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INTERNATIONAL LAW  
JOURNAL

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**WHITE BLACK  
LEGAL LAW  
JOURNAL**  
**ISSN: 2581-  
8503**

*Peer - Reviewed & Refereed Journal*

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**THE UTTARAKHAND UNIFORM CIVIL CODE ACT, 2024: A  
SCALABLE NATIONAL BLUEPRINT OR A FLAWED STATE  
EXPERIMENT?**

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**ABSTRACT**

This research paper evaluates the multidimensional role and evolving regulatory architecture of the Election Commission of India (ECI), highlighting its position as the indispensable fulcrum of Indian electoral democracy. Grounded in the plenary "superintendence, direction, and control" mandate of Article 324 of the Constitution, the ECI operates as a dynamic guardian authorized to ensure free and fair elections, particularly where statutory laws are insufficient.

The paper outlines the ECI's core administrative and quasi-judicial functions, beginning with the continuous purification of electoral rolls including the judicially calibrated, voluntary integration of biometric Aadhaar data for deduplication. It also examines the ECI's rigorous taxonomy for recognizing political parties and allotting election symbols, emphasizing its crucial role in adjudicating complex factional schisms through the test of legislative and organizational majority. A central focus of the research is the ECI's proactive measures to neutralize electoral malpractices and ensure a level playing field. This includes the enforcement of the Model Code of Conduct (MCC), which has been digitally transformed through crowdsourced platforms like the cVIGIL application and updated to combat algorithmic disinformation and AI deepfakes. To dismantle the influence of illicit finance and physical intimidation, the ECI deploys a multitiered expenditure monitoring matrix utilizing Shadow Observation Registers and Media

Certification Committees to curb "Paid News" alongside vulnerability mapping and the strategic deployment of Central Armed Police Forces (CAPFs).

The technological robustness of the electoral process is explored through the EVM-VVPAT infrastructure, whose integrity and audit mechanisms were decisively upheld by the Supreme Court in 2024 to guarantee absolute voter transparency. The paper also highlights the monumental success of the Systematic Voters' Education and Electoral Participation (SVEEP) programme, which utilized targeted interventions to dismantle logistical barriers and achieve a historic turnout of 642 million voters including a record 312 million women—in the 2024 Lok Sabha elections.

Finally, the study analyzes the transformative intersection of electoral law with India's newly enacted criminal statutes (BNS, BNSS, and BSA). It demonstrates how the modernization of procedural and evidentiary standards specifically the seamless legal admissibility of electronic and digital records massively empowers the ECI to swiftly detect, deter, and prosecute digitalera electoral offenses. Ultimately, the paper concludes that the ECI's synergy of constitutional authority, technological integration, and modernized legal frameworks ensures the continued resilience and purity of India's democratic mandate.

**Key Words:** ECI, SVEEP, CAPFs, MCC, Article 324



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### 1.1 Superintendence, Direction, and Control of Elections Article 324 Examined

The architecture of Indian democracy relies fundamentally on the integrity, transparency, and efficiency of its electoral process a monumental administrative and constitutional mandate entrusted exclusively to the Election Commission of India (ECI). The genesis of this authority resides in Article 324 of the Constitution of India, which vests the ECI with the absolute and comprehensive power of "superintendence, direction and control" over the preparation of electoral rolls and the conduct of all elections to Parliament and the State Legislatures, as well as elections to the offices of the President and Vice-President.<sup>1</sup> The framers of the Constitution engineered Article 324 as a broad, encompassing, and inherently dynamic provision, operating on the profound recognition that statutory laws, no matter how meticulously drafted, cannot foresee or preempt every conceivable contingency, malpractice, or crisis that might threaten the purity of an electoral exercise.<sup>2</sup>

The jurisprudential scope and practical amplitude of the powers enshrined under Article 324 were definitively interpreted and codified by the Supreme Court of India in the landmark constitutional case of *Mohinder Singh Gill v. Chief Election Commissioner* (1978). The case arose from the cancellation of the poll in the Ferozepore Parliamentary Constituency following the destruction of ballots and electoral violence, prompting the Election Commission to order a repoll. The core legal question was whether the ECI possessed the authority to cancel a poll and order a repoll in the absence of a specific provision in the Representation of the People Act, 1951, empowering it to do so under those precise circumstances.<sup>3</sup> The Supreme Court ruled affirmatively, declaring that Article 324 is a plenary provision, serving as a vast "reservoir of power" for the ECI to ensure free and fair elections. The Court articulated that where the Representation of the People Act, 1951, or the Conduct of Elections Rules, 1961, are silent, insufficient, or provide inadequate statutory guidance to deal with a specific electoral crisis, the ECI is constitutionally empowered and indeed obligated to intervene using its inherent residual powers to safeguard the democratic process.<sup>4</sup>

<sup>1</sup> The Constitution of India, art. 324.

<sup>2</sup> *Mohinder Singh Gill v. Chief Election Commissioner*, AIR 1978 SC 851.

<sup>3</sup> The Representation of the People Act, 1951. <sup>4</sup>

The Conduct of Elections Rules, 1961.

However, this extraordinary constitutional power is not entirely unbridled or absolute in a vacuum. The Supreme Court established critical boundaries, clarifying that the ECI can draw upon Article 324 only when no specific law exists governing a particular matter. This signifies

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that the Commission must always act in strict consonance with existing valid legislation and cannot arbitrarily override statutory rules. For instance, the transfer of administrative officials and law enforcement personnel during the election period is a standard mechanism employed by the ECI to ensure neutrality; however, because the transfer of All India Services officers is governed by specific rules enacted under Article 309 of the Constitution and the All India Services Act, the ECI's directives must align with these existing frameworks rather than bypass them entirely.<sup>4</sup> The plenary power is thus a supplemental and residual mechanism, not an instrument for executive overreach.

Recent legislative and jurisprudential developments have further refined the institutional structure and appointment mechanisms surrounding the ECI, reflecting ongoing debates about institutional autonomy. Historically, the Chief Election Commissioner and other Election Commissioners were appointed directly by the Executive, a practice that periodically raised concerns among civil society regarding the institution's insulation from political pressure and its capacity for impartial adjudication.<sup>5</sup> To establish a more robust framework, the Parliament enacted the Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service and Term of Office) Act, 2023, which was brought into effect in January 2024.<sup>6</sup> This Act fundamentally alters the historical paradigm by formalizing a structured appointment process. It establishes a Selection Committee comprising the Prime Minister, a Union Cabinet Minister (usually the Home Minister), and the Leader of the Opposition in the Lok Sabha. This is preceded by a Search Committee chaired by the Minister of State for Law and Justice, alongside the Home Secretary and the Secretary of the Department of Personnel and Training.

While the 2023 Act represents a move towards codification, the composition of the Selection Committee which effectively retains an executive majority has been a subject of intense scrutiny and constitutional challenge before the Supreme Court in 2024. Critics and petitioners

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<sup>4</sup> The All India Services Act, 1951.

<sup>5</sup> *Jaya Thakur v. Union of India*, Writ Petition (Civil) No. 146 of 2024.

<sup>6</sup> The Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service and Term of Office) Act, 2023.

argue that an executive-dominated selection panel risks softening the constitutional idea of an impartial referee into the image of a guarded bureaucracy, particularly when the Commission is faced with granular, falsifiable allegations regarding electoral rolls or polling data.<sup>7</sup>

Nevertheless, the overarching constitutional framework maintains that the ECI's legitimacy relies heavily on its perceived and actual impartiality, and the institution remains the absolute bedrock upon which the entire edifice of electoral democracy in India is constructed, fortified continually by the profound mandate of Article 324.

## 1.2 Preparation and Maintenance of Electoral Rolls

The fundamental prerequisite for any democratic election is a pure, inclusive, and rigorously accurate electoral roll. The preparation, maintenance, and continuous purification of these rolls is a core constitutional responsibility of the ECI, executed meticulously within the comprehensive statutory framework established by the Representation of the People Act, 1950, and the Registration of Electors Rules, 1960.<sup>8</sup> A structurally flawed electoral roll marred by the omission of eligible voters, the presence of duplicate entries, or the inclusion of deceased or shifted individuals fundamentally compromises the sacred mandate of a free, fair, and credible election.<sup>9</sup> Consequently, the ECI manages the electoral roll not as a static document, but as a highly dynamic, continuously updated database subjected to rigorous periodic scrutiny, primarily through Special Summary Revisions (SSR) and Special Intensive Revisions (SIR) to ensure absolute demographic fidelity.

The administrative machinery deployed to execute this colossal task is vast and operates continuously from the grassroots level upward. At the base of this pyramid are the Booth Level Officers (BLOs), who are responsible for the physical, door-to-door verification of approximately 1,000 electors per polling station. The BLOs are tasked with distributing unique Enumeration Forms to existing electors, helping voters match or link their details with previous intensive revisions, and collecting Form 6 and corresponding declaration forms for the inclusion of new, newly eligible, or previously unregistered electors. Overseeing this localized effort is the Electoral Registration Officer (ERO), typically an official holding the rank of a

<sup>7</sup> Yogesh Byadwal, "The Shiv Sena dispute: The Tenth Schedule and the Symbols Order," *Indian Constitutional Law and Philosophy* (2023).

<sup>8</sup> The Representation of the People Act, 1950; The Registration of Electors Rules, 1960.

<sup>9</sup> Manual on Electoral Rolls, Election Commission of India 15 (2024).

Sub-Divisional Magistrate, who is legally empowered to prepare the draft electoral rolls, adjudicate on claims and objections filed by citizens or political parties, and subsequently publish the final electoral rolls for the Assembly Constituency.

To ensure strict accountability and adherence to the principles of natural justice during this massive demographic exercise, the ECI appoints specialized Roll Observers.<sup>10</sup> Often holding

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the rank of Divisional Commissioners, these Roll Observers are deployed to assist the District Election Officers (DEOs) and EROs. They are mandated to visit their assigned districts at least three times during the summary revision period: first, during the crucial phase of receiving claims and objections, and second, during the disposal of these claims by the EROs. This multitiered audit ensures that additions and deletions are executed after due inquiry, in full public view, and with the active participation and scrutiny of political party representatives.<sup>11</sup> Furthermore, a robust appellate mechanism exists, allowing citizens to file first appeals against ERO decisions with the District Magistrate, and second appeals with the Chief Electoral Officer (CEO) of the State or Union Territory.<sup>12</sup>

A critical and highly complex contemporary issue in the maintenance of electoral rolls has been the integration of biometric identification technology, specifically the Aadhaar ecosystem. Driven by the necessity to weed out sophisticated duplicate entries, tackle frequent migration-related anomalies, and prevent the wrongful inclusion of non-citizens, legislative amendments were introduced to facilitate the voluntary linking of Aadhaar numbers with Voter Identity Cards (EPICs) via Form 6B.<sup>13</sup> However, this intersection of foundational electoral rights and biometric identification necessitated careful judicial calibration to protect data privacy, prevent systemic disenfranchisement, and uphold constitutional limits.

This issue culminated in a highly significant Supreme Court ruling in September 2025 in the case of *Association for Democratic Reforms v. Election Commission of India*. The Court addressed widespread concerns that the Aadhaar card was being utilized unlawfully as a tool to verify citizenship during the Special Intensive Revision in Bihar.<sup>14</sup> The Supreme Court

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<sup>10</sup> Observer Hand Book, Volume-I, Election Commission of India 6 (2024).

<sup>11</sup> The Representation of the People Act, 1950, s. 24.

<sup>12</sup> Election Commission of India, "Acceptance of Aadhaar as proof of identity during SIR, Bihar," No. 23/2025ERS/Vol. II (Sept. 9, 2025).

<sup>13</sup> *Association for Democratic Reforms v. Election Commission of India*, 2025 SCC OnLine SC 1408.

<sup>14</sup> The Representation of the People Act, 1950, s. 23(4).

delivered a nuanced directive, clarifying the precise legal standing of Aadhaar in the realm of electoral roll preparation. The Court affirmed that, keeping in view Section 23(4) of the Representation of the People Act, 1950, the Aadhaar card can be legally accepted as the 12th official document for establishing the proof of identity of a person for inclusion in the voter list.<sup>15</sup> However, the Court categorically stated that in accordance with the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016, Aadhaar is

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exclusively a proof of residence and identity, and it absolutely "shall not be accepted as proof of citizenship".

Following this judicial pronouncement, the ECI immediately issued comprehensive Standard Operating Procedures (SOPs) instructing EROs and all field authorities that the submission of Aadhaar details in Form 6B is strictly voluntary. The Commission mandated clear communication to voters that the non-submission of Aadhaar details would not have any adverse effect on their voting rights, nor would it serve as grounds for the deletion of their names from the electoral roll.<sup>16</sup> This judicial and administrative convergence highlights a profound second-order insight: while technological deduplication is essential for ensuring electoral purity, it must remain subordinate to constitutional guarantees. Identity verification mechanisms cannot be allowed to act as covert citizenship tests, nor can they inadvertently disenfranchise legitimate voters from marginalized socio-economic backgrounds.

### **1.3 Recognition of Political Parties and Allotment of Election Symbols**

In a nation characterized by continental scale, vast linguistic diversity, and varying levels of rural literacy, election symbols transcend mere branding; they serve as the primary cognitive and visual bridge between the individual voter and the political party. The ECI regulates this critical aspect of electoral mechanics through the robust provisions of the Election Symbols (Reservation and Allotment) Order, 1968, promulgated under the sweeping powers of Article 324 of the Constitution read with Section 29A of the Representation of the People Act, 1951, and Rules 5 and 10 of the Conduct of Elections Rules, 1961. The Symbols Order establishes a rigorous, data-driven taxonomy for political organizations across the country, categorizing

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<sup>15</sup> The Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.

<sup>16</sup> The Election Symbols (Reservation and Allotment) Order, 1968.

them into three distinct tiers: National Parties, State Parties, and Registered Unrecognized Political Parties (RUPPs), and subsequently governing the allocation of reserved and free symbols based on these classifications.

The criteria for recognition at the State and National levels are strictly quantitative and empirical, specifically designed to ensure that only political entities with a consistently demonstrated, widespread democratic mandate receive the statutory privileges associated with formal recognition.

Status Tier	Quantitative Recognition Criteria
<b>National Party</b>	A registered party is recognized as a National Party if it fulfills <b>any one</b> of the following conditions: <ol style="list-style-type: none"><li data-bbox="370 797 1374 831">1. It is formally recognized as a State Party in at least four distinct states.</li><li data-bbox="370 871 1396 1066">2. Its candidates secure at least 6% of the total valid votes polled in four or more states in the latest Lok Sabha or State Assembly general elections, <b>and</b> in addition, the party has at least 4 Members of Parliament (MPs) elected to the Lok Sabha.</li><li data-bbox="370 1088 1396 1160">3. It wins at least 2% of the total seats in the Lok Sabha (currently amounting to 11 seats) from at least three different states.</li></ol>

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<b>State Party</b>	<p>A registered party is recognized as a State Party in a specific state if it fulfills <b>any one</b> of the following conditions:</p> <ol style="list-style-type: none"><li>1. It secures at least 6% of the valid votes polled in the state during a general election to the Legislative Assembly <b>and</b> wins at least 2 Assembly seats.</li><li>2. It secures at least 6% of the total valid votes polled in the state during a general election to the Lok Sabha <b>and</b> wins at least 1 Lok Sabha seat from that state.</li><li>3. It wins at least 3% of the total number of seats in the Legislative Assembly of the state, or a minimum of 3 seats, whichever is higher.</li><li>4. It wins at least 1 Lok Sabha seat for every 25 Lok Sabha seats allotted to the state.</li><li>5. Under a liberalized criterion, it secures 8% or more of the total valid votes polled in the state during a general election to either the Lok Sabha or the Legislative Assembly.</li></ol>
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Recognized National and State parties are granted "Reserved Symbols" that are strictly exclusive to their officially endorsed candidates across the nation or within their respective recognized states. Conversely, candidates from Registered Unrecognized Political Parties (RUPPs) and independent candidates must select their election symbols from a pool of unassigned "Free Symbols" provided by the ECI. However, Rule 10B of the Symbols Order provides a specific concession to RUPPs, allowing them to apply for the allotment of a common free symbol across multiple constituencies, provided they are contesting a minimum mandated number of seats. To qualify for a common symbol in subsequent elections, the RUPP must have secured at least 1% of the total valid votes polled in the state in the previous election.<sup>17</sup> The allotment for RUPPs operates on a strict 'first-come-first-served' basis, a rule that has led to complex administrative outcomes, such as in the case of the Naam Tamilar Katchi (NTK), which met the 1% vote threshold but lost its preferred symbol to the Bharatiya Praja Aikyata Party (BPAP) due to delayed application filing in 2024.

<sup>17</sup> ECI Order on Allotment of Common Symbols (2024).

Beyond routine symbol allotment, the ECI exercises a profoundly significant quasi-judicial function under the Symbols Order, which is most prominently deployed during internal schisms and organizational splits within recognized political parties. Under Paragraph 15 of the Symbols Order, when a recognized party fragments into rival factions each claiming to be the authentic manifestation of the party the ECI acts as the sole competent authority to adjudicate the dispute and determine which faction is entitled to the party name and the coveted reserved symbol.<sup>18</sup> The ECI traditionally employs the "test of majority," meticulously evaluating the numerical strength of both the legislative wing (elected MPs and MLAs) and the organizational wing (national executives and primary members) of the rival factions.

This mechanism was most visibly utilized during the highly contentious factional disputes within the Shiv Sena and the Nationalist Congress Party (NCP) in Maharashtra in 2023 and 2024. In both instances, following the creation of splinter groups led by Eknath Shinde and Ajit Pawar, respectively the ECI evaluated the legislative majorities aligned with each faction. Relying heavily on the fact that the Shinde and Ajit Pawar factions commanded the allegiance of the overwhelming majority of elected legislators, the ECI officially recognized them as the legitimate successors of the Shiv Sena and the NCP, subsequently granting them control over the respective party names and their deeply entrenched reserved symbols (the 'Bow and Arrow' and the 'Clock').<sup>19</sup> This quasi-judicial adjudication by the ECI is crucial for electoral stability; it prevents the hijacking of democratic structures by fragmented organizational minorities, provides legislative clarity amid political turbulence, and ensures that the voting public remains absolutely clear on the ideological identity and literal symbol of the party they intend to support at the ballot box.

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#### 1.4 Enforcement of the Model Code of Conduct

The Model Code of Conduct (MCC) represents a fascinating and unique instrument in Indian electoral jurisprudence a comprehensive set of ethical and operational guidelines that evolved not from top-down statutory legislation, but through historic consensus among the political parties themselves. The birth of the MCC traces back to the State Assembly elections in Kerala in 1960, where the state administration drafted a rudimentary 'Code of Conduct' to govern the behavior of political actors. Recognizing its efficacy, the Election Commission of India

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<sup>18</sup> ECI Final Order on NCP Dispute (Feb. 15, 2024).

<sup>19</sup> Model Code of Conduct for the Guidance of Political Parties and Candidates, Election Commission of India.

circulated this framework to all recognized political parties during the 1962 Lok Sabha elections, gradually solidifying it into a national norm. The MCC assumed its formidable, stringent character during the 1991 elections when the ECI, confronted with repeated norm violations and widespread electoral corruption, decided to enforce the guidelines with uncompromising rigidity. Today, the MCC activates automatically and immediately upon the ECI's formal announcement of the election schedule and remains rigidly in force until the entire electoral process concludes with the declaration of results.

Structurally, the MCC is divided into seven distinct sections that dictate the parameters of acceptable behavior. It covers general conduct, the organization of campaign meetings, the management of political processions, activities near the polling booth, polling day behavior, election manifestos, and places strict operational constraints on the "party in power" to prevent the misuse of official machinery. The Code explicitly prohibits political parties and candidates from engaging in activities that aggravate existing differences or create mutual hatred between different castes, communities, or religious groups. It bans appeals to caste or communal feelings to secure votes and strictly prohibits the use of Mosques, Churches, Temples, or other places of worship as forums for election propaganda. Furthermore, it mandates that criticism of opposing candidates must be confined solely to their public policies and past records, explicitly banning personal attacks or campaigns based on unverified allegations.

While the MCC historically lacked direct statutory backing acting more as a moral compact it is indirectly enforced through the penal provisions of the Representation of the People Act, 1951, and the Bharatiya Nyaya Sanhita. More significantly, the ECI has successfully transitioned the MCC from a manual, heavily bureaucratic set of guidelines into a highly responsive, digitally enforced mandate driven by crowdsourced intelligence. At the vanguard of this transformation is the 'cVIGIL' mobile application.

The cVIGIL platform empowers ordinary citizens to act as real-time election observers. Users can capture and anonymously upload geotagged photographic or video evidence of MCC violations ranging from the illegal distribution of freebies and liquor to the unauthorized use of loudspeakers beyond permissible hours. The application is built on a remarkably stringent 100- minute resolution timeline: the moment a complaint is uploaded, the automated Geographic Information System (GIS) routes it to the District Control Room, which immediately dispatches the nearest Flying Squad to the exact GPS coordinates. The squad investigates the matter on the ground, and the Returning Officer takes immediate administrative or legal action, reporting

the outcome back to the complainant within the 100-minute window. Concurrently, the ECI utilizes the ENCORE portal to digitize all requests for MCC relaxations from state and central government departments, ensuring that any administrative exemptions granted during the election period are processed transparently and logged for public viewing.<sup>20</sup> During the 2024 elections, this digital infrastructure processed thousands of violations seamlessly, effectively transforming the MCC from an abstract ethical code into an actionable, omnipresent deterrent.

The exponential rise of digital campaigning has forced the ECI to drastically expand the scope of the MCC to confront the weaponization of Artificial Intelligence, deepfakes, and algorithmic manipulation. Recognizing that synthetic media has the potential to utterly derail the level playing field, the ECI issued comprehensive Standard Operating Procedures (SOPs) and guidelines in May 2024 concerning the ethical use of social media platforms. The Commission explicitly directed political parties and their star campaigners to completely refrain from utilizing AI-generated synthetic media, deepfakes, or distorted content designed to propagate misinformation or demean opponents.<sup>21</sup> The SOPs mandate that any AI-generated or digitally manipulated content used legitimately in campaigns must carry prominent and easily discernible labels to ensure voters are fully informed of the synthetic nature of the material.

Furthermore, leveraging the provisions of the Information Technology Act, 2000, and the IT (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021, the ECI instructed parties to promptly remove any patently false or defamatory synthetic content within three hours of it being brought to their notice. To structurally counter digital disinformation, the ECI also launched the 'Myth vs Reality Register' prior to the 2024 General Elections. This continuously updated, centralized online repository serves to proactively debunk fake news,

false narratives, and viral myths regarding EVM integrity, electoral roll anomalies, and ECI conduct, ensuring the public has immediate access to verified, factual information.<sup>22</sup> Through the strategic integration of these digital protocols, the ECI has ensured that the Model Code of Conduct remains a highly resilient regulatory mechanism capable of preserving democratic fairness in the age of algorithmic warfare.

<sup>20</sup> Election Commission of India, Advisory on AI-Generated Content (May 6, 2024).

<sup>21</sup> The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.

<sup>22</sup> Centre for Media Studies, Report on Lok Sabha Election Expenditure 2024.

## 1.5 Regulation of Election Expenditure and Combating Money Power

The massive infusion of illicit funding and unchecked, astronomical expenditure by candidates pose arguably the most severe internal threat to the democratic principle of equal opportunity and a level playing field. Electoral finance in India operates on a staggering scale; analysis by the Centre for Media Studies estimated that the total expenditure incurred by various political parties and candidates during the 2024 Lok Sabha elections reached an unprecedented Rs 1,00,000 crores, effectively rendering the cost of a single vote at around Rs 1,400. To curb the distorting influence of "money power," the ECI imposes strict, statutory ceilings on candidate expenditure under the Representation of the People Act, 1951. For the 2024 general elections, the maximum permissible expenditure limit for a candidate was capped at Rs 95 lakh for Lok Sabha constituencies in larger states (and Rs 75 lakh in smaller states), while State Assembly candidate limits were set at Rs 40 lakh and Rs 28 lakh, respectively.<sup>23</sup> However, a profound structural loophole persists in the legal framework: while individual candidates face stringent, auditable caps, political parties currently operate without any statutory expenditure limits, allowing them to engage in unrestricted institutional spending that heavily influences the overarching campaign narrative.

Despite this limitation regarding party expenditure, the ECI has engineered a highly structured, multi-tiered expenditure monitoring mechanism to enforce candidate ceilings and intercept illicit cash, liquor, and freebies designed to bribe voters. Central to this architecture is the deployment of Expenditure Observers (EOs), senior officers drawn from the Indian Revenue Service and allied central services, who act as the direct "eyes and ears" of the Commission on the ground. The EOs, supported by Assistant Expenditure Observers (AEOs), undertake three mandated visits to their assigned constituencies, arriving first upon the notification of the election to review preparations with the District Election Officer (DEO), the Superintendent of Police, and nodal officers from Income Tax and State Excise departments.

The operational backbone of the ECI's financial surveillance is the parallel accounting system maintained by the election administration. For every contesting candidate, the AEO is tasked with maintaining a "Shadow Observation Register" (SOR) alongside a "Folder of Evidence" (FOE). The SOR acts as an independent, day-to-day ledger that meticulously tracks and calculates the candidate's campaign expenditures based on real-time field intelligence gathered

<sup>23</sup> Compendium of Instructions on Election Expenditure Monitoring, Election Commission of India (Jan. 2024).

by dedicated Video Surveillance Teams (VSTs), Static Surveillance Teams (SSTs) monitoring checkpoints, and rapid-response Flying Squads (FS).

The regulatory mechanism activates powerfully when a candidate presents their own mandatory expenditure register for periodic inspection by the EO. If the AEO and EO identify any discrepancies, suppressions, or understatements of expenses in the candidate's personal register when compared against the independent calculations in the Shadow Observation Register, official notices are immediately issued demanding justification. Following the conclusion of the election, candidates are legally obligated to submit their final, comprehensive expenditure accounts to the DEO within 30 days of the declaration of results.<sup>24</sup> These accounts undergo rigorous scrutiny at the CEO level before submission to the ECI via the ENCORE portal. Exceeding the prescribed statutory limit, or failing to report accurate accounts, is classified as a corrupt practice under Section 123 of the Representation of the People Act, 1951, and serves as definitive grounds for an election petition to unseat a winning candidate and disqualify them from future contests.

A highly sophisticated tactic utilized by candidates to bypass expenditure limits and circumvent standard advertising regulations is the phenomenon of "Paid News" the unethical practice of paying media outlets to publish highly favorable propaganda disguised as objective editorial journalism. To combat this insidious manipulation of the media ecosystem, the ECI relies on the Media Certification and Monitoring Committee (MCMC), established meticulously at the district level.

The MCMC is a multi-disciplinary body typically comprising the DEO, an Assistant Returning Officer (ARO), a representative from the Ministry of Information and Broadcasting, an independent journalist recommended by the Press Council of India, and a designated social media expert. The MCMC operates robust monitoring rooms equipped with recording devices to systematically track local and national print media, electronic news channels, cable networks, and digital platforms. When specific coverage is identified and adjudicated as Paid

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News by the committee, the Return Officer issues a notice to the candidate. Crucially, the standard commercial advertising costs for that coverage are calculated and forcibly appended

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<sup>24</sup> The Representation of the People Act, 1951, s. 123(6).

to the candidate's official expenditure account.<sup>25</sup> If a political party incurs advertisement expenses explicitly promoting a particular candidate, it is treated as authorized expenditure by that candidate and apportioned accordingly. By fusing physical surveillance via Flying Squads with algorithmic tracking of digital and media expenditures, the ECI aims to construct a comprehensive financial panopticon that forces transparency upon an inherently opaque electoral economy.

### **1.6 Role of ECI in Combating Electoral Malpractices Booth Capturing, Bogus Voting, and Bribery**

Historically, the integrity of Indian elections in several regions was severely compromised by physical intimidation, organized booth capturing, and systemic voter coercion, where local strongmen sought to replace the democratic power of the ballot with the raw power of muscle and firearms. Over successive election cycles, the ECI has developed and refined an aggressive, highly proactive security doctrine designed to utterly neutralize physical threats and secure the sanctity of the polling process. This strategy is firmly anchored in rigorous intelligence gathering, structural vulnerability mapping, and the overwhelming deployment of heavily armed, neutral central security forces.<sup>27</sup>

The security apparatus is set into motion six to four months prior to the probable date of an election. The ECI, coordinating through District Magistrates and Superintendents of Police, executes a comprehensive Vulnerability Mapping exercise. This critical process involves Sector Police Officers and civilian Sector Officers identifying specific hamlets, villages, or demographic cohorts that are highly susceptible to intimidation, coercion, or violence by local political actors. Based on this granular intelligence, specific polling locations are officially categorized as "Critical Polling Stations" or vulnerable booths. The identification of these critical zones dictates the entire architecture of the State and District Security Deployment Plans.

To effectively neutralize the influence of local muscle power which historically operated occasionally with the tacit collusion or passive compliance of local state law enforcement the ECI relies heavily on the strategic deployment of Central Armed Police Forces (CAPFs).

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<sup>25</sup> Manual on Force Deployment, Election Commission of India 1 (2023). <sup>27</sup> Handbook for Police Officers, Election Commission of India 18.

Widely perceived by the electorate as strictly unbiased, highly disciplined, and completely immune to local political pressures, CAPF units form the vanguard of election security. The ECI mandates that all identified Critical Polling Stations must have a robust CAPF deployment to secure the perimeter, manage queues, and instill absolute confidence among vulnerable voter demographics.<sup>26</sup>

The physical deployment of Central forces is intricately layered with a suite of non-CAPF security measures designed to maintain an unbroken, objective chain of surveillance over the polling process. The ECI deploys Micro-Observers exclusively central government employees who act as the direct, independent representatives of the ECI's General Observer to oversee proceedings at the most sensitive booths. These micro-observers are trained to detect bogus voting, proxy voting, or procedural lapses by local polling staff. The scale of this operation is immense; for example, during the 2024 Lok Sabha elections in the Chennai district alone, over 900 micro-observers were deployed explicitly to monitor booths deemed vulnerable to capturing.<sup>29</sup>

In tandem with this human oversight, the ECI mandates continuous, live webcasting and videography of proceedings inside critical polling stations. This live feed is monitored in realtime at highly secure district and state control rooms. This technological surveillance serves as an ultimate deterrent, ensuring that presiding officers, polling agents, or political operatives cannot engage in mass bogus voting, tampering with EVMs, or localized bribery without immediate detection and arrest. By structurally layering CAPFs, independent central microobservers, and digital webcasting over the traditional local police apparatus, the ECI has established a fortified ecosystem that has rendered physical booth capturing and mass voter intimidation largely obsolete in the modern Indian electoral landscape.

### **1.7 Electronic Voting Machines (EVMs) and Voter Verified Paper Audit Trail (VVPAT) Ensuring Technological Integrity**

The transition from traditional paper ballots to Electronic Voting Machines (EVMs) marks arguably the most significant logistical, environmental, and security upgrade in the history of global democratic exercises. Designed meticulously by the ECI in collaboration with two premier public sector undertakings Bharat Electronics Limited (BEL, Ministry of Defence) and

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<sup>26</sup> "Over 900 micro-observers trained to monitor vulnerable polling booths in Chennai," The Hindu, Apr. 2024. <sup>29</sup> Election Commission of India, "Legal History of EVMs and VVPATs," 654 (Jan. 2024).

architecture was explicitly built to survive the rigors of the Indian landscape. Operating on a self-contained 7.5-volt alkaline power pack, EVMs function flawlessly in remote areas entirely devoid of electricity.<sup>27</sup> While older models could record 3,840 votes, the newer post-2006 models possess a capacity of 2,000 votes, perfectly aligned with the ECI's mandate of assigning roughly 1,000 electors per polling station.<sup>31</sup> First trialed in 1982 in the Paravur constituency of Kerala, and deployed universally across all 543 Lok Sabha constituencies by 2004, EVMs fundamentally revolutionized Indian elections. They entirely eliminated the phenomenon of invalid or ambiguous votes, drastically accelerated the counting process, and severely curtailed booth capturing by physically limiting the rate of vote casting, making mass ballot stuffing a logistical impossibility. Despite their operational success, the inherent opacity of electronic recording eventually led to sustained legal and political challenges regarding the machines' theoretical tamperability and the vulnerability of their microcontrollers. To restore absolute voter confidence and provide a tangible mechanism for verification, the ECI, prompted by the Supreme Court's landmark directive in *Subramanian Swamy v. ECI* (2013), amended the Conduct of Elections Rules, 1961, to introduce the Voter Verifiable Paper Audit Trail (VVPAT). The VVPAT system acts as an independent printer attached to the EVM; it allows the voter to visually verify a printed slip containing their chosen candidate's serial number, name, and symbol for exactly seven seconds behind a glass window before the slip automatically cuts and drops into a sealed, secure drop box. This creates a verifiable physical trail alongside the electronic tally, ensuring the accuracy of the voting system.

The technological integrity and audit mechanisms of the EVM-VVPAT framework were subjected to intense, granular judicial scrutiny in the Supreme Court judgment of *Association for Democratic Reforms v. Election Commission of India* (April 2024), delivered just days before the 2024 General Elections. The petitioners sought a regression to paper ballots or, alternatively, a mandate for 100% manual counting and verification of all VVPAT slips across

<sup>27</sup> *Association for Democratic Reforms v. Election Commission of India*, Writ Petition (Civil) No. 434 of 2023. <sup>31</sup> *Subramanian Swamy v. Election Commission of India*, (2013) 10 SCC 500 <sup>32</sup> *N. Chandrababu Naidu v. Union of India*, (2019) 15 SCC 1.

the country. Furthermore, they requested that VVPAT slips be physically handed to voters to drop into a ballot box.<sup>32</sup>

The Supreme Court decisively rejected all these primary demands. Rejecting the return to paper ballots, the Court labeled it a "folly" to abandon secure technological advancement and revert

to an archaic system historically plagued by booth capturing, rampant ballot stuffing, and massive human error. The Court also dismissed the demand for 100% VVPAT counting, noting that the ECI's existing protocol which, following a 2019 Supreme Court mandate, requires the randomized verification of VVPAT slips from five polling stations per Assembly constituency provides a robust statistical safeguard. Crucially, the Court took on record the ECI's assertion that the rigorous exercise of tallying VVPAT paper trail slips with electronic votes cast has not resulted in a single mismatch to date across millions of votes audited. The request to allow voters to physically handle VVPAT slips was similarly denied due to severe risks concerning the secrecy of the ballot and logistical administrative hurdles.

However, while upholding the fundamental integrity of the existing system, the 2024 Supreme Court judgment proactively introduced two highly specific, forward-looking directives to further fortify the digital audit trail and establish absolute transparency. First, the Court ordered that the Symbol Loading Units (SLU) the critical devices used by engineers to load the specific candidate symbols into the VVPAT units prior to polling must be sealed immediately after the symbol loading process is finalized. These sealed SLUs must be stored in secure strongrooms alongside the EVMs for a minimum of 45 days post-election, ensuring an unbroken chain of digital custody that can be audited if an election petition is filed.<sup>28</sup> Second, expanding the scope of post-election redressal, the Court granted candidates who rank second or third in any election the right to formally request a technical verification of the EVM firmware (microcontrollers) in 5% of the EVMs per assembly constituency.<sup>29</sup> This request must be made within seven days of the result declaration, with the candidate bearing the verification expenses (which are fully refunded if tampering is subsequently discovered).<sup>35</sup> This monumental ruling successfully balances the logistical efficiency of technological advancement with the uncompromising constitutional necessity of transparency, affirming that the voter's fundamental right to know

<sup>28</sup> The Constitution of India, art. 19(1)(a).

<sup>29</sup> Systematic Voters' Education and Electoral Participation (SVEEP), Election Commission of India. <sup>35</sup> Turnout Implementation Plan, Election Commission of India.

that their vote was accurately recorded under Article 19(1)(a) is fully protected by the modern EVM-VVPAT architecture.

### 1.8 Voter Education and Electoral Participation SVEEP Programme

Democracy fundamentally thrives on mass participation; systemic disenfranchisement whether driven by urban voter apathy, a lack of procedural information, or physical and structural barriers deeply erodes the legitimacy of the electoral mandate. Recognizing that the mere

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administrative provision of polling stations is insufficient to guarantee universal franchise, the ECI shifted its focus toward proactive citizen engagement by launching its flagship initiative: the Systematic Voters' Education and Electoral Participation (SVEEP) programme. Originating from successful dialogue and outreach experiments during the 2009 Jharkhand state legislative assembly elections, SVEEP has steadily evolved into a highly structured, data-driven, and multi-intervention framework designed explicitly to educate, enable, and empower every eligible citizen to register and cast their vote in an informed and ethical manner.<sup>30</sup>

For the mammoth 2024 Lok Sabha elections, the SVEEP strategy operated under an ambitious vision document targeting a nationwide voter turnout of 75%. To achieve this, the ECI moved beyond generic awareness campaigns and adopted a highly targeted intervention strategy aimed at specific demographics that historically exhibited lower participation rates: youth, urban populations, women, senior citizens, marginalized communities, and Persons with Disabilities (PwDs).

To systematically eliminate logistical barriers and cognitive friction, the ECI integrated innovative technological solutions directly into the SVEEP framework. The rollout of the 'Know Your Polling Booth' (KYPB) application, real-time polling line status updates, and 'Know Your Parking Area' features drastically improved the convenience of the voting experience, directly addressing the core drivers of urban voter apathy.<sup>31</sup> Furthermore, to ensure radically inclusive participation, the ECI implemented groundbreaking accessibility reforms. The 'Vote from Home' facility, utilizing postal ballots, was successfully executed for octogenarians (citizens over 85 years of age) and severely disabled voters, bringing the ballot box directly to the doorsteps of the most vulnerable. Concurrently, to bridge the historical

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<sup>30</sup> A.C. Mahendra, "Enhancing Voter Turnout: A Comprehensive Analysis of Recent Initiatives by the Election Commission of India," 136 SIJASH (2024).

<sup>31</sup> Election Commission of India, Press Release on Lok Sabha 2024 Voter Turnout.

gender gap in electoral participation, the ECI established thousands of 'Sakhi Booths' polling stations managed entirely by female staff and security personnel creating a welcoming, secure environment that specifically encouraged female turnout in conservative or rural areas. [

The statistical and demographic impact of these targeted educational and logistical interventions is profoundly visible in the unprecedented electoral data of 2024. The general election witnessed the participation of a staggering 642 million voters out of an eligible registered base of over 977 million, marking it as the largest democratic exercise in human history. Most significantly, the elections recorded the active participation of 312 million women

the highest ever female voter turnout recorded in Indian electoral history. Comprehensive analytical reports, such as the post-election analysis published by the State Bank of India (SBI), indicate that SVEEP's targeted awareness interventions, acting in powerful synergy with socioeconomic empowerment schemes (such as the Pradhan Mantri Awas Yojana, Mudra Yojana, and targeted sanitation drives), yielded an immense demographic shift. The SBI analysis empirically established an incremental increase of 1.8 crore female voters in 2024 compared to the 2019 elections, directly correlating increased literacy and scheme-driven empowerment with heightened political participation.<sup>32</sup> Furthermore, the SC/ST demographic witnessed a significant increase in overall turnout ratio, particularly among females, clearly indicating the success of SVEEP in empowering the base of the socio-economic pyramid and converting passive beneficiaries into active democratic stakeholders. While SVEEP has achieved monumental success in bridging the gender gap and modernizing voter access, ongoing strategic challenges remain, particularly in addressing entrenched apathy in affluent urban centers and engineering robust absentee voting systems (such as early voting or secure electronic voting) for the estimated 30 crore domestic migrants who are frequently disenfranchised by geography.

### **1.9 Intersection of Criminal Law and Electoral Process Relevance of BNS, BNSS, and BSA**

In July 2024, the structural foundation of the Indian criminal justice system underwent a historic and foundational transformation. The colonial-era statutes that had governed jurisprudence for over a century and a half the Indian Penal Code (IPC) 1860, the Code of

<sup>32</sup> The Bharatiya Nyaya Sanhita, 2023; The Bharatiya Nagarik Suraksha Sanhita, 2023; The Bharatiya Sakshya Adhinyam, 2023.

Criminal Procedure (CrPC) 1973, and the Indian Evidence Act (IEA) 1872 were comprehensively repealed.<sup>33</sup> They were replaced, respectively, by the Bharatiya Nyaya Sanhita (BNS), the Bharatiya Nagarik Suraksha Sanhita (BNSS), and the Bharatiya Sakshya Adhiniyam (BSA).<sup>34</sup> This monumental legislative overhaul directly and profoundly intersects with the electoral process, fundamentally altering how electoral offences are defined, investigated, and prosecuted by the Election Commission of India and state law enforcement agencies.

Under the repealed IPC, the specific criminal offences relating to elections were codified under Chapter IXA, spanning Sections 171A through 171I.<sup>35</sup> The newly enacted BNS reorganizes, consolidates, and modernizes these precise provisions under Chapter IX, encompassing Sections 169 to 177, while maintaining the core definitions but subtly adjusting the procedural and penal framework to align with contemporary realities.

While the substantive penal definitions in the BNS remain largely consistent with the IPC, the procedural mechanisms surrounding the investigation and prosecution of these electoral offences have been substantially upgraded and modernized through the BNSS. The BNSS places a heavy emphasis on digital forensics, procedural transparency, and time-bound justice critical elements for resolving election-related disputes that are notoriously time-sensitive. For instance, the BNSS introduces stringent mandates regarding the videography of search and seizure operations.<sup>36</sup> This ensures that actions taken by the ECI's Flying Squads and Static Surveillance Teams such as intercepting illicit cash, illegal liquor shipments, or unauthorized campaign materials are comprehensively recorded, rendering the evidence virtually tamperproof and highly credible in court.<sup>37</sup> Furthermore, Section 530 of the BNSS radically modernizes trial procedures by allowing all trials, inquiries, and proceedings to be conducted in electronic mode (via audio-video electronic means). This provision is expected to drastically

<sup>33</sup> The Bharatiya Nyaya Sanhita, 2023, ss. 169-177.

<sup>34</sup> The Bharatiya Nagarik Suraksha Sanhita, 2023, First Schedule.

<sup>35</sup> The Bharatiya Nagarik Suraksha Sanhita, 2023.

<sup>36</sup> Manoj Kumar Sharma, "Investigation and Trial Framework in Bharatiya Nagarik Suraksha Sanhita," BPR&D (2024).

<sup>37</sup> Pallamreddy Lasya Sri, "Scope, Admissibility and Challenges of Electronic Evidence," IJLRA (2024).<sup>44</sup> The Bharatiya Sakshya Adhiniyam, 2023, s. 2(d).

reduce the severe procedural delays that have historically plagued election petitions and the criminal trials of candidates, accelerating the delivery of justice.<sup>44</sup>

However, the most critical and transformative evolution for electoral integrity lies in the provisions of the Bharatiya Sakshya Adhinyam (BSA). As modern political campaigns migrate almost entirely to the digital sphere, electoral offences have evolved; the ECI is increasingly forced to combat digital bribery, social media manipulation, hate speech propagated via WhatsApp groups, and the insidious rise of AI-generated deepfakes. Under the former Indian Evidence Act, proving electronic evidence was a procedurally cumbersome and heavily litigated process, reliant on the oft-debated and restrictive certification requirements of Section 65B. The BSA revolutionizes this landscape by expanding the foundational definition of a "document" in Section 2(d) and 2(e) to explicitly and comprehensively include electronic and

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digital records, such as server logs, emails, locational data, website content, and smartphone messages.

Crucially, Section 61 of the BSA establishes that the admissibility of an electronic or digital record as evidence cannot be denied solely on the ground that it is in an electronic format, thereby treating digital evidence on absolute par with traditional physical documentary evidence. Furthermore, Section 63 of the BSA stipulates that electronic records produced directly from proper custody, or video recordings stored electronically and transmitted, are now considered primary evidence. For the ECI, the BSA provides a formidable, modern legal weapon. Evidence generated by the ECI's own cVIGIL application complete with GIS locational data and timestamps capturing MCC violations or server logs proving the origin of a deceptive deepfake video, now possess streamlined and unassailable evidentiary validity in a court of law without the constant procedural friction of the past. By harmonizing the procedural enforcement rules (BNSS) and the evidentiary standards (BSA) with modern technological realities, the new criminal laws massively empower the ECI to enforce the Model Code of Conduct and the Representation of the People Act, 1951, with unprecedented speed and judicial backing, ensuring that the digital frontier of elections remains strictly regulated.

### **1.10 Conclusion**

The Election Commission of India functions as the indispensable fulcrum of Indian democracy, tasked with navigating a phenomenally complex and perpetually shifting landscape

characterized by massive demographic scale, rapidly evolving digital technology, and immense political ingenuity. Drawing its ultimate constitutional authority from the profound and plenary powers of Article 324, the ECI has successfully expanded its role over the decades from a passive administrative body to an active, highly vigilant, and technologically sophisticated guardian of the electoral process.

The Commission's diverse functions operate in a state of high synergy. The absolute purity of the electoral roll, meticulously maintained through intensive revisions, grassroots BLO verification, and judicially audited biometric deduplication, ensures that the foundational base of the electorate is legitimate and inclusive. The strict, quantitative guidelines of the Election Symbols Order prevent voter confusion and allow the ECI to act as a crucial quasi-judicial stabilizer during times of intense political fragmentation and party schisms. As astronomical financial muscle and the historical threat of physical coercion attempt to disrupt the level playing field, the Commission relies on an intricate, multi-tiered expenditure monitoring matrix featuring Shadow Observation Registers and Media Certification Committees coupled with strategic CAPF deployments, vulnerability mapping, and micro-observers to ensure that the vote remains both secret and safe from manipulation.

Furthermore, the ECI has demonstrated remarkable agility and foresight in adapting to the digital age. The technological integrity of the EVM-VVPAT infrastructure has been continuously refined and subjected to rigorous judicial validation, effectively nullifying the threat of mass vote-tampering and providing a flawless paper audit trail. Concurrently, the Commission has brilliantly utilized technology to democratize MCC enforcement through the crowdsourced cVIGIL application, while simultaneously moving to counter algorithmic disinformation with targeted SOPs on Artificial Intelligence and deepfakes. This profound technological embrace extends directly to voter participation, where the SVEEP programme has successfully dismantled logistical barriers through applications and inclusive booth designs, culminating in historic, record-breaking female and marginalized voter turnouts. Ultimately, bolstered by the modernized, digitally native legal frameworks of the Bharatiya Nyaya Sanhita, the Bharatiya Nagarik Suraksha Sanhita, and the Bharatiya Sakshya Adhinyam, the Election Commission of India stands robustly equipped to detect, deter, and prosecute modern electoral malpractices, ensuring that the democratic transfer of power in India remains a true, uncorrupted reflection of the popular will.

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