

Election Commission of India

[UPSC Notes]

What is the Election Commission of India?

The supervision of the Union and State election process in India is in the purview of the Election Commission of India, an independent constitutional institution. The organisation is responsible for overseeing elections for the President and Vice President of India as well as the Lok Sabha, Rajya Sabha, and State Legislative Assemblies.

Article 324 of the Constitution grants the Election Commission authority to carry out its duties, and the Representation of the People Act was subsequently passed. The Constitution provides for the commission to have the authority to take necessary measures where the laws that have been passed do not have enough provisions to address a specific circumstance that may arise during the conduct of an election.

The country's higher courts, the Union Public Service Commission, and the Comptroller and Auditor General of India are among the few institutions that operate with both autonomy and freedom. The Election Commission is one of these few institutions because it is a constitutional body. It is an ongoing constitutional entity.

Constitutional Appointment of the ECI

As stated above, the Election Commission of India is an autonomous body which is constitutional and permanent. Let's review the process of appointment in the ECI;

- The Chief Election Commissioner (CEC) was the only member of the Election Commission from the time of its early establishment in 1950 until 15 October 1989.
- The voting age was lowered from 21 to 18 on October 16, 1989. In order to handle the election commission's increasing workload, the president nominated two additional election commissioners.
- Ever since then, the Election Commission has consisted of a total of three election commissioners.
- The Election Commission afterwards returned to its original position in January 1990 after the two election commissioner positions were eliminated.
- Later in October 1993, the president nominated two additional election commissioners once again.
- The chief and the remaining two election commissioners are paid the same as Supreme Court judges and have the same authority and benefits.
- When the Chief Election Commissioner and/or two other election commissioners disagree on a topic, the Commission must resolve the disagreement by a majority vote.
- They hold the position for a period of six years or until they are 65, whichever comes first. Before the end of their term, they are also eligible for removal or resignation at any time.

Constitutional Provisions for the ECI

The Indian Constitution's Part XV concerns elections and appoints a commission to handle these issues.

- On January 25, 1950, the Election Commission was constituted in compliance with the Constitution.
- The constitution's Articles 324 to 329 address the commission's and the member's authority, function, tenure, eligibility, etc.

| Articles related to Elections | |
|-------------------------------|---|
| Article 324 | Election Commission will be in charge of overseeing, directing, and managing elections. |
| Article 325 | No one shall be excluded from or assert a claim to inclusion in a special electoral roster on the basis of their religion, race, caste, or sex. |
| Article 326 | Adult suffrage will be used as the foundation for elections to the House of People and state legislative assemblies. |
| Article 327 | Parliament has the authority to create rules governing legislative elections. |
| Article 328 | A state's legislature has the authority to create rules governing the elections for that legislature. |
| Article 329 | Prevents judges from meddling in electoral processes. |

Article 324

The Election Commission of India is given the authority under the Constitution to direct, supervise, and manage elections for the state legislatures, the president of India, and the vice-president of India.

The Election Commission is a body shared by the Central government and the State governments that operates across the entirety of India. It should be noted that the commission

has nothing to do with the state's municipal and panchayat elections. As a result, the Indian Constitution establishes a distinct State Election Commission.

The provisions provided by Article 324 for regulating the structure of the Election Commission are as follows:

- The ECI can have the Chief Election Commissioner and as many other Election Commissioners required, as provided for in **Article 324(2)**.
- The Chief Election Commissioner and the other Election Commissioners must be appointed by the President of India, according to **Article 324(2)**.
- In circumstances where another Election Commissioner is appointed, the Chief Election Commissioner takes over as head of the commission in accordance with **Article 324(3)**.
- In accordance with **Article 324(4)**, the President of India could also select regional commissioners to assist the election commission as he thinks is necessary; this can be done after consulting the election commission.
- According to **Article 324(5)**, the President of India will determine the term and parameters of the work that the election commissioners and regional commissioners must perform. It further stipulated that the chief election commissioner and the two other election commissioners would have equivalent authority and receive equivalent compensation and benefits as a Supreme Court judge would.

The Composition of the Election Commission of India

The Election Commissioner Amendment Act of 1989 changed the commission from being a single-member body to a multiple-bodied member body.

- One Chief Election Commissioner and two Election Commissioners constitute the commission.
- Rajiv Kumar was recently appointed as the Chief Election Commissioner by the Indian President (25th CEC).
- New Delhi serves as the commission's secretariat.
- The Chief Electoral Officer, an officer with the IAS rank, assists the state electoral commission.
- Election commissioners and the chief election commissioner are chosen by the president.
- Their set term is for six years, or until they reach 65 years old, whichever comes first.
- They have the same standing, compensation, and benefits as Supreme Court judges.

The Procedure of Removal of the Election Commission

- The only way for Parliament to remove the Chief Election Commissioner from office is through a procedure akin to that used to dismiss a Supreme Court judge.
 - Using a motion approved by the Parliament, judges of the High Courts and Supreme Court, the CEC, and the Comptroller and Auditor General (CAG) may be removed from their positions for "Proven misbehaviour or incapacity."
- Removal calls for a special majority of 2/3 of the members voting in person and backed by more than 50% of the house's overall strength.
- The term "impeachment" is not used in the Constitution to describe the removal of judges, CAGs, or CECs.

- The term "Impeachment" is solely used to refer to the removal of the President, which calls for a special majority of 2/3 of the members of both chambers combined, a phrase that is not used elsewhere.

Functions of the Election Commission

There are several functions of the ECI. they have been listed below;

- Superintendents of the Election Commission of India oversee, direct, and regulate the whole election process for the offices of President and Vice-President of India as well as the legislatures of each State.
- The commission's primary responsibility is setting the election dates for the timely and periodic conduct of general or bye-elections.
- Electoral rolls are created, and electronic photo ID cards are issued (EPIC).
- It makes decisions regarding the placement of polling places, the distribution of voters among them, the location of counting centres, the arrangements to be made in and around polling places and counting centres, as well as any related issues.
- It acknowledges political parties, confers electoral symbols upon them and settles disputes involving them.
- The Commission even has the advising authority over the issue of post-election dismissal of lawmakers and state representatives who are currently serving in office.
- In order to prevent unfair practises or willful abuse of power by those in authority, it issues the Model Code of Conduct for Political Parties and Candidates during Elections.
- For all political parties, it establishes and regulates spending caps on each candidate's campaign.

The Role of the Election Commission

The ECI is greatly important for a democracy as wide and diverse as India.

- Since 1952, the Election Commission has effectively conducted both national and state elections. To promote increased public participation, the Commission has begun to take a more active role in recent years.
- The Commission has gone as far as fining political parties and threatening them with de-recognition if they failed to uphold internal party democracy.
- It maintains the constitutionally defined values of equality, equity, impartiality, and independence as well as the rule of law in overseeing, directing, and controlling election governance.
- It holds elections to the greatest standards of professionalism, independence, accountability, fairness, openness, and credibility.
- It ensures that all eligible citizens take part in the voting process in a welcoming and inclusive environment.
- In the spirit of the electoral process, it interacts with political groups and all stakeholders.
- It increases and builds confidence and trust in the nation's electoral system by raising understanding of the voting process and electoral governance among key stakeholders, including voters, political parties, election officials, candidates, and the general public.

Powers of Election Commission of India

In detail, these powers of the Election Commission of India are:

- Using the Delimitation Commission Act of Parliament as a guide, to determine the territorial boundaries of the Electoral Constituencies across the nation.

- Creating electoral rolls, which are then periodically revised to enroll all eligible voters.
- Distributing election schedules and dates and reviewing nomination forms.
- Recognising political parties and assigning them electoral insignia.
- acting as a court to resolve arguments over the decision to recognise political parties and assign them election symbols.
- Appointing investigators to look into electoral arrangements complaints.
- Deciding on the code of conduct for the political parties and candidates to adhere to during elections.
- Putting together a plan to promote all political parties' platforms on radio and television during elections.
- Providing guidance to the President on issues involving the disqualification of MPs.
- Assisting the Governor on issues including MLA disqualification.
- Cancellation of the elections on instances of violence, rigging, or other irregularities, such as booth capture.
- Asking the Governor or President to requisition the personnel needed to conduct elections
- Monitoring the nation's voting equipment to guarantee the execution of free and fair elections.
- In order to extend the state of emergency after a year, officials must advise the President as to whether elections can be conducted in a state under his control.
- Listing political groups, giving them national or state party status (depending on their poll performance).

Deputy election commissioners assist the Commission in carrying out its duties. The Commission appoints the deputy ECs, who are recruited from the civil services. Their tenure is set. The secretaries, joint secretaries, deputy secretaries, and under-secretaries working in the secretariat of the commission provide assistance to them.

ECI's Recommendations on Electoral Reforms

The preliminary recommendations for electoral changes from nine working groups, which included ECI officials and State Chief Electoral Officers, were presented in 2020. The suggestions comprise:

- Replacing all existing voter registration and address change forms with a single form for all voter services.
 - Having too many forms complicates the process and reduces its effectiveness.
- Starting online registration services for all prospective voters at the high school or college level at the age of 17, allowing them to be added to the electoral roll as soon as they turn 18.
- The ECI also suggested four deadlines for voter registration each year.
- For the benefit of voters, it was also suggested to provide electronic copies of the voter ID card or EPIC.
- Examining the "possibility and feasibility of other voting procedures" was another one of the proposals.
 - For the ECI, IIT-Madras was developing a prototype of an Aadhaar-linked voting system that shall operate remotely.
- The recommendations for political parties included a spending limit for parties and online nomination of candidates.
- Individual candidates are currently only permitted to spend a certain amount on campaigning.

- A "silent interval of 48 hours" was suggested as a further proposal before polls in print and digital media.
 - Currently, it is against the law to campaign on electronic media within 48 hours of a vote.

Election Laws (Amendment) Bill 2021

The Election Laws (Amendment) Bill, 2021 was approved by the Lok Sabha in December 2021. It aims to integrate the Aadhaar ecosystem with voter identification cards and electoral roll data.

Salient Features of the Bill:

- **Electoral Roll's Duplication:** It enables the synchronisation of electoral roll data with the Aadhaar database by allowing amendment of section 23 of the Representation of People's Act, 1950.
 - This tries to reduce the likelihood of a single person being enrolled several times in various locations.
- **Multiple Qualifying Dates:** After turning 18, people acquire the right to vote. Even after turning 18, many people are not included in the electoral rolls. This is due to the fact that the system uses January 1 as the qualifying date.
 - The measure specifies that four dates—the first of the months of January, April, July, and October—will be designated as the qualifying dates for updating the voting records to include people who have turned 18 years old.
- **Practising Gender Neutrality:** Spouse will now be used in place of "wives of service voters" when registering voters. The laws will become more "gender-neutral" as a result.
 - Military police from a state operating outside of it, members of the armed forces, and government workers stationed outside of India are all considered service voters.