

2. Election Commission Independence- Polity

On the independence of the Election Commission. The CEC and ECs Act of 2023 has sparked a constitutional debate by establishing a selection committee dominated by the Executive, diverging from the Supreme Court's recommendation to include the Chief Justice. While the government maintains this fulfills the mandate of Article 324, concerns regarding electoral roll manipulation and institutional independence highlight the need for a more transparent and inclusive reform process to safeguard India's Basic Structure.

1. Constitutional Foundation- Article 324

Mandate- The ECI is vested with the power of superintendence, direction, and control of the preparation of electoral rolls and the conduct of all elections to Parliament, State Legislatures, and the offices of the President and Vice-President.

Structure- Consists of the Chief Election Commissioner (CEC) and a number of Election Commissioners (ECs) as fixed by the President.

Appointment Clause- Specifies that the President appoints the CEC and ECs, subject to any law made by Parliament.

2. The 2023 Appointment Act- Key Features

The Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions of Service and Term of Office) Act, 2023 replaced the 1991 Act, significantly altering the selection process.

Feature	Details of the 2023 Act
Selection Committee	Comprises the Prime Minister (Chair), a Union Cabinet Minister, and the Leader of the Opposition in Lok Sabha (or leader of the largest opposition party).
Search Committee	Headed by the Cabinet Secretary; prepares a panel of five names for the Selection Committee.
Eligibility	Candidates must have held a post equivalent to Secretary to the Government of India.
Term of Office	6 years or until the age of 65, whichever is earlier. No reappointment allowed.
Salary & Status	Equivalent to the Cabinet Secretary (previously equivalent to a Supreme Court Judge).
Removal (CEC)	Same manner and grounds as a Supreme Court Judge (Impeachment by Parliament).
Removal (ECs)	Only on the recommendation of the CEC.

3. Major Concerns and Controversies

Executive Dominance- Critics argue that the 2-1 majority of the Executive (PM and Minister) in the Selection Committee, following the exclusion of the Chief Justice of India, may compromise institutional neutrality.

Electoral Roll Integrity- Issues surrounding the Special Intensive Revision (SIR) have led to allegations of mass deletions and potential disenfranchisement of specific voter groups.

Institutional Autonomy- The shift in salary status from "SC Judge" to "Cabinet Secretary" is perceived by some as a downgrade in the constitutional status of the commission.

4. Landmark Judicial Interventions

The Judiciary has consistently reinforced the ECI's role as a pillar of democracy-

Indira Gandhi vs. Raj Narain (1975)- Declared "Free and Fair Elections" as part of the Basic Structure of the Constitution.

T. N. Seshan vs. UOI (1995)- Established that the CEC is "first among equals" and does not possess superior power over ECs in decision-making.

Anoop Baranwal vs. UOI (2023)– Noted the absence of a law for appointments and directed the inclusion of the CJI in the selection panel until Parliament enacted a law.

5. Recommendations of Major Committees

Various committees have proposed reforms to strengthen the electoral process–

Dinesh Goswami Committee (1990)– Focused on curbing booth capturing through central force deployment and re-polls.

Indrajit Gupta Committee (1998)– Advocated for State Funding of Elections (in kind, like fuel or paper) to create a level playing field and reduce the influence of "money power."

Law Commission of India– Recommended banning candidates from contesting from more than one constituency.

Stressed the need for internal democracy and transparency in political party funding.

6. Way Forward

Broad-based Selection– To ensure perceived neutrality, the selection committee could be expanded to include judicial members or a more diverse parliamentary representation.

Funding Transparency– Implementing stricter disclosure norms for political donations to curb the influence of black money.

Technological Audits– Strengthening trust in EVM/VVPAT systems through independent third-party audits and robust verification mechanisms.

Electoral Roll Accuracy– Enhancing the transparency of the voter deletion process to ensure no legitimate voter is disenfranchised during revisions.

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