Rethinking Public Institutions in India
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ELECTION COMMISSION OF INDIA

E. Sridharan and Milan Vaishnav

The eminent historian Ramachandra Guha has referred to India as ‘the most recklessly ambitious experiment in history’. With disregard for past precedent, following the British colonialists’ departure, India’s founding fathers took the bold decision to establish an independent republic which would abide by democratic principles and procedures. Crucially, India’s post-Independence republic guaranteed universal franchise for all adult citizens at a time when the vast majority of the country was living in abject poverty.

While elections, of course, do not make a democracy, they are unquestionably the *sine qua non* of each and every democracy. Following the birth of independent India, the successful execution of participatory elections faced—and, in many ways, still faces today—a host of cumbersome challenges: profound ethnic, religious, linguistic, and cultural diversity; significant geographic variation and a predominantly rural electorate; rampant poverty and illiteracy; and deeply ingrained forms of inequality. Any one of these challenges is large enough to vex election authorities in advanced democracies, so their compound effect in a nascent democracy cannot be overstated.

Against these considerable odds, the Election Commission of India (ECI) has proven to be a model of election management, earning

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1 R. Guha, ‘Democratic to a Fault?’ *Prospect*, 25 January 2012.
plaudits both at home and abroad. Thanks to the wisdom of India’s founders, the Commission was given a solid foundation from the outset, having been established as a permanent, independent constitutional body. This is not to suggest that the Commission has not had to adapt to changing circumstances; the broad nature of its constitutional framework not only gave the Commission a solid underpinning, but also allowed for flexibility in interpreting and enforcing its mandate.²

What has emerged over the past six-and-a-half decades is an Election Commission that has significant powers, far greater than what its counterparts in many democracies have at their disposal.³ However, a powerful ECI need not have been an effective or prudent one, yet for the most part—and with due respect to its occasional detractors—scholars and average Indians hold the institution in high regard. According to a 1996 poll conducted by the Centre for the Study of Developing Societies, the ECI was the most respected public institution in all of India with 62 per cent of respondents favourably disposed.⁴ A 2008 study found that an even higher percentage—nearly 80 per cent—of Indians surveyed expressed a high degree of trust in the Commission, second only to the army among state institutions.⁵

The high regard for the Election Commission also points to a more general paradox concerning India’s public sector institutions, or what Lant Pritchett calls India’s ‘flailing state’.⁶ The state in India appears to undertake highly complex tasks with relative efficacy—such as running an atomic weapons programme or regulating monetary policy—while

struggling to perform more ordinary governance tasks—such as delivering basic health and education.

While the commission has overcome daunting challenges beginning with the first general election in 1952, its future course is by no means pre-determined. Indeed, there remain serious concerns about the conduct of elections in India, namely the disconcerting influence of ‘money’ and ‘muscle’ power. Furthermore, while scholars Lloyd and Susanne Rudolph have rightly praised the Commission for serving as an effective ‘bulwark of free and fair elections’, its status as regulator has not been free from controversy. As Alistair McMillan has pointed out, the commission has had to carefully balance the pressures of robust party politics with preserving what it views to be in the national interest. Its role as a neutral ‘referee’ cannot so easily be disassociated from the normative implications of its decisions.

The remainder of this chapter is organized as follows. In the next section, we briefly review the ECI’s background, its constitutional and legal frameworks, and basic organizational structure. In the third, we discuss the Commission’s regulatory expansionism in the wake of India’s dramatic social and political changes since Independence. In the fourth section, we discuss the organizational capacity and capabilities of the Commission, paying special attention to the organizational and technological innovations the ECI has pioneered in an effort to police the conduct of elections. In the penultimate section, we discuss two areas where electoral reform is most pressing but has been slow in the making: election finance (‘money’) and the criminalization of politics (‘muscle’). Finally, we conclude with some parting thoughts on the changing role of the ECI and its relative position in India’s democratic system in the twenty-first century.

**Institutional Origins and Structure**

India’s experience with elections began much before Independence. As Rama Devi and Mendiratta explain, there is historical evidence to

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suggest that in ancient times many parts of India had experimented with various forms of republican governance. Much better known, of course, is the record of local elections occurring under British rule in the late nineteenth century with limited, but consequential, provincial-level elections being instituted following the Indian Councils Act of 1909 (e.g., Morley-Minto reforms) and the Montagu-Chelmsford reforms of 1919. Although Parliament in Britain had been ‘gradually inching’ towards constitutional reforms with regard to India’s governance throughout the late colonial period, the reforms it instituted were highly uneven, partial in nature, and extremely circumscribed with respect to franchise.

As the road to independence grew clearer and India’s founders commenced their discussions about India’s post-Independence constitution, they consciously built on certain principles of colonial law, while understandably rejecting myriad others. Importantly, under British rule, there had been no provision made for an independent election commission to regulate the conduct of elections across the country. In debating the virtues of establishing such a body, the framers were guided by three cardinal principles: equality, independence, and representation. The framers believed that all adult Indians should be vested with the same rights to participate—as voters and aspirant candidates—in the democratic process, irrespective of caste, creed, gender, or social status. Furthermore, to ensure its arms-length distance from the rough-and-tumble of party politics, the members of India’s Constituent Assembly placed a premium on the independence of any future election body. The third and final principle—representation—refers to the concern that the country’s electoral supervisory body adequately balances the need to ensure the representative quality of India’s democracy with the desire to check electoral malpractice.

11 Rama Devi and Mendiratta, How India Votes, 6.
12 Gilmartin and Moog, ‘Introduction to “Election Law in India”’, 137.
13 deSouza, ‘Election Commission,’ 98.
Constitutional Provisions

The cornerstone of the ECI’s mandate derives from Article 324 of the Constitution, which grants it the authority over the ‘superintendence, direction and control of the preparation of the electoral rolls’ for all elections to the national parliament, state assemblies, presidency, and vice-presidency. Article 324 also clarifies that the Commission is to be led by a single Chief Election Commissioner (CEC), although it gives the President the authority to appoint additional commissioners. It is important to note, with regard to this last proviso, that the framers explicitly rejected the idea of decentralized state-wise election commissions in favour of a centralized authority that—to their minds—would be less susceptible to parochial influence. While this decision is at odds with many of the founders’ other federalist tendencies, it was seen as crucial in insulating the Commission from local influence.

With Article 324 as the cornerstone, several additional articles delineated the Commission’s mandate and authorities in greater detail. Article 325 grants the Commission the authority to prepare a unified election roll with the additional guidance that it must ensure the roll protects equality under the law and does not discriminate on grounds of religion, race, caste, or sex. Article 326 states the right to universal adult suffrage. Articles 327 and 328 provide the commission with the power to make provisions for elections to the national parliament as well as the state assemblies. Finally, Article 329 bars the interference of the judiciary during the electoral process. While these articles

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16 The voting age, originally set at 21, was later revised to 18 in 1988 through a constitutional amendment.
constitute the core of the Commission’s constitutional authority, several other articles elaborate technical issues relating to the mode of elections, the structure of the parliament and state assemblies, and the role of the commission in advising the president on the disqualification of elected representatives.

Soon after the Constitution was adopted in 1949, and in advance of the first general election, Parliament moved swiftly to pass implementing legislation that effectively put meat on the relatively bare bones of the Constitution’s electoral provisions. Two acts—the Representation of the People Acts (RPAs) of 1950 and 1951—spelled out in greater detail the specifics of electoral administration, and they remain the bedrock of India’s election law to the present day. The 1950 Act provides guidance on the preparation and revision of electoral rolls, the drawing of electoral boundaries (to be handled by an independent agency established by Parliament rather than the ECI), and the qualification and eligibility criteria of voters. The foremost preoccupation of the 1951 Act, in turn, is the actual conduct of elections (election administration, eligibility of candidates, regulation of parties, and campaign processes). Furthermore, the Act also provides for a system of citizen-driven post-election ‘petitions’ to be adjudicated by the judiciary. The ‘post-election’ nature of these petitions needs to be underscored; as outlined in the Constitution and subsequent election law, when elections are ongoing, the commission enjoys primacy over the judiciary and other branches of government. While this primacy has not gone unchallenged, it remains largely intact even today, as we discuss subsequently.

Organizational Structure

Article 324 of the Constitution states that the ECI ‘shall consist of the Chief Election Commissioner [CEC] and such number of other

18 Under the Constitution, the jurisdiction of the ECI as it relates to political parties was highly ambiguous. A subsequent order of the commission, the Election Symbols (Reservation and Allotment) Order of 1968 clarified matters. The ECI stipulated that all parties were to formally register with the commission. The commission, in turn, would allocate and regulate the use of election symbols by parties. See Gilmartin and Moog, ‘Introduction to “Election Law in India”’, 141. While this did clarify some hotly contested issues, as we will see below, it did not fully resolve them.
Election Commissioners, if any, as the President may from time to time fix. The appointment of the CEC and other election commissioners (EC) is made by the President, and Article 5 of Section 324 states that the CEC can only be removed from his office in ‘like manner and on the like grounds’ as a judge of the Supreme Court. The article also allows for the President, after consultation with the ECI, the authority to name regional commissioners to assist with elections, if deemed necessary.

For the first several decades after Independence, the ECI was guided by a single CEC, although since 1993 (for reasons elaborated below), the ECI has operated as a three-member body with decisions taken on the basis of consensus. Although there is no formal provision of law that stipulates ECs should be drawn from the Indian Administrative Service (IAS), this has become customary. After some controversy, the terms of service of the commissioners were fixed by Parliament so that all commissioners would be treated equivalent to judges of the Supreme Court (in terms of salary, perquisites, retirement, etc.). Commissioners are appointed to six-year terms and are subject to a mandatory retirement age of 65.

Although the Constitution gives the President the authority to appoint regional commissioners in consultation with the ECI, this has only happened once (in the very first general election). Instead, the ECI has relied on chief electoral officers (CEOs) located in each of the states. The state-level CEOs were given statutory backing by an amendment to the RPA passed in 1956, which also gave the ECI power to name and supervise these officials (typically a civil servant belonging to the IAS from that state’s cadre) in consultation with the state governments. These state-level CEOs are the point people for state and national elections and they function as the Commission’s eyes and ears on the ground.19

In addition, the work of the ECs is supported by a secretariat based in New Delhi. According to former Deputy Election Commissioners R.P. Bhalla, the ECI began its life with a skeletal staff comprising a handful of officers working for the Constituent Assembly who were rendered unemployed once the Assembly concluded its work.20 The staff has grown

significantly since then; as of the early 2000s, more than 300 people toiled in the secretariat. The administrative expenditure for the ECI, unlike other constitutional authorities, is a voted expenditure rather than a ‘charge’ on the Consolidated Fund of India—a change the Commission has long advocated for. The Commission’s fiscal year 2013–14 budget stood at 68.5 crore rupees (or roughly $11.2 million dollars).

The administrative machinery related to India’s electoral system is intricate and multi-layered. At the top, of course, sits the ECI, which is the apex body for administering elections. The ECI itself has no full-time staff in the field; it relies heavily on state and local governments to provide personnel for preparing the rolls and administering elections. Thus, when either the rolls are being revised or elections are being held, the ECI’s “staff” is augmented by millions of additional workers (typically government or quasi-government employees) deputized to work under its aegis. For example, in carrying out India’s 2009 general election, the ECI oversaw roughly 11 million personnel across the country. Crucially, and at times controversially, these millions working on behalf of the ECI are subject to the Commission’s disciplinary control.

At the top level of the ‘field machinery’ sit the 36 state CEOs. Within states, each of India’s 684 administrative districts is served by a district election officer (DEO), who is typically the district magistrate/collector. The DEO, typically dual-hatted as the returning officer (RO), is the ‘kingpin’ for all election activities taking place in his/her district. Below the DEO, there are electoral registration officers (ERO) who are government employees deputized to oversee the voter registration process and revision of the electoral rolls for each of the 4,120 state assembly and 543 national parliamentary constituencies. Finally, at

21 McMillan, ‘Election Commission’. Further, while officers serving at the deputy commissioner, principal secretary, or director level typically consist of individuals on deputation from the IAS, officers below this rank come from within the secretariat’s own ranks. See Rama Devi and Mendiratta, How India Votes, 186.

22 Rama Devi and Mendiratta, How India Votes, 187.


24 Rama Devi and Mendiratta, How India Votes, 211

25 EROs are assisted in this task by Assistant Electoral Registration Officers (AEROs).
the lowest level sit booth level officers (BLO), a relatively new administrative innovation, who are in charge of individual polling booths. To ensure that this process functions smoothly, the ECI also appoints observers of two types—general observers (drawn from the IAS) and expenditure observers (drawn from the Indian Revenue Service)—to monitor election proceedings in all constituencies.26

The ECI’s writ does not extend to elections that take place below the state level. The 73rd and 74th Amendments to the Constitution, which established new local-governance structures in rural and urban India, authorized the creation of autonomous State Election Commissions (SECs) to oversee the conduct of elections to rural panchayat and urban local bodies. In recent years, analysts have raised concerns about political interference and the overall lower quality of the SECs when it comes to their conduct of local elections. To the extent these concerns are valid, the underlying reasons likely rest with the variation across states in terms of bureaucratic capacity and the quality of the judiciary.

Another issue that has remained outside of the formal purview of the ECI is delimitation, or the drawing of electoral boundaries. Under Article 81 of the Constitution, Parliament has the authority to make laws related to delimitation, which they have typically outsourced to an independent agency set up after each decennial census.27 The ECI, however, has played a supporting role in assisting the various Delimitation Commissions, although it lacks any legal or supervisory authorities in this regard.28

**Regulatory Expansionism**

The ECI was fortunate to have been established as a constitutional body, one whose independence and standing was fiercely protected by

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26 In special cases, the ECI also deputizes special observers from the Indian Police Service (IPS) in sensitive areas.

27 For various reasons, Parliament did not establish a delimitation commission between 1972 and 2001. When a delimitation commission was finally established to redraw boundaries, it did so under certain constraints (namely an inability to change the overall number of seats or their state-wise distribution in either Parliament or the state assemblies).

India’s founders and frequently by the courts. Having said that, there was a great deal of ambiguity in both the Constitution, as well as in subsequent legislation, about crucial aspects of the Commission’s mandate. Over the past six decades, India has changed in ways impossible to foresee. In response, the commission has had to adjust accordingly, often without clear statutory guidance.

In the initial period following the promulgation of the Constitution, the Commission was not a subject of significant controversy and was focused on building an autonomous electoral agency from scratch. It was aided in its initial institution-building phase by a leader of tremendous capacity in the form of Sukumar Sen, a little remembered but incredibly important figure in Indian democracy, who served as the first CEC. Jawaharlal Nehru, as the country’s first prime minister and a true believer in the Commission’s role in integrating India, also took it upon himself to bolster the stature of the Commission in the early years, granting it ample latitude in organizing polls.

After Nehru’s death, the political scenario in India became more complex. Internal fissures developed within the Congress, the party’s dominance slowly eroded (especially at the state level), and a new host of competitors to the Congress gradually began asserting themselves. During Indira Gandhi’s prime ministership, in particular, the Commission was increasingly drawn into difficult, often highly politicized battles. First came the ECI’s role in deciding which faction of the Congress to officially recognize after the party’s split in 1967. Soon after came the Allahabad High Court decision in 1975 to nullify Mrs Gandhi’s 1971 successful election to Parliament in response to allegations of corrupt electoral practices. This controversy, of course, in turn led to Gandhi’s decision to declare a state of national emergency.

29 R. Guha, ‘The Biggest Gamble in History’, The Hindu, 27 January 2002. Guha recalls that Nehru pressured Sen to hold India’s first general elections as quickly as possible following the promulgation of the Constitution. Sen, a mathematician by training, understood the logistical complexities involved and stood his ground. In the end, Sen appears to have been vindicated; the Commission’s painstaking preparations for the first national polls resulted in remarkably successful elections in 1952.

30 Gilmartin and Moog, ‘Introduction to “Election Law in India”’, 140.
The end of the emergency and the restoration of the democratic process led to a rejuvenation of the Commission and redoubling of its assertiveness. Indeed, this was one of the positive, though unanticipated, effects of India’s brief detour from democracy. Yet, this was also a period when India’s electoral system was placed under great stress, thanks to heightened levels of political competition and the growth of money and muscle power.

In the early 1990s, the Commission entered a new period of regulatory activism intended to protect the sanctity of democratic elections. The growing assertiveness of the ECI was not just the product of the inexorable pressures of dirty elections, a strong opposition, and an increasingly mobilized public and media during the 1990s, but also due to the personality of then CEC T.N. Seshan. It was a case of both structure as well as agency. Former Prime Minister Rajiv Gandhi warned his successor, Chandra Shekhar, about appointing Seshan to the post of CEC in December 1990, stating he would forever rue the day. Seshan was reportedly a strong personality, but also someone who revelled in political intrigue. He tried to push the envelope on the broad constitutional remit given to the CEC by trying to control the timing and conduct of elections, enforce the Model Code of Conduct, and regulate political parties.

In this section, we briefly review some of the societal pressures on election administration, how the Commission attempted to respond to them, and the subsequent controversies that emerged in light of the agency’s contested authority. We end with a detailed discussion on an important innovation in the conduct of elections in India, the Model Code of Conduct.

Social and Political Pressures

In order to understand the Commission’s regulatory expansionism over the last few decades, one needs to have a proper appreciation of the changing nature of elections in India. In the immediate post-Independence era, the Congress Party dominated the Indian political imagination. It is too simplistic to say it had a monopoly over political competition; after all, there were a total of 55 political parties that

31 Gilmartin and Moog, 'Introduction to “Election Law in India”', 142.
contested the inaugural general elections. But when the results of the 1952 general election were announced, Congress emerged victorious in 364 of 489 seats, earning 45 per cent of the popular vote. Furthermore, across the political spectrum, control over parties, and the candidate pool itself, was still dominated by the upper-caste Hindus. In many parts of the country, lower and backward castes did not enjoy political or social emancipation.

Over the next several decades, the ‘Congress system’ gradually broke down, giving way to new and emerging political parties, many of whom were grounded in regional politics. Figure 10.1 plots the increase in the number of political parties contesting national elections, while Figure 10.2 documents the growth in the number of candidates contesting national elections. Whereas 55 parties participated in India’s first general election in 1952, that number increased by several orders of magnitude after 1989. By 2014, as many as 464 parties fielded candidates in India’s fifteenth general election. The number

![Figure 10.1](image-url)  
**Figure 10.1** Number of Parties Contesting Lok Sabha Elections, 1952–2014  
*Source: Election Commission of India.*
of candidates has also increased significantly: from 1,874 in 1952 to 8,251 in 2014.\textsuperscript{32}

Further complicating this picture was the transition from an era of single-party majority to coalition government in New Delhi, an attribute that has firmly become a part of Indian political life post-1989. Indeed, coalition government became a reality not only at the centre, but also in the states, leading one observer to refer to the present period of Indian politics as an ‘era of coalitions of coalitions’.\textsuperscript{33} The decisive victory of the Bharatiya Janata Party (BJP) in the 2014 general election, in which the party earned an outright majority in Parliament for the

\begin{figure}[h]
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\caption{Number of Candidates Contesting Lok Sabha Elections, 1952–2014}
\end{figure}

\textit{Source}: Election Commission of India.

\textsuperscript{32} The increase in the cost of deposits, or the price of standing as a candidate, was dramatically increased in 1996, which explains the sudden drop-off in 1999.

first time in three decades, is a throwback to the kind of hegemony the Congress enjoyed in the 1947–89 period. It remains to be seen, of course, whether this most recent electoral verdict is anomalous or heralds a return to a previous era.

The sharp increase in political competition introduced new pressures on the ECI and vastly complicated its role as implementer of elections and neutral arbiter. In addition to managing the smooth conduct of elections with many more parties in the fray, it also had to ‘check the abuse of power not by one, but by several parties who are part of ruling coalitions at the centre and states’.  

The increasing level of political competition proceeded hand in hand with a sharp popular democratic upsurge. At a basic level, of course, population growth triggered an exponential uptick in the size of the electorate, as seen in Figure 10.3. In 1952, the electorate stood at 173.2 million, and by 1984 this number had more than doubled to 400 million. In India’s 2014 elections, the electorate stood at 834 million. At the same time, a process of democratic deepening took hold as politically marginalized segments of society found their voice —often through the express of caste or ethnic identities—in the democratic discourse.

As Jaffrelot documents, in 1952, nearly two-thirds of Members of Parliament (MPs) from the northern Hindi-belt were from the Hindu upper castes, and fewer than 5 per cent from the Other Backward Classes (OBC). By 2004, the upper caste share fell to just one-third while the OBC share stood at 25 per cent. This ‘silent revolution’, to borrow a phrase from Christophe Jaffrelot, posed serious challenges to the conduct of elections because the Commission had to protect the democratic rights of the newly mobilized communities, while guarding against the tensions that naturally arise when competing social identities clashed.  

This process of democratic deepening was, on balance, a profoundly positive development. Yet at the same time, this democratic deepening also produced many sub-optimal outcomes. Two, in particular, proved especially vexing for India’s election guardians: criminalization of politics, and the increasing role of money in elections. The implications for elections were stark: increasing election-related violence, instances of outright vote rigging (‘booth-capturing’) and a steady infl ow of undeclared, ‘black money’ used for elections. We return to these twin themes in the penultimate section.

**Executive–Agency Political Context**

While the constitution gave the CEC and the Commission very broadly defined powers of superintendence, direction, and control, it was the unstated assumption and expectation on the part of the ruling party that the CEC (always a retired civil servant) would be ‘cooperative’, manage elections according to their wishes (and time-table) of the

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37 ‘Black money’ is the term applied to funds on which taxes have not been paid or to money raised through illegal activities.
ruling party, and look the other way in the event of electoral malpractice (provided such instances were not overly egregious).

While this was by and large the case over the first three decades, with successive CECs refusing to assert themselves to the full extent of their potential powers, the rise of strong opposition parties, first in the states, and then at the centre during the late 1970s, changed the political balance. Along with this came increasingly strong electoral challenges to the ruling party. Both the ruling parties as well as the opposition began to resort to dirty electoral tricks, posing a challenge to the ECI. This, in turn, put pressure on successive CECs to assert themselves in the context of increasing media exposure and public and opposition pressure. This dynamic led to repeated attempts by the ruling party of the day to try and check the authority of the ECI. The evolution of an increasingly assertive ECI since the 1990s is the story of a seesaw battle between assertion by the CEC, and later the three-member ECI as a whole, and attempts by the ruling party to constrain the CEC/ECI. Over the long run, however, a much more powerful ECI has emerged and been accepted by the political class.

The calls to establish a multi-member commission date back to at least the 1970s. Finally, in October 1989, just a month before the general election, Prime Minister Rajiv Gandhi exploited the provision for additional ECs by appointing two: V.S. Saigal (retired Indian Police Service) and S.S. Dhanoa (retired IAS). This move was widely perceived as an attempt to limit the absolute powers of then CEC R.V.S. Peri Sastri, who was reputed to oversee elections strictly by the book. The opposition fought the appointments tooth and nail, Dhanoa and Saigal fell afoul of Haryana Chief Minister (and key power broker) Devi Lal during the election, and soon the latter emerged as deputy Prime Minister under V.P. Singh. The V.P. Singh government subsequently removed the two ECs by abolishing the posts by presidential amendment of the notification, a move later upheld by the Supreme Court. However, in that judgement, the Court did find that multiple heads are better than one, in principle, when it comes to the ECI.

38 Indeed, Dhanoa later admitted to a senior ECI official that he was sent there with a ‘mandate’; in fact, the two new ECs often called on then Home Minister Buta Singh at his residence before coming to work.
Later, when CEC T.N. Seshan’s star was on the rise, Prime Minister Narasimha Rao appointed two additional ECs in 1993, M.S. Gill and G.V.G. Krishnamurthy, to check Seshan’s power, as he was seen as a loose cannon. Although Seshan resisted the move, in 1995 a Supreme Court bench ruled in a 5–0 decision that the appointment of two additional ECs was legal, that the CEC was only *primus inter pares* (first among equals), and that the two could overrule the CEC. From that point on, the ECI has consistently been a three-member body. And when Seshan’s term ended in December 1996, M.S. Gill was named the new CEC.

Gill also thwarted, through judicious informal advice, by a move contemplated by Prime Minister Vajpayee to appoint two more ECs, taking the number to five, to check the existing ECI. On Gill’s part, this was an act of deft political management. However, Vajpayee’s National Democratic Alliance (NDA) government did contemplate another attempt to engineer a cooperative ECI. The BJP was not happy with the assertiveness of CEC Lyngdoh when he delayed the Gujarat state assembly election of 2002, disallowing BJP Chief Minister Narendra Modi to hold an early election in the summer following the post-Godhra riots. In January 2004, just before the impending national elections and before Lyngdoh was to retire, it was rumoured that the retiring cabinet secretary T.R. Prasad would be brought in as CEC directly, superseding the two ECs, T.S. Krishnamurthy and B.B. Tandon (who eventually became CECs in that order). However, the move was abandoned when the two ECs threatened to resign. This anecdote indicates the consolidation of a new phase in executive–ECI relations: by now, it had become very important for the ruling party of the day to *not* be seen as attempting to undermine the ECI’s authority. Since M.S. Gill’s tenure, the tradition in the three-member ECI has been to follow the seniority principle, and a later CEC (Quraishi) has suggested that this be made law.

The setting up of protocols for the smooth functioning of the three-member Commission after the 1995 Court judgement was crucial to its consolidation and subsequent evolution. Then Deputy Election

39 Seshan’s resistance was so complete that for about two years Seshan did not give substantial work to the two ECs and the ECI staff offered little cooperation since rank-and-file officers feared the wrath of the CEC.
Commissioner Subas Pani (1995–2002) played a key role in the setting up of such protocols between November 1995 and Seshan’s exit in December 1996. These systems included those for movement of files between the members, convening of meetings, media briefings (including appointing an official spokesman), writing of annual confidential reports of officers, recruitment of entry-level staff through staff selection boards instead of employment exchanges (to ensure good support staff were available), computerization of electoral rolls and identity cards, setting up a professional website, and so on. These systems and protocols considerably facilitated efficient and smooth functioning of the Commission, while at the same time minimizing actual and potential friction between Seshan and the other two members.  

Regulatory Response

Faced with a series of new challenges brought on by India’s social, political, and economic changes, the ECI’s response was to engage in a sustained pattern of regulatory expansionism. The broad construction of the Commission’s legal and constitutional framework, coupled with its reputation for integrity and the popular support it enjoyed, allowed it to take on a much broader role in terms of regulating elections than it had enjoyed at the outset. In part, this transformation was also facilitated by a weakness demonstrated by other institutions of the state. As McMillan writes, ‘A weak legislative framework and the slow and imperfect functioning of the judiciary have created a vacuum of authority into which the Election Commission has frequently been drawn’.  

This expansionism has frequently raised questions about whether the ECI has breached its constitutional remit, inviting criticism by many political actors and leading to numerous disputes that have often ended up in the courts. To explore these issues, we divide them into two clusters: pre-election activities, such as voter registration and the nomination of candidates, and the actual conduct of elections.

Voter registration: One of the foremost challenges facing the Commission involved voter registration, which gets to the heart of

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40 It should be noted that it was not always the CEC versus the others, and that the three largely agreed on most substantive issues.

the participatory democratic process. In practice, the Commission interpreted its mandate as an affirmative responsibility to enrol voters rather than place the burden on the voters for ensuring their place on the electoral rolls.\(^{42}\) Thus, the default setting is for the Commission to perform a good faith effort in ensuring that every eligible voter’s name is found on the electoral rolls, while it is merely the duty of the voters to check the agency’s work.

To carry out this task, the Commission dedicates considerable resources to conducting a thorough house-to-house canvass of eligible voters every five years (it also conducts summary revisions on an annual basis), making the resulting lists available for public scrutiny. The ECI’s decision to place the burden of registration on itself, rather than on the voter, has been fraught with practical challenges. Indeed, the Commission has found itself in the uncomfortable position of taking decisions on matters related to citizenship. As the political scientist Anupama Roy explains, the Commission—backed by the courts—was granted the ‘power to decide … whether those who laid claims to being eligible to vote were in fact citizens’.\(^{43}\) In a landmark judgment stemming from a case filed in the aftermath of the 1983 elections, the Supreme Court ordered the ECI to ensure the accurate revision of electoral rolls, taking into account the citizenship status of voters (to ensure that any would-be voters included on the rolls were in fact citizens of India).

The ECI, reluctant to wade into such murky waters, responded by placing the burden on voters to disclose their citizenship status, but the precedent of blurring the lines between citizenship and voter eligibility had been established.\(^{44}\) A series of controversial orders in the early 1990s by the ECI directing staff to purge voter lists of ‘foreigners’ resulted in several court cases which ultimately made their way to the Supreme Court, which ruled that there must be limits on the ECI’s efforts to ensure the citizenship status of voters. In the cases in question, entire neighbourhoods comprised largely of Muslims saw their residents’ names purged from the lists, raising concerns about the ‘sweeping’ nature of the ECI’s powers.\(^{45}\)

Still today, controversies about voter registration remain, with urbanization posing a particular challenge to the work of election authorities. Due to rapid urbanization, maintaining up-to-date voter lists in urban areas is an immense challenge. As several experts warned in a 2012 column: ‘This is not about bureaucratic neglect or administrative incompetence, but rather the early warning signs of a new order: a dynamic, mobile urban citizenry’. In the 2014 general election, several thousand Mumbai residents, including many prominent personalities, were inadvertently left off the voter rolls—resulting in a minor embarrassment for election authorities.

Nomination of candidates: As part of its superintendence function, the ECI has also been forced to define parameters relating to the nomination of candidates standing for election. Two issues merit mention here. The first relates to the proliferation of candidates and parties contesting elections. Here, once again, the ECI has been forced to balance the promotion of democratic principles with ensuring relative efficiency. In an attempt to regulate entry, candidates have been required to submit a security ‘deposit’, which they forfeit if they obtain less than one-sixth of the vote share in their respective constituency. As Figure 10.2 demonstrated, the number of candidates contesting elections has sharply increased over the years; in an effort to deter ‘non-serious’ candidates from entering the fray, the ECI raised the security deposit from Rs 500 to Rs 10,000 in 1997 (or from $13 to $267). This had an immediate effect on the quantum of candidates, with the number of contestants falling dramatically after this decision was taken, before rebounding in subsequent years.

49 L.L. Linden, ‘Could Have Been a Contender? The Effects of Limiting the Number of Candidates in Indian State Parliamentary Elections’, (Working Paper, Department of Economics, University of Texas-Austin, December 2005), 17. The author found that the increase in deposits decreased the number of new candidates in each constituency by an average of six candidates, but only marginally increased the electoral prospects of the average existing candidate.
A second issue relates to the criminalization of politics. For many years, the ECI had been agitating for either new powers to bar candidates facing serious criminal cases from standing for elections or, at the very least, the authority to make transparent the criminal and financial details of nominated candidates. In response to public interest litigation (PIL) filed by the Association for Democratic Reforms (ADR), a good governance non-governmental organization (NGO), the Supreme Court in 2003 clarified that the ECI could require that all candidates standing for election at the state and national levels must submit, at the time of nomination, a judicial affidavit declaring the candidate’s criminal, educational, and financial records. With the court’s backing, the ECI framed new guidelines for disclosure, which have improved the level of transparency voters can access about the candidates in the fray. As we discuss in greater detail subsequently, these new guidelines have had mixed success, and the larger issue of candidates under serious criminal scrutiny being barred from standing remains a distant hope.

Regulation of Parties: The 1951 RPA grants the authority of registering political parties to the ECI, which requires that parties furnish the agency with a copy of its party constitution. This authority was further fleshed out through the ECI’s 1968 ordinance on election symbols. Owing to high rates of illiteracy, the ECI reserves and allocates election symbols to parties based on a series of intricate rules having to do with the parties’ past performance. This means parties can gain or lose symbols (including to other parties, who can adopt those symbols in subsequent elections) and that the ECI, by default, has been saddled with the unenviable task of deciding which faction retains the symbol in the case of party splits. Furthermore, based on a party’s performance, the ECI categorizes parties as either ‘national’ or ‘state’ parties.

The ECI has, in recent decades, sought to extend its writ when it comes to regulating parties. A major issue facing India’s democracy is the lack of democratic norms and procedures within political parties, a practice that openly flouts the ECI’s requirement that parties adhere to

50 As CEC, Gill also asserted his authority to disqualify candidates for ‘corrupt practices’ under Section 8A of the RPA; the president has to act on the ECI’s opinion. However, courts very rarely upheld the corrupt practices charge.

51 As we mentioned before, this was a major issue when the Congress Party split in 1969 under Indira Gandhi.
such practices. The lack of intra-party democracy means that parties often operate as little more than family-dominated fiefdoms or cliques where a handful of elites (though often in practice just the party president) control the party apparatus, including the selection of candidates and the content of its platform.

In an attempt to rectify this, the ECI under Seshan declared that the Commission can, and would, deregister any party that did not adhere to its internal constitution. The genesis of this practice was that Rajiv Gandhi, in the wake of the Anti-Defection Law (52nd Constitutional Amendment of 1985), made parties submit copies of their constitutions to the ECI. Later, in 1988, section 29A was added to the RPA by which parties submitted their constitutions to the ECI and committed themselves to upholding democracy.

Seshan, and later Gill, interpreted this to mean that parties would have to hold internal elections. Subsequent ECs stuck to this line, although they eventually backed off once it became clear that withdrawing recognition on such grounds would likely be challenged in the courts. While the ECI still supports such powers, it has made clear that a constitutional amendment to augment its existing authorities would be necessary. The politics behind this move were more subtle. Forcing parties to hold internal elections was intended to weaken the hold of party leaderships, which had been made all-powerful by the anti-defection law, and thereby reduce the threat from such leaders to the authority of the ECI.

Conduct of elections: Perhaps the most notable innovation championed by the ECI has been the Model Code of Conduct (MCC), a voluntary set of principles that guide the conduct of candidates and parties, as well as incumbent governments, during election time. While the 1951 RPA established detailed procedures about petitions by

54 However, Seshan did succeed in getting Shiv Sena leader Bal Thackeray banned from contesting elections for six years, a victory only in principle since Thackeray never actually stood for election.
aggrieved parties after the elections were held, it did not contain provisions for interference while elections were ongoing. This is the gap the ECI hoped to fill with the MCC.\[^{56}\]

The intent behind the MCC is to provide a normative framework for speech, electioneering, election manifestos, Election Day conduct, and the overall behaviour of campaigns. What is remarkable about the code is that the ECI’s power to enforce it relies primarily on moral suasion; the code does not have the force of law and exists merely as a set of voluntary minimum standards. The code, whose original impetus came from civil society groups, was first adopted in Kerala in 1960. It stipulated best practices for participants in the election in an effort to minimize corruption, vote buying, and sectarian or other possible anti-democratic behaviour. Importantly, it also outlined norms for the government of the day to follow so that it would not use its enormous powers of incumbency to sway the electorate.\[^{57}\]

The ECI first utilized the MCC at an all-India level in the late 1960s, although it made several substantial revisions to the code along the way to adapt to changing circumstances. However, it was not until 1982 that all parties accepted the Model Code, allowing it to fully take root. Until the 1990s, the MCC was largely a set of norms the ECI championed, but did not actively police. This changed in the 1990s for a few reasons.\[^{58}\] First, the electoral context was much more intense in

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\[^{56}\] The ECI defines the MCC as ‘a set of norms which has been evolved with the consensus of political parties who have consented to abide by the principles embodied in the said code and also binds them to respect and observe it in its letter and spirit’. Election Commission of India, *Model Code of Conduct for the Guidance of Political Parties and Candidates* (New Delhi: Election Commission of India, 2007): 7.


\[^{58}\] U.K. Singh, ‘Between Moral Force and Supplementary Legality: A Model Code of Conduct and the Election Commission of India’, *Election Law Journal: Rules, Politics, and Policy* 11, no. 2 (June 2012): 149–69. As Singh points out, the emphasis on the 1990s as a critical juncture is possibly overstated. Following emergency rule, the ECI did engage in a bout of activism in order to restore its constitutional role and reinforce democratic procedures with respect to elections. Both had taken a hit during this period from 1975 to 1977.
the late 1980s and early 1990s, with competition, insecurity, election fraud, and violence all on an upswing. Second, the ECI had grown tired of promoting the code only to then see political parties and other actors openly flout it. And third, Seshan was seized with the fear that ordinary Indians were losing faith both in the institution of the ECI specifically and the democratic process in general.

Beginning in the 1990s, the ECI transitioned from championing the code to actually implementing it. This entailed a huge devotion of human and financial resources to ensure that the relevant parties actually followed the letter and spirit of the code throughout the country. In practically enforcing the code, the ECI’s power ‘was derived from its constitutional position as the apolitical arbiter’ of a unique form of morality.\footnote{D. Gilmartin, ‘One Day’s Sultan: T.N. Seshan and Indian Democracy’, \textit{Contributions to Indian Sociology} 43, no. 2 (May/August 2009): 247–84.} Politicians, parties, many citizens, and occasionally, the courts have not fully accepted the notion of the ECI’s unique morality. Indeed, one particular bone of contention relates to what Gilmartin refers to as ‘electoral time’—an idealized conception of a period in which the ECI (in service of free and fair elections) was \textit{the} law, if not above it.

One practical issue that grew out of this was a dispute over when the MCC is actually operative. The ECI contended that the MCC comes into force as soon as the ECI announces elections (as opposed to when the ECI formally notifies elections, which happens at a later date). The dispute ended up before the courts, with the ECI eventually brokering a settlement with political parties that the MCC would come into force at the time of ‘announcement’, and compromising that the gap between ‘announcement’ and ‘notification’ would not exceed three weeks.\footnote{Singh, ‘Moral Force’, 165.}

The issue of ‘electoral time’ has several additional aspects. One has to do with the length of the campaign period. Under a 1996 Amendment to the RPA, Parliament (with the ECI’s consent) agreed to reduce the campaign period from three weeks down to two. While the campaign period has shrunk, ironically, elections now unfold over a greater length of time. This has to do, in part, with the security requirements modern elections entail, which means that in many big states (and in national
elections) elections last several weeks or occasionally a few months, taking place in phases. For instance, the 2014 general election unfolded over nine phases, spanning five weeks.

Another has to do with the actual timing of elections itself, or ‘time-tabling’. While the basic parameters of scheduling elections are detailed under existing statute, the ECI does have significant latitude in determining the precise timing and sequencing of elections. This issue came to a head on multiple occasions, though two are especially noteworthy. The first was during Bihar’s 1995 assembly elections, when Seshan tormented then Chief Minister Lalu Prasad Yadav by forcing the rescheduling of polls on multiple occasions due to a perceived inadequacy on the part of the state government in making provisions for elections. In this case, the Supreme Court was forced to intervene and roll back some of Seshan’s excited activism. The second critical event took place in 2002 in Gujarat, which had just suffered some of the worst communal violence between Hindus and Muslims in decades. There, the ECI intervened to delay the ruling BJP’s attempt to hold early elections, which it worried would further inflame communal tensions. Although the BJP swept back to power, the ECI emerged victorious in the battle over the timing and elections were delayed—an important legal and moral victory from the Commission’s perspective.\(^6\)

Although Seshan played a central role in re-asserting the ECI’s authority, it was under Gill’s stewardship and deft political, as well as internal management within the ECI, that the new three-member ECI came to be institutionalized over 1997–2001, a period of political flux followed by a relatively stable BJP-led National Democratic Alliance (NDA) government. Gill continued Seshan’s practice of asserting control over the timing of elections, the appointment and transfer of civil servants and police officers connected to the conduct of free and fair elections, enforcement of the Model Code, forcing of political parties to hold internal elections, and the proposal first mooted by the ECI in 1997 to bar candidates with criminal antecedents. It was Gill who initiated the practice of transferring all district-level civil servants and police officers, down to tahsildars (sub-district revenue officers), who had been in their posts for four or more years at the time of announcement of elections. This process has since become customary, with the

modification under CEC Quraishi that those who had served in the same posts at those levels for three of the preceding four years would be automatically transferred. By Quraishi’s appointment in 2010, this practice gave the ECI appointment and transfer powers during elections over roughly 40 per cent of the state bureaucracy.

There are at least two broader concerns, however, concerning the MCC. The first has to do with the restrictions the code places on the conduct of government. Because the MCC is intended to create a level playing field, it places serious constraints on government policymaking (such as the announcement of government programmes or sanctioning of new investments) in advance of elections. In a given state government term, separate national, state, and local elections—each governed by the MCC—take up a significant amount of policymaking time.

The second concern is related to a kind of technocratic efficiency by the ECI that appeals to the Indian middle classes. For all of his democratic crusading, Seshan was dubbed a ‘middle-class hero,’ but his many critics believed he was a power-hungry, anti-democratic force. His supporters felt his actions were necessary to clean up India’s democracy, while opponents lamented his ‘Orwellian power’. As Gilmartin writes, Seshan’s critics viewed him as a man ‘ready to wield the Model Code not just as an instrument of political and legal restraint but as an instrument of power, and one that could potentially threaten not only the corrupt politicians … but all real politics’. In effect, they argued, Seshan believed (mistakenly, in their view) that he could ‘hold the election process to a higher morality than existed in “normal” political life’.

Elections in India have long been celebrated for their carnival-like quality, when the nation is transformed into a large fairground to commemorate the largest public festival in the country. Yet critics maintain that the ECI, thanks to the efforts of Seshan and his successors, has slowly chipped away at this celebratory sentiment thanks to its hyperactive regulation of public displays, rallies, public meetings, and

63 Gilmartin, ‘One Day’s Sultan’, 262.
64 Gilmartin, ‘One Day’s Sultan’, 271.
other election-related paraphernalia in an effort to guarantee a level playing field. The ECI, as a May 2014 editorial in *Economic and Political Weekly* observed, is often-times caught between accusations that it is overstepping its mandate and the need to manage overly inflated expectations placed upon it by politicians, parties, and the citizenry.66

Over the past decade, what were once seen as assertions of the CEC against the ruling party about the timing, conduct, and reporting of elections, the control of the administration at election time, and the regulation of parties and candidates, have all become normal practices. Transparency measures like those of 2003, forcing candidates to declare their criminal records, family financial assets and liabilities, and educational qualifications, have been aided by legal transparency laws like the Right to Information Act, 2005 (RTI Act).67

Organizational Capacity and Coordination

One of the lamentable aspects of India’s post-Independence record has been the relative inattention, particularly in recent decades, to the health and status of India’s public sector institutions. The ECI, while certainly imperfect, does represent a case of relative institutional rejuvenation and even innovation. This section provides a brief review of the composition of the ECI, its organizational culture, and the way in which it has innovated to keep pace with India’s changing electoral environment.

Composition of the ECI

In the previous section, we detailed the evolution of the ECI from a single-member commission to the current ‘troika’ set-up. One remaining issue which merits discussion is the stability of the current configuration. Has the three-member CEC stabilized itself as an independent

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67 As one recent CEC privately remarked to the authors, the actions of Seshan and his successors encouraged later CECs to be more assertive and, in fact, raised the bar for them to maintain their image, particularly in the light of intense media scrutiny in which every utterance makes news.
institution, or can it still be undermined? In the opinion of several former CECs, the ECI is still vulnerable on these grounds for at least four reasons.

First, it is still possible for a government to appoint additional ECs and enlarge the size of the ECI while adhering to the letter of the law. Thus, in theory at least, ‘packing’ of the ECI is still possible. Second, the tenure of the two additional ECs is less secure than that of the CEC, a constitutional lacuna that, according to one former CEC, should have been addressed, but was left inadvertently unaddressed in the 1995 Supreme Court judgement upholding the three-member commission. But the question remains: how can the remaining two ECs be truly equal if they do not enjoy equal security of tenure? Third, while the current tradition is that one of the two ECs will be promoted to CEC in order of seniority, this is only convention. The lack of clear rules potentially renders the ECs vulnerable to government pressure. One former CEC has suggested making the seniority principle law. Fourth, conflict among the three commissioners could possibly create an opening for political interference and manipulation. And, of course, there remains the risk of partisan or political appointments made by the government of the day.

The second and fourth lacunae mentioned came out sharply in the conflict that had been brewing since 2007 and erupted in public between CEC N. Gopalaswamy and EC Navin Chawla in January 2009, when Gopalaswamy asked the President to remove Chawla and the latter refused.\(^68\)

There were two related issues involved here on which there was no constitutional clarity. One was whether under Article 324(5), the CEC had *suo motu* powers to recommend the removal of an EC.\(^69\) The second was whether the CEC could ask an EC for an explanation of his conduct, in this case of Chawla’s allegedly biased conduct—stemming

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\(^68\) ‘Election Commission in Tatters’, *Economic and Political Weekly* 44, no. 9 (21–8 February 2009): 5. For the account in this section, we are grateful to Navin Chawla for interviews granted on 7 July and 2 October 2013. For a detailed account of the sequence of events discussed here, see Harish Khare, ‘Restoring Order at Nirvachan Sadan Statecraft’, *Hindu*, 26 February, 2009.

from the BJP’s contention—that he was a close associate of the Gandhi family.

The BJP initially complained to the President and then to the CEC, asking for Chawla’s removal. Chawla, in turn, accused Gopalaswamy of meeting secretly with BJP leaders in his chamber.

Soon, the debate moved to whether the CEC could require that Chawla furnish an explanation for certain actions he had taken on the ground, given that there is no clear legal provision supporting the notion that the CEC has the authority to demand an explanation from an EC of equal status. Chawla maintained this position in his replies to Gopalaswamy of 12 September 2008 and 10 December 2008, and was supported by the Union Law Secretary T.K. Viswanathan in his letter of 7 November 2008 (which was in response to Chawla’s formal letter to the Union Law Ministry seeking clarification of his powers). 70

Gopalaswamy retorted that, as CEC, he had suo motu authority to recommend the removal of one of his fellow commissioners, something that neither Seshan nor his predecessor B.B. Tandon had claimed in the past, and wrote to the president on 12 January 2009, asking for Chawla’s removal. 71 The president sent it to the prime minister who sent it to the Law Ministry, which issued a point-by-point rebuttal. Eventually, the matter was resolved in March 2009, just before the general election, and Chawla became CEC in April. However, from the point of view of the stability and viability of a three-member ECI of equals, the root cause of this dispute was the lacuna under Article 324(5) that left ECs less secure in their tenure than the CEC. The ECI, just before Chawla’s tenure ended in 2010, wrote to the prime minister recommending the correction of this lacuna by making the tenure of the ECs as secure as that of the CEC. 72 This uncertainty persists to the present day.

70 Viswanathan maintained that the removal of an EC cannot be initiated by the CEC without the reference or concurrence of the government and that the three members are equal, and no response to the CEC’s demand for an explanation is due from an EC.

71 Panchu, ‘Free and Fair Election Commissioners’ 10–12.

72 This letter was drafted in consultation with the other two ECs, but signed only by CEC Chawla as it was felt by the two ECs that their signature might be read as indicating a concern for their security of tenure, whereas the point being made was one of principle, so as to render the functioning of the three-member ECI harmonious.
In sum, while it is unlikely that any party would try to blatantly undermine the ECI, its autonomy is still not entirely secure for the above four reasons. Past committees have recommended that the ECs be chosen by a committee to minimize the threat of political or partisan appointment, but this remains a mere proposal.

Organizational Culture

Interviews with former CECs and officers of the ECI make clear that one of the strongest attributes of the ECI is its esprit de corps, a characteristic which can be attributed to its constitutional independence, its exceptional leadership, beginning with Sukumar Sen, as well as the deference paid to the Commission by the judiciary, which has often stepped in to protect the organization’s autonomy. As with the selection of the ECs, there is always the danger of politics creeping into the organization. To date, the ECI has been fortunate insofar as politicization has not often been a headline issue. However, as the political scientist Manjari Katju reminds us, the commission must endeavour to ensure it is a politically ‘non-committed’ institution. But it also must not allow the pendulum to swing too far to the other extreme: ‘it has to ensure that it does not become socially rigid or politically status quoist’ (emphasis added).

Technological Innovation

An important channel by which the ECI has been able to maximize its capacity has been the adoption of technology. There is no better example of this than the fact that India is one of the earliest adopters of electronic voting technology. As McMillan explains, the Commission first experimented with the use of electronic voting machines (EVMs) in 1982, though the Supreme Court disallowed their use in 1984. An amendment to the RPA, in 1951, paved the way for their re introduction; since 2003, the ECI has used them for all state and national

73 Of course, the courts have at times stepped in to check the Commission’s authority when it has deemed it overstepped its mandate.
elections. For the 2014 general election, the ECI employed more than 1.7 million such voting machines. This is all the more impressive when one considers the fact that many advanced industrial countries, such as the United States (US), have struggled mightily in their efforts to implement electronic voting.\(^7^6\) Chance has also played a role in technological changes helping the evolution of the ECI’s capabilities and reputation. The computerization of electoral rolls for the 1998 election was crucial for the 1999 election being smoothly conducted only a year later, an unforeseeable development, and this further buttressed the drive to adopt information technology.

On this front, the ECI did a considerable amount of work following the 1996 general election, which proved crucial to the successful execution of two national elections in quick succession in 1998 and 1999. The introduction of professional management systems with extensive and intensive use of information and communication technology (ICT) and vastly improved systems and procedures in electoral management enhanced the ECI’s ‘event management’ function. Central to this was a massive training exercise to ensure that election officials could adapt to the new ICT systems. The ECI also took the initiative to install critical ICT infrastructure in place at the national, state, and district levels.

The success of the strategy is evident from the complete transition to EVMs for national elections within a few years and the fact that nearly two million EVMs being used for such an event is hardly commented upon today. The use of EVMs has contributed significantly to addressing the plague of electoral malpractice India witnessed in prior decades. In more recent years, the Commission has used technology to tackle electoral malpractice in other ways as well.

First, beginning in 2007, the ECI conducts a ‘vulnerability mapping’ exercise prior to every election in order to determine which polling booths face the greatest likelihood of violence or unrest.\(^7^7\) Using data


on violent incidents, past election outcomes, and voter trends, the Commission classifies polling booths based on their ‘sensitivity’. This, in turn, directly informs the Commission’s decisions about how and where to most effectively deploy police and paramilitary personnel. As part of the mapping exercise, district officials are tasked to draw up lists of potential troublemakers residing or operating in these sensitive areas, who are then subject to monitoring and/or preventive detention. For the 2014 general elections, according to the ECI, 75,237 hamlets were identified as potentially ‘vulnerable’ and 250,892 individuals were tagged as ‘possible intimidators’. To monitor and inventory potential security threats, in 2009 the ECI hired nearly 75,000 videographers to assist its officers.\(^{78}\)

Another technological innovation relates to communications for election monitoring. The ECI has regularized the practice of deploying communications technology to ensure direct connectivity between the ECI and booth-level officers overseeing individual polling stations. Using text messaging technology, the ECI can receive real-time updates on the status of elections, including the status of the polling party, the presence of security forces and micro-observers, and any instances of voting disruption. Furthermore, this same technology has been used to provide information to voters, such as announcing information about Election Day and providing electronic voter slips. In recent elections, the ECI has also installed webcams so that election officers can get real-time, first-hand information from polling booths and monitor possible irregularities.

This is not to suggest that all of the ECI’s technological innovations have been successful. Although the incidence of electoral malpractice has diminished considerably with time, there were several worrying instances of blatant electoral fraud in the 2014 general election. Many of these prompted the ECI to mandate re-polls.\(^{79}\) A second instance where technology has not been a panacea relates to the registration of voters. Because the task of registering voters and ensuring updated rolls


is so burdensome, technology has the potential of improving efficiency. But the ECI’s efforts in this area have been uneven. During his tenure as CEC, T.N. Seshan was particularly seized by the issue of voter registration, viewing any shortcomings in the electoral rolls as a blemish on India’s democracy itself. According to McMillan, Seshan pursued a ‘quixotic’ campaign to solve the problems of registration and verification through the provision of voter identification cards. The process was both administratively complex and expensive, and Seshan’s willingness to delay elections until all voters had photo-accompanied ID cards raised questions about the ECI’s ability to hold elections hostage to a personal crusade carried out by a single individual. In 1997, the Commission shifted gears, investing instead in the computerization of the electoral roll. This has reduced the administrative burden on the Commission, although it is perhaps of limited relevance to voters who lack internet access. Voters’ photos have now been integrated with the electoral rolls.

Organizational Innovation

With a limited staff, the ECI has developed a complex system of election management, relying largely on deputizing officials from the central and state governments. This mobilization of government staff has, on balance, acted as an effective force multiplier. This is not to imply that the system is without its flaws, since an inherent principal–agent problem still remains. In other words, a relatively small ECI leadership must supervise a sprawling bureaucracy of deputized officials (‘agents’) who may have incentives to engage in corruption or shirk their responsibilities at the local levels, out of sight of the ECI brass (the ‘principal’). To counteract such misaligned incentives, one critical measure the ECI has relied on is the ability to discipline officials operating under its aegis. In practical terms, this means that the ECI can exert effective control over any official who is serving on special election duty. This

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81 Indeed, one of the authors heard accounts of parties and politicians paying off officials on election duty in Andhra Pradesh during the 2014 general elections in order to avoid Model Code and other violations.
authority has been challenged in various ways by the central and state governments, and while it is subject to future reversals, a broad consensus exists today over the Commission’s ability to suspend officials for dereliction of duty, request transfer of government officials, and even directly order the transfer (or the prevention of transfer) for officials on election duty.  

The creation of the BLO position at the electoral booth level represents a second important organizational innovation. The BLO serves as the frontline functionary of India’s election authorities, in essence a contract employee who is hired by the ECI to verify and revise the electoral rolls in a particular polling catchment area. To fill this position, the ECI selects an actual voter from a given polling area, which means he/she has valuable local knowledge and is able to effectively interact with residents to ensure the rolls are updated based on deaths, changes in residency, and so on. In addition to aiding in the preparation of the electoral rolls, the BLO also plays a role in monitoring the conduct of elections. The BLO is effectively a custodian for one particular voting booth and is accountable for the 1,000–1,500 voters who live in the immediate polling area. The creation of this position is especially important given the rapid increase in the number of polling stations with the increase in population and the ECI’s mandate that no voter should have to travel more than 2 kilometres to reach a polling station (Figure 10.4 charts the increase in the number of polling stations from 1952 to 2014).

The ECI has also invested new resources in educating voters to get involved in the political process. Through its Systematic Voters’ Education and Electoral Participation (SVEEP) programme, the Commission has ramped up its voter mobilization and registration efforts. While causal

83 The ECI first experimented with a BLO position in 2007 and, by 2009, had scaled it up to the entire country.
attribution is difficult, these efforts appear to be paying off. In the 2014 general election, India recorded an all-time high voter turnout: 66.4 per cent. Furthermore, the gap between male and female turnout has slowly been disappearing over time. In 2014, the gap narrowed to just 1.5 percentage points, a significant improvement even from the prior general election in 2009 (when the gap stood at 4.2 percentage points).

Finally, of more recent vintage is the ECI’s recent move to institutionalize its election expertise through its India International Institute of Democracy and Election Management (IIDEM), described as ‘an advanced resource centre of learning, research, training and extension for participatory democracy and election management’. Established in 2011 with support from the GOI, the United Nations, and other international partners, the goal of IIDEM is to serve as both a national as well as international hub for debating and exchanging best practices in election management. This institution, it is hoped, will not only strengthen India’s election management capacities, but also serve to do the same for other developed and developing democracies.

Figure 10.4  Number of Polling Stations in Lok Sabha Elections, 1952–2014

*Source:* Election Commission of India.
Looking Ahead: The Challenges of Money and Muscle

In the previous sections, we have documented how the ECI has adapted when faced with numerous challenges to the conduct of free and fair elections. This adaptation has sometimes been calculated, though in other instances compelled by the failure of other public institutions to act or the direction and guidance of the courts. Projecting into the future, there are two looming concerns which the ECI has repeatedly grappled with (with mixed success), but whose impact will only continue to grow. These concerns are the influence of money and ‘muscle’ in elections. We review each in turn.

Money Power

Although hard numbers are scarce, existing research and anecdotal evidence suggest that elections in India are among the most expensive in the world.\(^85\) Despite strict limits on candidate expenditures, qualitative and quantitative reports indicate that the actual sums spent are in orders of magnitude larger than what candidates and parties report to authorities.\(^86\) Much of this expenditure comes from undocumented sources, and is a direct result of poor regulation that is outmoded and ridden with loopholes and an economy in which the state retains enormous regulatory power that it can often wield with significant discretion in exchange for kickbacks or side payments.\(^87\) The quest for money, including ‘black money’, has a number of adverse downstream effects: it constrains the talent pool of candidates who are able to contest elections, entrenches top-down, internally undemocratic party structures,

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\(^{86}\) For instance, an independent survey of election expenditure carried out in 1999 found that for the Congress and the BJP, the two major national parties, the actual spending by all sources was between four and six times the then existing ceiling. More recent evidence collected suggests this multiple has grown in recent years. See Milan Vaishnav, *When Crime Pays: Money and Muscle in Indian Politics* (New Haven, CT: Yale University Press, 2017).

\(^{87}\) Indeed, research suggests that the overwhelming bulk of party funds are from corrupt payments in return for contracts or clearances, according to politicians across parties as well as bureaucrats.
and incentivizes politicians to engage in corruption while in office in order to recoup election expenses (and/or raise funds for the future).

The evolution of India’s legal framework with respect to how political parties can raise funds and expend resources on election campaigns can be divided into roughly two phases, 1947 to 2003 and 2003 to the present. In the initial post-Independence period, parties in India financed themselves through private donations and membership dues. Corporate contributions to political parties were legal, subject to certain restrictions, and had to be declared in the company’s accounts. While the RPA, 1951 introduced strict limits on the amount that could be spent on election campaigns, legal loopholes and the absence of credible monitoring rendered these limits ineffectual. A particularly egregious shortcoming was the lack of attention given to third-party expenditure on behalf of individual candidates, which provided a ready channel through which undocumented (and unlimited) money could flow.

By the 1960s, there were concerns in policy circles about an emerging nexus between black money and political fund-raising. The issue of black money infiltrating the political system was a prominent feature of the reports issued by two government-sponsored commissions: the Santhanam Committee on Prevention of Corruption (1964) and the Wanchoo Direct Taxes Enquiry Committee (1971).

In 1969, Prime Minister Indira Gandhi convinced Parliament to ban corporate donations to political parties, a critical decision from which India’s political economy has not yet recovered. The ostensible reason for the ban was to prevent large business groups from exerting undue

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influence on politics. However, it is clear from historical records that this was largely a pretext; Gandhi introduced this measure because she feared that corporate interests would fund right-wing opposition parties, namely the Swatantra Party and the rising Jan Sangh. Indeed, this action was part and parcel of a range of policy decisions taken by Gandhi to cover her right flank. However, the ban was enacted without substituting corporate funding with state funding, as had been introduced in a range of Western democracies in the 1950s and 1960s. Parties found themselves faced with a shortage of adequate, legal sources of funding to enable them to run their organizations and election campaigns. In retrospect, this situation gave them little choice but to openly embrace illicit sources of funds or black money.

Over time, the supply of black money has grown in the broader economy, in parallel with a high-tax, tightly regulated economic policy framework. The highly regulated economy or ‘license-quota-permit raj’ mandated that government licenses and permits were required for all manners of economic activity. Of course, bureaucrats and politicians could often allocate licenses and permits on a discretionary and ad hoc basis in exchange for kickbacks.89 This led to a corrupt fund-raising nexus between business groups and ruling parties in the centre and the states, and the Congress Party was in many ways the single biggest beneficiary.

In 1974, the Supreme Court ruled that party and supporter expenditure not authorized by the candidate would count towards the calculation of a candidate’s election expenses, plugging the earlier loophole on third-party expenditure. Parliament quickly passed an amendment to the law, effectively negating the court’s ruling. This once again gutted the effectiveness of placing any monetary limits on a candidate’s election expenditure, largely since the party and the candidate’s supporters could spend without any limit. India now witnessed electoral spending arms races in which parties tried to outspend each other and tried to attract voters with inducements of various sorts (e.g., providing free liquor or freebies during election campaigns).

The main development in the 1980s was the amendment of the Companies Act in 1985 under then Prime Minister Rajiv Gandhi,

which once again allowed corporate donations to political parties under certain conditions. Unfortunately, the re-legalization of corporate donations to political parties did not have its intended effect of reducing party dependence on black money and increasing transparency of political contributions. In part, this was because it did not provide tax incentives for political contributions. More importantly, in our view, by that time the system of contributions in black money had become so entrenched that there was no incentive for business groups to come above board. Businesses had to deal with a range of parties and politicians in power at the centre and in various states. Therefore, the secrecy of political contributions became paramount so that those not so favoured would not penalize donors for supporting their political rivals. Since political donations would have to be made public in a company’s annual reports, companies tended to stay with the by-then customary practice of secret political donations.

Aside from a few changes at the margins—shortening the campaign period from 21 to 14 days, introducing a partial state subsidy in the form of allocation of free time for major state and national parties on state-owned television and radio networks, and instituting minimal financial audit requirements for parties—the 1990s largely witnessed a successive series of reform proposals emerge from civil society, government, and industry, only to get lost in the political morass.

And there reformist plans would rest until a series of small breakthroughs were achieved, beginning in 2003, which marks the start of the second phase of India’s political finance evolution. Three specific changes transpired that have made some headway in improving the level of transparency.

First, in September 2003, the NDA government passed the Election and Other Related Laws (Amendment) Act, which made company and individual contributions to a political party 100 per cent tax-deductible.\(^90\) For the first time, this created incentives for companies and individual donors to donate openly by check. While this law creates incentives for donors to contribute by check, it is not clear whether the incentive of a tax exemption on donations will outweigh the possible

\(^90\) However, company contributions are still subject to the limit of 5 per cent of average net profit over the past three years.
disadvantages of loss of anonymity.\textsuperscript{91} The law also made it mandatory for companies as well as parties to disclose any political contributions in excess of Rs 20,000. While this is a step in the right direction, most parties report receiving only a small share of contributions from larger contributions.\textsuperscript{92}

Second, the United Progressive Alliance (UPA) government passed the RTI Act in 2005, which allowed for ordinary Indians to petition public entities for information about the operation of political parties. Using this new law, ADR urged India’s Central Information Commission (CIC) to mandate political parties disclose their income tax returns and make public their income and expenditures as a matter of public interest.\textsuperscript{93} All parties resisted this attempt at forcing transparency but were forced to relent after the CIC accepted the legitimacy of the petition in 2008. These ‘audited’ statements provide at best a loose approximation of the true state of party finances, given that the audit is done by someone hand-picked by the parties themselves rather than an independent outfit. During this timeframe, the ECI (assisted by the Supreme Court) also began mandating that candidates to state and national office disclose judicial affidavits that detail their criminal, educational, and financial details. While these affidavits are self-reported, they do contain useful information about the private dealings of aspirants to elected office.\textsuperscript{94}

\textsuperscript{91} Further, the donations are tax deductible only if they are made to political parties rather than to individual candidates. This is likely to affect the magnitude of contributions because there is no guarantee that the political party would distribute contributions to the donors’ choice of candidates in a transparent manner.

\textsuperscript{92} Indeed, one of the best-known workarounds is for donors to give multiple donations of Rs 19,999 so as to avoid the mandatory disclosure requirement.

\textsuperscript{93} As a factual matter, parties have been obligated under law to privately disclose their tax returns since 1980, although in practice have actually been doing so after a 1996 Supreme Court order. In 2008, the CIC ruled that these should be made public.

\textsuperscript{94} In 2014, the ECI issued new transparency guidelines to parties, but it lacks the legal authority to make these new rules binding. Hence, if parties choose not to comply with them, there is little recourse (other than moral suasion) the ECI has to take action against them.
Finally, this period also witnessed the rise of 100 per cent tax-exempt electoral trusts that companies can set up to make political contributions in a transparent and regulated manner. Many of these trusts employ formulas (based on past electoral performance) to allocate their donations to various parties, thereby reducing the political content of their decision to fund one party over another.

In sum, laws and regulations governing political finance in India, whether regulating party funding or limiting campaign expenditure, have tended to have unintended, counterproductive, and perverse effects on the electoral system. The State’s interventionist role in the economy further compounds the situation. Thanks to a series of decisions taken in the initial decades after Independence, a corrupt equilibrium has taken hold and now perpetuates itself. There is no incentive to break out of the corrupt nexus that has resulted from the working of the present electoral and campaign finance laws. It is how ‘the system’ works.

If the ECI is to chip away at this sub-optimal equilibrium, it requires enhanced powers. At present, existing statute does not give the Commission unambiguous authority to sanction candidates or parties who provide false or misleading information. This requires changes to the RPA which only Parliament can approve. Insisting that parties submit audited accounts and issuing transparency ‘guidelines’ is a welcome move, but only when these audits are truly independent will they break open the corrupt nexus between money and politics. Third, the ECI must be granted greater powers to regulate political parties. India’s major political parties are fighting a ruling by the CIC that they are ‘public entities’ and, hence, subject to the provisions of the RTI Act. Several reform proponents agree that while greater transparency is imperative, it should be the ECI, not the CIC, that is entrusted with supervisory authority. Finally, there have been innumerable proposals for state funding of elections. In our view, state funding should only be on the table if parties are willing to submit to greater transparency; without such a quid pro quo, there is nothing to stop parties from racking up state and private monies.

Muscle Power

A second looming challenge facing the ECI relates to the criminalization of politics. This is not a new issue. Since the early days of the
republic, a nexus of crime and politics has operated within India’s borders. In the earliest elections, many Congress politicians regularly employed _goondas_ (thugs) during election time to engage in voter mobilization, vote buying, and often voter suppression and/or voter fraud in exchange for patronage and protection. However, the balance of power between politicians and _goondas_ shifted in favour of the latter in the 1970s. During that period, individuals who had previously engaged in criminal activity on behalf of politicians began to directly contest elections, no longer content to concede the spotlight to traditional party elites. 

This issue came into much sharper focus, thanks to the government-commissioned Vohra Committee report, which was released in 1995. The report concluded:

The nexus between the criminal gangs, police, bureaucracy and politicians has come out clearly in various parts of the country ... [T]hese gangs enjoy the patronage of local level politicians, cutting across party lines and the protection of Government functionaries. Some political leaders become the leaders of these gangs ... and ... get themselves elected to local bodies, State Assemblies and the National parliament. Resultantly, such elements have acquired considerable political clout.

The entry of criminals into politics was facilitated by many factors: the breakdown of the Congress party’s dominance and the decay of its vertical patronage networks, a general deterioration in law and order, and the politicization of the state overseen by Prime Minister Indira Gandhi, a ‘demand overload’ facing state institutions prompted by

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97 Jaffrelot, ‘Indian Democracy’.

98 Kohli, _Democracy and Discontent_.

lower-caste political mobilization,\textsuperscript{99} as well as rising uncertainty, thanks to intensifying political competition.\textsuperscript{100} Put simply, as the quality of governance declined in a situation where social divisions are deep seated, candidates with criminal reputations could successfully parlay their criminality as a signal of their credibility to ‘get things done’ for their narrow community (often defined in ethnic or religious terms). A final critical factor which merits particular mention is the deterioration in the election finance regime. Armed with access to liquid financial resources and the ability to transfer money undetected, many criminal elements became invaluable assets to political parties. In this way, money and muscle are inexorably linked. Drawing on affidavits submitted to the ECI by candidates contesting the 2004, 2009, and 2014 national parliamentary elections, recent research shows that the poorest 20 per cent of candidates, in terms of personal financial assets, had a one per cent chance of winning parliamentary elections. The richest quintile, in contrast, had greater than 23 per cent likelihood.\textsuperscript{101}

As the situation worsened, the ECI agitated for a crackdown on the criminalization of politics. One of the most tangible reforms to be implemented was greater transparency around the criminal antecedents of candidates, thanks to the new affidavit regime instituted in 2003.\textsuperscript{102}

It is these data that have brought to light the cold, hard facts about the criminal antecedents of members of Parliament and the various state assemblies. For instance, of the 543 members of the 16th Lok Sabha elected in 2014, 186 (or 24 per cent) face pending criminal cases while 112 (or 21 per cent) face cases of a ‘serious’ nature. The numbers at the state level are equally disconcerting: 31 per cent of elected

\textsuperscript{99} Manor, ‘Changing State’.

\textsuperscript{100} The uncertainty induced by the political transition from one-party dominance to genuine, robust multi-party competition forced criminals to vertically integrate their operations. By directly contesting elections, criminals could cut out the politician-cum-middleman and take matters into their own hands, in the hopes of reducing the uncertainty and costs associated with negotiating (and renegotiating) contracts with parties who might or might not capture power.

\textsuperscript{101} M. Vaishnav, \textit{When Crime Pays}.

MLAs face pending criminal cases. While these are cases, not convictions, candidates must only disclose those cases where a judge has taken cognizance of the case (as opposed to the mere filing of charges).

The ECI publishes these individual affidavits on its website prior to the election. With the assistance and ingenuity of civil society, these affidavits are compiled, translated, and standardized to facilitate dissemination. Groups like ADR and National Election Watch have harnessed technology, such as SMS/text-messaging, to inform voters of the precise backgrounds of all candidates standing in a given constituency election. In spite of this information and related awareness campaigns, there is some evidence to suggest the problem is getting worse, rather than better. Whereas one-quarter (24 per cent) of MPs elected in 2004 were under criminal indictment, that share increased (to 30 per cent) in 2009 and 34 per cent in 2014.

There are several underlying factors driving the criminalization of politics, and only a package of reforms that deals comprehensively with all of them will succeed in cleansing Indian politics. When it comes to voter demand, there are no quick fixes: nothing short of improving the quality of governance will be able to dissuade voters from providing political support for candidates who are able to demonstrate, by whatever means necessary, their ability to adequately mediate the relationship between citizens and the State. Until and unless the State is seen as an actor that can adequately deliver services, provide security, and dispense justice, many voters will find it in their self-interest to back a ‘strongman’ who will. The only real solution to the ‘demand’ side lies outside of the remit of the ECI: curtailing the salience of identity politics and strengthening core public institutions so that the state is seen as an ally of the common man, rather than an antagonist.

However, there are a number of steps the ECI could take, in conjunction with Parliament, especially when it comes to regulating parties and candidates. For starters, the Commission requires new authorities to regulate political finance and punish non-compliers more rigorously. To reduce the supply of ‘tainted’ candidates, there are potentially two sets of reforms the ECI could pursue. The first involves placing limits around who can stand for election. As part of a package of electoral reforms the ECI drew up prior to the transition from CEC Quraishi to his successor V.S. Sampath, the Commission specifically argued for
barring candidates facing serious criminal cases.\textsuperscript{103} To guard against politically motivated charges, it has proposed that this would only apply to candidates facing charges that have been framed by a judge, filed at least one year prior to election, and carry a potential sentence of five years or more. This would need legislative authorization, but it is an idea that should be debated by elected officials. The second involves post-election action against candidates who win election and face serious pending cases. Many civil society groups have recommended that cases against sitting MLAs and MPs be subject to a fast-track judicial process.

Addressing the twin issues of money and muscle will not be easy, but the recent past abounds with several examples of incremental progress. In July 2013, the Supreme Court issued an important ruling in response to a PIL suit. Under Section 8(4) of the RPA, 1951, sitting MPs and MLAs can serve in office even if they are convicted of a crime until their appeals are exhausted. A suit filed by Lily Thomas and Lok Prahari claimed this latter clause advantages elected politicians over aspirant candidates, for whom a conviction merits disqualification, appeal or no appeal. In siding with the plaintiffs, the Court stated that this special exception afforded to elected representatives is beyond Parliament’s constitutional powers. So as to not penalize current incumbents, who won office under the prior regime, the ruling will only apply prospectively. The first elected representative to fall victim to this new ruling was none other than Lalu Prasad Yadav, the powerful former chief minister of the state of Bihar, who was convicted in a 2013 case related to the fodder scam.\textsuperscript{104} The precise impact of this ruling remains to be seen and there is good reason to be sceptical. Very few of India’s criminally suspect legislators are likely to be convicted, given the weakness of India’s justice system. Regardless of the defendant’s guilt or innocence, in India the wheels of justice move in slow motion—it


\textsuperscript{104} Immediately following the ruling, the government introduced a bill in Parliament to supplant the court’s judgement, but its move was heavily criticized by the opposition, civil society, and the media. To circumvent Parliament, the government briefly considered introducing an executive ordinance but wisely reversed course.
can take years, if not decades, for criminal cases to reach their logical conclusion. One study found that cases filed against MPs in the 15th Lok Sabha (2009–14) had been pending for seven years, on average.\textsuperscript{105}

Judicial remedies can cut both ways, however. The courts can sometimes overstep their remit. In another decision in response to a separate PIL suit, the court ruled that a person who is in jail or in police custody cannot contest legislative body elections even if that individual was not formally charged with committing a crime. Prior to this ruling, candidates in jail awaiting trial or those convicted but not granted bail were free to contest elections. And, indeed, in many notable cases they did exactly that—often winning without ever setting foot on the campaign trail. In this case, the court ruled that ordinary voters in India must forfeit the right to vote if they are imprisoned or in police custody and, hence, the same standard should apply to politicians. The court largely based its decision on Sections 4 and 5 of the RPA, which state that in order to be elected to the legislature, a candidate must be an elector. If said candidate is in jail, he/she can no longer be an elector. However, Parliament quickly moved to pass a bill, later signed by the president, which negated the court’s ruling. As Kapur and Vaishnav have argued, the court’s ruling was somewhat problematic, given the incentive it created for crafty politicians to manipulate the police to punish political rivals.\textsuperscript{106}

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Over the past seven decades, the ECI has been relatively successful compared to other public institutions due to the crucial role played by a combination of structure and agency in its evolution. The structure consists of the Constitution, particularly the broad remit of article 324, and the multi-polar distribution of power in the post-1989, post-Congress party system. Agency was provided by the actions of CEC T.N. Seshan in the first half of the 1990s, continued by his successors building on his legacy that normalized the use of discretionary powers.

\textsuperscript{105} Quraishi, Undocumented Wonder.

However, four dangers still lurk that can possibly derail the autonomy of the ECI in the future. First, the government can ‘pack’ the Commission by appointing additional members. Second, the two ECs enjoy less security of tenure than the CEC and are thus vulnerable to pressure. Third, the tradition of civil servants being appointed to the Commission in order of seniority (by convention, not by rule) and the fact that the two ECs will hope to succeed the CEC opens up the possibility of manipulation by the government of the day. Fourth, conflict among the three members could create an opening for political interference and manipulation. However, any of these developments are most unlikely, given the continuing multi-polar distribution of power, intense media scrutiny, and massive public support for the ECI as an independent institution. To these institutional challenges, one must add the looming twin threats of money and muscle in Indian electoral politics. Dogged activism by civil society, an interventionist judiciary, and strong ECI have helped manage these threats, but the struggle remains an uphill one.