country. While it has often been successful, there have been instances where it has struggled to maintain electoral integrity during state legislative assembly elections. Below is a detailed examination of several notable instances:

#### ***West Bengal Assembly Elections 2021***

The 2021 West Bengal assembly elections were highly contentious, with fierce competition between the Trinamool Congress (TMC) and the Bharatiya Janata Party (BJP). The elections were marked by widespread violence both during and after the polling phases. There were numerous reports of clashes between party supporters, voter intimidation, and attacks on political leaders. Despite deploying central security forces and holding elections in multiple phases to manage law and order, the ECI was criticized for its inability to prevent violence. The violence led to allegations of partisanship and inefficiency in handling the electoral process. The credibility of the ECI was questioned, and its ability to ensure a safe and fair election environment was seen as compromised.

#### ***Tamil Nadu Assembly Elections 2006***

The elections saw intense rivalry between the Dravida Munnetra Kazhagam (DMK) and the All India Anna Dravida Munnetra Kazhagam (AIADMK). There were widespread allegations of vote-buying, with parties reportedly distributing large sums of money to influence voters. Although the ECI attempted

to curb this practice by increasing surveillance and monitoring, the scale of the issue overwhelmed the commission's efforts. The preventive measures were inadequate to tackle the widespread and systemic nature of the malpractice. The election results were tainted by these allegations, and the ECI faced significant criticism for failing to prevent such widespread electoral corruption. (Wikipedia, 2024)

#### ***Bihar Assembly Elections 2005***

The elections were conducted in a politically volatile and violence-prone environment. There were numerous reports of booth capturing, voter intimidation, and electoral rigging, particularly in rural areas. While the ECI ordered re-polling in several affected areas and deployed additional security forces, these measures were largely reactive. The commission was unable to prevent these malpractices from occurring in the first place. The ECI's reactive approach led to significant disruptions and questions about its preparedness and effectiveness in ensuring a free and fair electoral process.

#### ***Uttar Pradesh Assembly Elections 2012***

Uttar Pradesh, being the most populous state, often faces complex electoral challenges. The elections saw a significant number of candidates with criminal backgrounds contesting. Despite efforts to disqualify candidates with serious criminal charges, the ECI struggled to enforce its guidelines effectively. The influence of money and muscle power continued to dominate the electoral process. The presence of criminal elements in the election process raised concerns about the integrity of the elections and the ECI's ability to ensure clean candidates.

### **Local body**

#### ***West Bengal Panchayat Elections 2018 and 2023***

The panchayat elections in West Bengal were highly contentious, involving intense competition between the ruling Trinamool Congress (TMC), Bharatiya Janata Party (BJP), Communist Party of India (Marxist) (CPI(M)), and the Indian National Congress (INC). The elections were marked by widespread violence, including attacks on candidates and voters, booth capturing, and even fatalities. The pre-poll period saw numerous incidents of intimidation, where opposition candidates were allegedly prevented from filing nominations. Despite deploying additional security forces and making attempts to ensure free and fair elections, the SEC of West Bengal was criticized for its inability to prevent violence and intimidation. Reports indicated that many candidates won unopposed due to fear and coercion, raising serious concerns about the fairness of the electoral process. The SEC's failure to control violence and intimidation undermined public confidence in the electoral process. The opposition parties accused the SEC of partisanship and inefficiency, leading to calls for re-elections in several areas. (Times, 'No CAPF to stop miscreants, we watched helplessly': Bengal poll officials, 2023)

#### ***Uttar Pradesh Local Body Elections 2017***

These elections were significant as they were the first major electoral test for the BJP after forming the government in Uttar Pradesh earlier that year. There were widespread allegations of rigging, vote-buying, and misuse of official machinery to influence the results. Opposition parties claimed that the BJP used its influence to manipulate the electoral process.

The SEC faced criticism for not being able to effectively monitor and control the electoral malpractices. There were reports of irregularities in the voter lists and malfunctioning of Electronic Voting Machines (EVMs) in several polling stations. The credibility of the SEC was called into question, with allegations of bias and failure to ensure a level playing field for all candidates. This led to legal challenges and demands for stricter oversight in future elections. (Express, 2021)

***Tamil Nadu Local Body Elections 2019***

The elections were seen as a crucial indicator of political trends in the state, with major parties like the DMK and AIADMK vying for control. There were significant issues with the electoral rolls, including complaints about the exclusion of eligible voters and inclusion of bogus entries. The elections were also marred by incidents of violence, particularly in rural areas.

The SEC struggled to address the problems with the electoral rolls and to maintain order during the elections. Despite efforts to enhance security and ensure accurate voter lists, the scale of the issues proved overwhelming. The integrity of the elections was compromised, leading to widespread dissatisfaction among voters and political parties. The SEC was criticized for its lack of preparedness and inadequate response to the electoral challenges.

***Karnataka Local Body Elections 2015***

These elections involved various local bodies, including municipal corporations, councils, and panchayats, across Karnataka. There were extensive reports of vote-buying and corruption, with political parties allegedly distributing money and gifts to secure votes. The SEC faced difficulties in monitoring and curbing these practices. The measures taken, such as surveillance and enforcement of election expenditure limits, were largely ineffective. The widespread vote-buying practices undermined the fairness of the elections, leading to public disillusionment with the electoral process. The SEC's failure to enforce electoral laws and regulations effectively was a major point of criticism.

***Chandigarh Mayor Election 2023***

In **Kuldeep Kumar v. U.T. Chandigarh, (2024 SCC OnLine SC 175) case**, The Supreme Court on Tuesday overturned the result of the Chandigarh mayoral poll, in which the BJP candidate had emerged an unlikely winner, and declared defeated AAP-Congress alliance candidate Kuldeep Kumar as the new city mayor. A bench comprising Chief Justice DY Chandrachud and justices JB Pardiwala and Manoj Misra was dealing with a plea filed by Kuldeep Kumar, accusing Returning Officer Anil Masih of allegedly "defacing the ballots" during the Chandigarh mayoral polls held on January 30. Further, the top court ordered the prosecution of Anil Masih, also a BJP leader, for his "misdemeanour" after finding serious faults in the conduct of the January 30 election.

It further directed the Registrar Judicial to issue notice to Masih for perjury proceedings under Section 340 CrPC for making a false statement before the court that the mark was made on eight ballots as they were defaced. Today, the apex court conducted a physical examination of the ballot papers and rejected the returning officer's claim from Monday's hearing that they were defaced and noted that Masih had "unlawfully altered the course of the mayoral election" (Times, SC overturns Chandigarh mayoral poll result and declares AAP candidate 'validly elected' mayor, 2024).

***Bye election******Madhya Pradesh By-Elections 2020***

By-Elections were held for 28 seats in the Madhya Pradesh Legislative Assembly following the resignation of several Congress MLAs, leading to the collapse of the Congress government in the state. Allegations of Horse-Trading: Both the Congress and the BJP accused each other of engaging in horse-trading to secure the support of MLAs. While the ECI took some measures to prevent malpractices, such as monitoring cash flow and imposing restrictions on campaigning, there were widespread allegations of ECI's failure to control the situation effectively. The BJP emerged victorious in most of the seats,

leading to a change in the state government. However, questions were raised about the fairness of the electoral process.

### ***West Bengal By-Elections 2021***

By-Elections were conducted for various assembly constituencies in West Bengal amidst heightened political tensions between the ruling Trinamool Congress (TMC) and the Bharatiya Janata Party (BJP). Violence and Intimidation: Similar to the general elections, these By-Elections witnessed widespread violence and intimidation, particularly in areas where the political rivalry was intense. Despite deploying additional security forces and imposing restrictions, the ECI faced criticism for its inability to prevent violence and ensure a free and fair electoral process. The By-Elections results were contested, with allegations of irregularities and voter intimidation affecting the outcome in certain constituencies.

### ***Andhra Pradesh Local Body Elections 2021***

Local body elections were held in Andhra Pradesh for various municipalities and panchayats. Reports emerged of technical glitches in Electronic Voting Machines (EVMs) and Voter Verified Paper Audit Trail (VVPAT) machines, leading to delays and confusion during the voting process. The ECI faced criticism for its handling of the technical issues, with accusations of inadequate preparation and oversight. The election results were delayed, and there were allegations of tampering with EVMs, further eroding trust in the electoral process.

### ***Madhya Pradesh Assembly By-Elections 2020***

By-elections were held in 28 assembly constituencies in Madhya Pradesh due to the resignation of Congress MLAs, leading to the fall of the Kamal Nath-led government. Allegations of Horse-Trading: The elections were marred by allegations of horse-trading and defections, with several Congress MLAs resigning and joining the BJP just before the by-elections. The ECI faced criticism for its perceived inability to prevent defections and maintain the integrity of the electoral process. Opposition parties accused the ECI of not taking sufficient action to curb the practice of inducing defections. Despite the ECI's efforts to ensure smooth conduct of elections, the allegations of political manipulation and horse-trading tainted the electoral process, raising questions about the fairness of the by-elections.

### ***Jharkhand Assembly By-Elections 2020***

By-elections were held in Dumka and Bermo assembly constituencies following the disqualification of sitting MLAs. Violence and Intimidation: Reports of violence and intimidation were prevalent during the by-election campaigns, with clashes between rival party workers and instances of voter intimidation. The ECI faced criticism for its failure to curb the violence and ensure a peaceful electoral environment. Opposition parties accused the ECI of not taking adequate measures to prevent violence and ensure the safety of voters. The incidents of violence and intimidation raised doubts about the fairness of the by-elections, highlighting the challenges faced by the ECI in maintaining law and order during such elections.

## **Big Issues on the path of Electoral Integrity**

### ***Issues with EVM***

The Electronic Voting Machine (EVM), the replacement of the ballot box is mainstay in the electoral process. First conceived in 1977 in the Election Commission, the Electronics Corporation of India Ltd (ECIL), Hyderabad was assigned the task to design and develop it. In 1979 a proto-type was developed, which was demonstrated by the Election Commission before the representatives of political

parties on 6th August, 1980. The Bharat Electronic Ltd. (BEL), Bangalore, another public-sector undertaking, was co-opted along with ECIL to manufacture EVMs once a broad consensus was reached on its introduction (ECI). There are several issues connected with EVM these are:

**Political Nexus in Governing Body.** *The Company BEL & ECIL have 7 Independent*

Directors and among them 4 are directly linked to BJP. The testing Agency STQC (standardization testing and quality directorate) is also a Central government agency.

**Missing EVMS.** *According to the ECI's response on June 21, 2017, to Manoranjan*

Roy's (a Mumbai activist) RTI query, it received 10,05,662 EVMs from BEL between 1989-90 And 2014-15. The ECI also stated that it received 10,14,644 EVMs from ECIL between 1989-90 and 2016-17. However, BEL said, on January 2, 2018, in response to Roy's RTI query, that it had supplied 19,69,932 EVMs to the ECI between 1989-90 and 2014-15. The ECIL's RTI response dated September 16, 2017, stated that it had supplied 19,44,593 EVMs to the ECI. Thus, in a span of around 15 years the ECI has not received 9,64,270 EVMs that BEL states to have delivered and 9,29,949 EVMs that ECIL affirms to have delivered to it. Roy had, in RTI queries to the two companies, sought a year-wise break-up of the order-supply chart, The record for almost every year are replete with gross disparities. (Post, 2018). ECI to suppress this denied 20 Lakhs EVM missing and said media report are misleading. Figures given by the Union Law Ministry and the Election Commission of India (ECI) on purchase of Electronic Voting Machines (EVMs) from public sector manufacturers have thrown up glaring differences, according to replies received under the Right to Information (RTI) law. The discrepancies are now part of a Public Interest Litigation (PIL) before the Bombay High Court. According to an RTI reply given by the law ministry on 1 November, 2017, to Mumbai activist Manoranjan Roy, 13,95,306 Balloting Units (BUs) and 9,30,716 Control Units (CUs) of EVMs were purchased, totalling to 23,26,022 pieces.

Just a month later, on 11 December, 2017, ECI's RTI reply said that it had received a total of 38,82,386 pieces from the two public sector undertakings which manufacture EVMs. Bharat Electricals Ltd (BEL), Bengaluru, supplied 10,05,662 BUs and 9,28,049 CUs, totalling 19,33,711 pieces, while Electronics Corporation of India Ltd (ECIL), Hyderabad, supplied 10,14,644 BUs and 9,34,031 CUs - a total of 19,48,675 pieces.

This total from the two companies — 38,82,386 pieces — is higher by 15,56,364 pieces from the figure of 23,26,022 pieces cited by the Union Law Ministry — barely a month earlier. The ECI had issued two different Letters of Intent (LoI) to BEL and ECIL for supplying large quantities of EVMs. On 2 August, 2016, it ordered 5,50,000 BUs and 5,45,000 CUs, totalling 10,95,000 pieces - half the order went to BEL and the rest to ECIL. Again, on 3 March, 2017, the ECI issued LoIs to the two companies for supplying a total of 4,10,000 BUs and 3,14,000 CUs, totalling 7,24,000 pieces, for the year 2017-2018. Accordingly, BEL supplied 2,05,000 BUs and 1,57,000 CUs (total: 3,62,000 piece), while ECIL supplied 2,17,653 BUs and 35,858 CUs (total: 2,71,653). Compared to the LoIs issued, the final figure supplied fell short by 90,347 pieces, the exact status of which is not clear, said Roy. Surprisingly, despite having a large number of new EVMs in stock, the ECI said on 25 September that it will henceforth deploy only Voter Verifiable Paper Audit Trail machines (VVPATs), for all future Parliamentary and Assembly elections in the country. "In order to meet the requirement of 100 percent VVPATs for all polling stations for the upcoming Lok Sabha Election in 2019, the EC placed an order of 17.45 lakh VVPATs to BEL and ECIL. Till date, 9.45 lakh units have been produced by them. Both PSUs have assured the Commission that the remaining VVPAT units (eight lakh) will be manufactured and supplied to the various States/UTs comfortably before end of Nov 2018," the ECI said in a statement. In its reply,



the Union Law Ministry had said that between 1989-2010, the ECI had received a total of 16,10,430 EVMs, and from 2010-2017, the ECI had received 18,05,182 BUs and 11,82,367 CUs. However, the ECIL said in an RTI reply on 29 June, 2017, that between 1989-2010, it supplied 8,09,806 BUs and 8,09,806 CUs to ECI, plus 10,000 VVPATs in 2014-2015. In 2004-2005, it had delivered 91,050 BUs and 91,050 CUs to various State Election Commissions (SECs), and between 2014-2017, it delivered 1,09,075 BUs and 2,94,337 CUs to the SECs. “What is the reason behind such huge differences in the figures given by the Union Law Ministry and ECI? Since the ministry would rely on data provided by the ECI, it is the latter which must clarify on the issue,” Roy said. These RTI documents form part of a voluminous PIL filed by Roy, raising crucial questions on how EVMs were delivered “by post” and “by hand”, and other relevant issues. Filed in March this year, the PIL will come up for further hearing on 3 October. It is being argued by a team of lawyers including counsel SP Chaudhari, P Pawar and Santosh Saroj, instructed by Pawar & Company. At the last hearing on 19 September, a division bench of Justice SS Kemkar and Justice SV Kotwal had served notices to the ECI, Union Home Ministry, IT Department, Maharashtra Government, ECIL and BEL to respond. This report was published in (Post, 2018)

**Issue with source code.** *Unlike similar systems in other democracies, the source codes* (the set of instructions that guide the functioning of a machine) of India’s EVM system have never undergone an audit by experts independent of government.

**Conflict of Interest.** *The EVM designed and VVPAT invented by Technical Expert Committee (TEC).* The current TEC was constituted in November 2010, during the Manmohan Singh regime, with four experts: Moona, then teaching at IIT Kanpur; professor Dinesh K. Sharma of IIT Bombay; as well as professors D.T. Shahani and A.K. Agarwala of IIT Delhi. (Jagran Josh, 2019)

The VVPAT machines were piloted during a bye-election in 2013, and partially introduced in the 2014 general elections. In late 2013, the Supreme Court held that “the paper trail is an indispensable requirement of free and fair elections. In 2018, the defense ministry public-sector unit Bharat Electronics Limited (BEL) (one of two state-run companies that manufacture EVMs in India) applied for a patent. BEL’s application on March 23, 2018 sought intellectual ownership over VVPAT machines, which print the vote to help a voter confirm that their vote has been cast as intended. Among the 12 people that BEL’s application listed as “inventors” of the VVPAT were Moona, Shahani, Agarwala, and Sharma. So, this means, when the TEC quartet certifies the systems, it is essentially endorsing itself.

“While the ECI has been denying an independent audit of the EVM system, including VVPATs, as demanded by the civil society, it is a matter of utmost distress that it should rather choose to depend on those who own the patent for VVPAT system for certifying their authenticity,” EAS Sarma, a retired IAS officer who has been a secretary of several key central ministries, told us. “It is clearly a case of conflict of interest that raises serious questions, he said.

Jagdeep Chhokar, a founder of the Association for Democratic Reforms, which is a petitioner in an ongoing Supreme Court case on EVMs, pointed out that “there is no dearth of independent evaluators who are technically qualified.” He added, “This sort of in-breeding that ‘I design’ and ‘I give certificate’ is obviously not done.

The Wire asked Dinesh Sharma, the IIT Bombay professor on the TEC, refused to discuss anything with us, saying that he could not talk to the media, and directed us to the ECI. When asked about the conflict of interest in the TEC certifying their own invention, he appeared to contradict the claims made in BEL’s patent documents, which list him as one of the inventors. “We have not invented the VVPAT. When the Election Commission asks, we give inputs for improvement,” he told us. But In

Moona's own telling, according to his LinkedIn profile, "As a member of technical committee of EVMs, I played an instrumental role in designing M3 EVMs and VVPATs" — M3 refers to the generation of EVMs currently in use. "These are security beauties and I had a fulfilling experience in designing them." In 2017, while Moona was at C-DAC, the organisation was also developing prototypes for EVMs that could enable remote voting"(Wire, Questions Surround Committee That Certifies India's Electronic Voting Machines, 2024).

### **Electoral Bond**

In 2024, as stated by ADR "the Electoral Bond Scheme was introduced in 2017 through the Finance Bill. This scheme allowed donors to purchase electoral bonds from specified State Bank of India (SBI) branches. These bonds could be donated to registered political parties, which could then encash them through their verified accounts. The then-Union Finance Minister Arun Jaitley said in the Lok Sabha at the time, "Electoral bonds would be a bearer instrument in the nature of a promissory note and an interest-free banking instrument. A citizen of India or a body incorporated in India will be eligible to purchase the bond."(desk, 2024)

Electoral bonds are interest-free bearer bonds or money instruments that can be purchased by companies and individuals in India from authorised branches of the State Bank of India (SBI). These bonds are sold in multiples of Rs 1,000, Rs 10,000, Rs 1 lakh, Rs 10 lakh, and Rs 1 crore. They can be purchased through a KYC-compliant account to make donations to a political party. The political parties have to encash them within a stipulated time. The name and other information of the donor are not entered on the instrument and thus electoral bonds are said to be anonymous.

**In State Bank of India Versus Association for Democratic Reforms and Others (Writ Petition (Civil) No 880 of 2017) the apex court** Calling it "unconstitutional", a five-judge Constitution bench of the Supreme Court on Thursday struck down the electoral bonds scheme that allowed anonymous donations to political parties. The highly-anticipated judgement, which comes just months ahead of the Lok Sabha election, ruled that the electoral bonds scheme violated freedom of speech and expression under Article 19(1)(a) of the Constitution. Information about funding of political parties is essential for the effective exercise of the choice of voting," Chief Justice Chandrachud said while striking down the scheme, which was introduced through the Finance Act, 2017. The State Bank of India (SBI), which is the issuing bank of electoral bonds, has been ordered to furnish details of the political parties that received electoral bonds since 2019 to the Election Commission of India (ECI) in three weeks. The ECI has been asked to publish such details on its official website as well. The apex direction are:

- As the India Today reported "The electoral bonds scheme has been struck down as unconstitutional. In its verdict, the Supreme Court said the scheme violated the right to information of citizens, impacting free speech and expression under Article 19(1)(a) of the Constitution. "Transparency in political funding cannot be achieved by granting absolute exemptions," the Supreme Court said.
- The top court ordered the issuing bank (SBI) to forthwith stop the issue of electoral bonds. The State Bank of India has been asked to furnish the details of donations through electoral bonds and the details of the political parties which received the contributions to the Election Commission by March 6, 2024. Electoral bonds that have not been encashed by political parties have to be returned to the purchaser.

- The Supreme Court also quashed amendments made to the Income Tax Act and the Representation of People Act, which had made the donations anonymous.
- In a major observation, the Supreme Court said the electoral scheme would aid the political party that was in power. It also held that the scheme cannot be justified by claiming that it would help arrest the inflow of black money in politics. "Economic inequality leads to differing levels of political engagement. Access to info leads to influencing policy making and also leading to quid pro quo arrangements may also help a party by the party in power," the top court said in its judgement.
- The judgement also said the amendment to the Companies Act, allowing blanket corporate political funding, was "unconstitutional". The CJJ said it violated the right to information of citizens about possible quid pro quo. Before the amendment to the Companies Act in 2017, loss-making firms in India were not allowed to contribute" (Today, 2024).

### **Remove CJI From The Appointment Committee**

The Parliament enacted the Election Commission (Conditions of Service of Election Commissioners and Transaction of Business) Act in 1991. The Act deals with the salary, terms of office, pension and other perks for election commissioners but does not prescribe a selection procedure for their appointment or an eligibility criteria. Till 2023, the CEC and ECs were appointed by the President on the advice of the Prime Minister.

The apex court on 2nd March 2023 directed in **Anoop Baranwal versus Union of India((2023) 6 SCC)** to constitute an Election Commission appointment committee comprising of CJI, Prime Minister and Leader of opposition in Lok Sabha. But the contemporary Indian government introduced a Bill on ON Thursday, the Parliament cleared the Chief Election Commissioner and other Election Commissioners (Appointment, Conditions of Service and Term of Office) Act, 2023. The Bill was passed in Lok Sabha earlier in the day amidst of suspension of Opposition members of Parliament (MPs). On December 12, the Rajya Sabha had passed the Bill. The Bill seeks to regulate the appointment, conditions of service and term of office of the Chief Election Commissioner (CEC) and other election commissioners (ECs), the procedure for transaction of business by the election commission and for matters connected therewith or incidental thereto. the Bill passed by the Parliament has Removed the CJI from the selection committee to appoint the CEC and ECs.

The Bill stating that the CEC and other ECs will be appointed from the persons who are holding or have held a post equivalent to the rank of secretary to the government of India and shall be persons of integrity who have knowledge of and experience in management and conduct of elections.

As per the Bill, a search committee will be constituted and the search committee will be headed by the minister of law and justice and comprising two other members not below the rank of secretary to the government of India shall prepare a panel of five persons for consideration of the selection committee, for appointment as the CEC and other ECs.

After that, a committee comprising the Prime Minister; the Leader of Opposition in Lok Sabha and a Union cabinet minister to be nominated by the Prime Minister, shall recommend the name for the appointment to be made by the President. Relevantly, the Bill also provides that the selection committee may also consider any other person than those included in the panel by the search committee. The Bill also provides that the CEC and ECs shall hold office for a term of six years from the date on which they assume their office or till they attain the age of sixty-five years, whichever is earlier. And Both the CEC and ECs shall not be eligible for re-appointment(Leaflet, 2023).

The main issue here is that if the ruling party in a dominant position in Selection committee then the Ec's will be appointed by the ruling party. In the proposed committee the PM and Cabinet Ministry both are from the ruling party in 3 members committee if majority are from ruling party then obviously the question shall be raised about the integrity of The commission.

## **Chapter- VII: Conclusion**

India is the world largest Democracy in the world and a democracy depends on the people's right to elect their representative. And same thing echoed by Indian constitution that in preamble "We the People" reflects people's governance. The governing body of India are elected by a general election on adult suffrage. And the governing body of states are elected by the same procedure. So the election should be free and fair to maintain the people's faith on the electoral system. Election commission of India is the constitutional body to conduct the election of India. The examination of the election procedure and the role of the Election Commission of India (ECI) in maintaining electoral integrity reveals a complex interplay of historical evolution, legal frameworks, procedural advancements, and ongoing reforms aimed at upholding democratic values. The historical journey of Indian elections reflects the nation's switch from colonial rule to a robust democratic framework. Over the decades, India's electoral system has witnessed significant transformations, encompassing the development of comprehensive electoral laws and procedures guided by constitutional provisions. These legal frameworks have been crucial in ensuring free and fair elections, laying a solid foundation for democratic governance. Electoral integrity, defined by the adherence to principles of transparency, fairness, and inclusivity, is pivotal in sustaining democratic systems. It encompasses various components, including accurate voter registration, impartial conduct of elections, timely counting and declaration of results, and effective resolution of electoral disputes. The importance of electoral integrity cannot be overstated, as it directly influences public trust in the democratic process and the legitimacy of elected representatives. The ECI, established under the Constitution, plays a central role in administering elections and safeguarding electoral integrity. Its organizational structure and composition are designed to ensure independence and autonomy, enabling it to perform key functions such as overseeing the electoral process, enforcing electoral laws, and addressing grievances. The ECI's commitment to maintaining impartiality and transparency has been instrumental in enhancing the credibility of Indian elections. Despite these robust mechanisms, the Indian electoral system are facing several challenges. Money power and vote-buying, electoral violence, voter suppression, various malpractices, EVM malfunctioning and One Sided Committee for election commission's recruitment to pose significant threats electoral integrity and sanctity. Addressing these issues requires comprehensive reforms and legislative measures aimed at strengthening the election administration. Efforts to enhance oversight, improve voter education, and engage civil society and media are critical in mitigating these challenges. The integration of technology in electoral processes, such as the use of Electronic Voting Machines (EVMs) and Voter Verified Paper Audit Trails (VVPATs), has contributed to greater efficiency and transparency. However, it also necessitates stringent cyber security measures to prevent manipulation and ensure the integrity of electoral data. Ongoing reforms focused on technological advancements and procedural improvements are essential to adapt to the evolving electoral landscape. Assessing electoral integrity through case studies of general, state assembly, local body, and special elections provides valuable insights into the effectiveness of existing mechanisms and the areas needing improvement. These case studies highlight the diversity and complexity of electoral challenges across different levels

and contexts, emphasizing the need for tailored approaches to enhance electoral integrity. The continuous evolution of India's electoral system underscores the dynamic nature of democracy. The Indian judiciary plays a crucial role in maintaining electoral integrity by interpreting and enforcing laws, adjudicating disputes, upholding the independence of the Election Commission of India, and ensuring that the principles of free and fair elections are upheld. While significant strides have been made in establishing a credible electoral framework, the persistence of certain challenges calls for sustained efforts and innovative solutions. The Election Commission of India, along with other stakeholders, must remain vigilant and proactive in addressing emerging threats and reinforcing the pillars of electoral integrity. As the various incident like: mismatching in casting and counting ratio of votes in 2019 general election, about 10 lakhs missing EVM from ECI, conflict of interest in EVM and VVPAT making and certifying authority, and various malpractices during various state legislative and local bodies election clearly supporting Null hypotheses. That means it clearly visible that the ECI in contemporary time failed to protect the electoral integrity and sanctity of election.

By fostering a culture of transparency, accountability, and inclusiveness, India can further strengthen its democratic processes and ensure that elections remain a true reflection of the people's will. As the largest democracy in the world, India's commitment to electoral integrity sets an important example on the global stage, demonstrating that robust democratic institutions and vigilant oversight are essential for the sustenance of democracy.

## **Recommendations**

### ***Prepare a Special Mechanism for EVM***

The report on EVM & VVPAT by Citizens' commission on election" recommended that "The electronic voting system should be re-designed to be software and hardware independent in order to be verifiable or auditable. EVMs cannot be assumed to be tamper-proof. As defined by Rivest [Rivest, 2008], a voting system is software (hardware) independent if an undetected change in software (hardware) cannot lead to an undetectable change in the election outcome. In other words, even if a voting machine is tampered to change the votes, it should be possible to detect so in an audit. This is not to say that a hardware based EVM cannot be used, but that the correctness of an election outcome should not depend on the assumption of correctness of the EVM. Any solution that relies crucially on the assumption of correctness of the EVMs is not software and hardware independent [Vora et al., 2020, Sharma, 2020]. To be compliant with democratic principles there is a definite need to move away from only certification of voting equipment and processes and instead demonstrate - end-to-end - that the outcome of an election is correct irrespective of machines and custody chains of EVMs. Two ways to do this are mentioned in the literature, namely, adopting rigorous and well established strategies for compliance and risk-limiting audits [Lindeman et al., 2012, Stark and Wagner, 2012, Bernhard et al., 2017] or by using a provably end-to-end verifiable cryptographic protocol, or both [Bernhard et al., 2017, Vora et al., 2020, Sharma, 2020]".

### ***100% VVPAT Counting***

The Voter Verified Paper Audit Trail is an independent verification system for electronic voting machines. The process allows voters to check if their votes have been casted correctly. The system is useful in detecting possible election fraud or malfunctioning of the voting machines. The slips that the VVPAT machines generate can be used to audit voting data stored electronically. The slips are not handed over to the voters, but collected in a separate box.



Presently, slips from only five randomly selected polling stations in each Assembly segment are verified. This is done after the final round of counting of votes, recorded in the electronic voting machines. But now there is a strong requirement of 100% VVPAT slip counting. Though the Supreme Court in “**Association for democratic reforms v. Election commission of India and another** (2024 3 S.C.R. 417)” Reaffirming its faith in the working of Electronic Voting Machines (EVMs), the Supreme Court Friday rejected prayers for 100 per cent verification of the votes polled in them with slips printed by the Voter Verifiable Paper Audit Trail (VVPAT) machines or, in the alternate, a return to the system of ballot papers as stated by (Indian Express, 2024). Cause there are several seats where the candidate won the election with slight margin. And counting five randomly selected VVPAT will not work. Former Chief Election Commissioner SY Quraishi on said that 100% of the Voter Verified Paper Audit Trail slips should be verified as part of the vote counting process. Quraishi’s comment, in a social media post, comes just months ahead of the 2024 Lok Sabha elections. He has concluded that Counting all VVPAT slips won’t take more than a day, Quraishi wrote on social media platform X. But this will restore people’s confidence. That’s essential for credible elections” (scroll, 2023).

### ***Return to Ballot paper***

Serious doubts about safety, accuracy, reliability, and verification of elections through electronic machines are raised throughout the world. It is surprising that even some in major developed countries of the world do not rely on the technology of EVMs. Jagron Josh Reported that Many countries of the world, including England, France, Germany, the Netherlands and the United States, have banned the use of EVMs.

Netherlands in 2006 a pressure group called "We Don't Trust Voting Computers" demonstrated security flaws in voting machines. After an enquiry committee's report to Parliament, the regulation for electronic voting was withdrawn in 2007.

As reported by Economic times “a German court banned EVMs in 2009. The ruling was interpreted to mean that the court concluded that a computer-based system of voting required knowledge of programming that citizens did not have and, hence, the system was 'opaque'. This defeated the constitutional requirement of public examinability of all essential steps in an elections (Economic times, 2018). The Court believed that transparency in elections is the constitutional right of the people, but "efficiency" is not constitutionally protected value.

This is not the first time that there has been debate over the EVM in the country. **Subramanian Swamy had raised this issue in 2009.** He said that we know that it will take more time to conduct election and to counting the votes but we all have to remember that we are electing our rulers for five years not for a month. Our future will depend on them so it might take to 5 to 10 days to count but peoples will need to be win. Jagran Josh beautifully quoted that “As a matter of fact, it would be right to say that it does not matter that by which means the election is conducted but the democracy must win in all situations” (Jagran Josh, 2020).

### ***Open Source Code***

As stated by wire that “The Supreme Court has said that making the source code of the software of EVMs public could result in its misuse. Seeking a clarification Wednesday (April 24) on a clutch of petitions regarding EVMs, Justice Sanjiv Khanna said, “The source code should never be disclosed. If it is disclosed, it will be misused.”” (Wire, SC Warns Against Publicising EVM Source Code. But What Does It Mean?, 2024). But country Like Australia made their EVM source Code open and sometimes they arrange competition to testify this code so they can monitor the lacunae of the code through public

participation. But in our country the scenario totally different our country made the source code is not accessible for public if there is any lacunae exist in it then it could not be identified by anyone.

### ***Strengthening Legal Framework and Electoral Laws:***

**Comprehensive Review of Electoral Laws.** *Conduct a thorough review of existing electoral laws to identify gaps and ambiguities. Amend laws to address contemporary challenges such as digital campaigning, social media influence, and the role of big data in elections.*

**Strict Regulation of Campaign Finance.** *Implement stricter regulations on campaign finance to curb the influence of money in elections. Introduce caps on campaign spending and ensure transparency in the source of political funding.*

**Clear Definition of Electoral Offenses.** *Clearly define electoral offenses and associated penalties to ensure swift and decisive action against violators. This includes issues like vote buying, electoral fraud, and misinformation campaigns.*

### ***Ensuring Independence of the ECI***

Strengthen the constitutional and legal safeguards to ensure the independence of the Election Commission of India (ECI). This could include fixed tenures for commissioners and protection against arbitrary removal. The Supreme court directed in a case to constitute a Selection committee for selection of election commission constituting with Prime Minister, Opposition of Lok Sabha, Cabinet Ministry and Chief Justice of India but the contemporary government passed an Act to modify the judgement of supreme court where they Removed CJI from this committee. And without CJI this Committee's Majority are from ruling party so there should be the committee as per the direction supreme court to protect the integrity of Election Commission. Invest in the capacity building of the ECI staff through regular training programs and international collaborations to keep them abreast of global best practices in election management.

### ***Improving Voter Registration and Electoral Rolls***

Implement targeted outreach programs to ensure that marginalized groups, including women, minorities, and people with disabilities, are adequately represented in the electoral rolls.

### ***Ensuring Free and Fair Conduct of Elections***

**Healthy Polling Infrastructure.** *Ensure that polling stations are accessible, adequately staffed, and equipped with all necessary materials. Special provisions should be made for remote and difficult-to-access areas.*

**Use of Technology.** *Expand the use of technology to streamline various aspects of the election process, including biometric verification of voters, real-time monitoring of polling stations, and secure transmission of results.*

### ***Enhancing Electoral Dispute Resolution Mechanisms***

**Accelerated Dispute Resolution.** *Establish specialized fast-track courts for the swift resolution of electoral disputes. Ensure that election-related grievances are resolved promptly to maintain public confidence in the electoral process.*

**Transparent Mechanisms.** *Make the dispute resolution process transparent and accessible to the public. Publish detailed reports on complaints received, actions taken, and resolutions achieved.*

### ***Addressing Challenges to Electoral Integrity***

**Combatting Electoral Malpractices.** *Deploy stringent measures to combat electoral malpractices such as vote-buying, voter intimidation, and booth capturing. This can include increased surveillance, stricter penalties, and better coordination with law enforcement agencies.*

**Ensuring Voter Security.** *Develop comprehensive security plans for elections to prevent violence and intimidation. Engage with local communities and stakeholders to promote a peaceful electoral environment.*

### **Promoting Civil Society and Media Engagement**

**Civil Society Involvement.** *Encourage active participation of civil society organizations in voter education, election monitoring, and advocacy for electoral reforms. Provide support and funding for these initiatives.*

**Strict Regulation for Media.** *Naturally media helps to conduct literacy campaigns to educate voters and plays a crucial role to make the voter informed about each and every little thing about voting and helps to make decision. But our country's Media Ranked 159 out 180 in terms of freedom in the report of world press freedom index in 2024 so instead of helping electoral procedure media are creating hindrance in the procedure. There is strong requirement of a strict regulation for media. This regulation will regulate that neither the media can be influenced by any political party nor the any political party can influenced the freedom of media.*

### **Implementing Electoral Reforms**

**Regular Consultation and Dialogue.** *Establish a regular dialogue between the ECI, political parties, civil society, and other stakeholders to discuss and implement electoral reforms. This ensures that reforms are inclusive and widely accepted.*

**Pilot Testing of Reforms.** *Before nationwide implementation, pilot test significant electoral reforms in select regions to assess their effectiveness and make necessary adjustments.*

### **Case Studies and Best Practices**

**Documenting Case Studies.** *Regularly document and analyze case studies of elections at different levels (general, state, local) to identify best practices and areas for improvement. Use these insights to refine electoral processes and policies. So that things will not be happened in future again.*

**International Best Practices.** *Study and adopt international best practices in election management and integrity. Collaborate with global election bodies and organizations to exchange knowledge and experiences.*

### **Independent Organization to Assess the Electoral System**

Currently EVM and VVPAT are being manufactured by BEL and ECIL both are central's entity and they are being certified by TEC and STQC both are central's entity and the higher official of TEC is also the inventor of TEC. It is like a I made it and certifying it just like Central entity's product are being certified by a central entity and also who invented it he certifying it is a ridiculous thing. To protect integrity of EVM and VVPAT there should be a independent certifying authority So the people have on the EVM and VVPAT.

### **Public Feedback Mechanisms**

Establish mechanisms for continuous public feedback on the electoral process. Use this feedback to make necessary adjustments and improvements. By obeying these recommendations, India can continue to strengthen its electoral system, enhance the integrity of its elections, and ensure that its democratic processes remain robust and credible.

**Future Direction*****Impact of Digital Campaigning***

Study the influence of digital campaigning and social media on voter behavior and election outcomes. Investigate the role of misinformation and how it can be countered.

***Efficacy of Electoral Reforms***

Evaluate the impact of recent electoral reforms such as VVPAT, NOTA, and transparency measures in political funding. Conduct longitudinal studies to assess their effectiveness over multiple election cycles.

***Technological Innovations in Elections***

Research the potential of emerging technologies like blockchain for secure voting, AI for voter registration and fraud detection, and big data analytics for election forecasting and management.

***Behavioral Studies on Voter Turnout***

Conduct behavioral studies to understand the factors influencing voter turnout, especially among marginalized and urban populations. Develop strategies to increase participation based on these insights.

***Comparative Analysis of Electoral Systems***

Compare India's electoral system with those of other democracies to identify best practices and potential improvements. Focus on aspects like electoral dispute resolution, campaign finance regulation, and voter education.

***Role of Media in Elections***

Investigate the role of traditional and digital media in shaping public opinion and its impact on electoral integrity. Study the effectiveness of media literacy programs in countering misinformation.

By implementing these recommendations, the Election Commission of India can significantly enhance the integrity, transparency, and efficiency of the electoral process, thereby strengthening the democratic fabric of the nation.

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