

ELECTIONS IN INDIA: INSTITUTIONS, CHALLENGES, AND PATHWAYS TO REFORM

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ABSTRACT

This paper examines the constitutional vision, institutional framework, and contemporary challenges surrounding elections in India, with particular emphasis on the Election Commission of India (hereinafter, “ECI”). Envisaged under Article 324¹ of the Constitution of India, the ECI was established as an independent body to safeguard the democratic process and has historically commanded public trust as the guarantor of free and fair elections. However, recent developments reveal a troubling erosion of independence and transparency. High-profile allegations of large-scale voter roll irregularities in 2025, based on the ECI’s own records, have intensified concerns regarding duplicate entries, unverifiable addresses, and arbitrary deletions. The study employs a doctrinal and analytical methodology, supplemented with contemporary reports and case studies from electoral practices. It is argued herein that meaningful electoral reform, anchored in institutional independence, transparency, and appropriate technological safeguards, is imperative to preserve India’s constitutional promise of democracy through free and fair elections.

Keywords: *Elections, Election Commission of India, Electoral Integrity, Campaign Finance, Electoral Reforms.*

1. INTRODUCTION

Elections are the cornerstone of constitutional democracy, serving as the institutional mechanism through which the sovereignty of the people is expressed and translated into representative governance. The Preamble of the Constitution of India proclaims India to be a “*Sovereign, Socialist, Secular, Democratic Republic*,” a vision realised only when the electoral process ensures genuine participation and the consent of the governed. The Supreme Court has repeatedly underscored the centrality of elections to India’s constitutional framework. In the

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¹ The Constitution of India; D.D. Basu’s, *Commentary on the Constitution of India* (9th edn, LexisNexis Butterworths Wadhwa 2016).

case of *Indira Nehru Gandhi v. Raj Narain*², the Court declared that “*free and fair elections are part of the basic structure of the Constitution*,” thereby placing electoral integrity at the heart of constitutional governance.

Similarly, in the case of *Mohinder Singh Gill v. Chief Election Commissioner*³, the Court emphasised that democracy can survive only if elections remain credible and impartial. As Subhash C. Kashyap has observed, elections are the “*heartbeat of democracy*,”⁴ for without electoral legitimacy, representative institutions lose both moral and constitutional authority.

The framers of the Constitution recognised the imperativeness of an independent institution to supervise elections. Article 324 entrusts the ECI with the “*superintendence, direction, and control of elections*” to Parliament, State Legislatures, and the offices of the President and Vice-President. Over the decades, the ECI developed into a constitutional bulwark of impartiality and autonomy. Judicial pronouncements reinforced this status in the case of *T.N. Seshan v. Union of India*⁵, wherein, the Supreme Court characterised the ECI as a constitutional body endowed with quasi-judicial powers to preserve electoral fairness. Chief Election Commissioners (hereinafter, “CEC”) such as T.N. Seshan decisively curtailed malpractices, enforced the Model Code of Conduct, and disciplined political actors, thereby underscoring the principle that elections must not only be free and fair but must also be perceived as such. Consequently, the ECI came to be regarded as the guardian of electoral democracy and the custodian of public faith.

However, recent developments have cast a shadow over the Commission’s credibility. The appointment process, whereby Election Commissioners are appointed by the President on the aid and advice of the Council of Ministers under **Article 324(2)**, has faced sustained criticism for executive dominance. In the case of *Anoop Baranwal v. Union of India*⁶, the Supreme Court ruled that appointments should be made by a collegium comprising the Prime Minister, the Leader of the Opposition, and the Chief Justice of India until Parliament legislates otherwise. Parliament, however, subsequently enacted legislation replacing the Chief Justice with a Cabinet Minister nominated by the Prime Minister, thereby restoring executive primacy and undermining institutional independence. Campaign finance transparency has emerged as another pressing concern.

² *Indira Nehru Gandhi v. Raj Narain* (1975) 2 SCC 159.

³ *Mohinder Singh Gill v. Chief Election Commissioner* (1978) 1 SCC 405.

⁴ Subhash C. Kashyap, *Our Parliament* (National Book Trust, India - 2004).

⁵ *T.N. Seshan v. Union of India* (1995) 4 SCC 611.

⁶ *Anoop Baranwal v. Union of India* (2023) SCC Online SC 214.

In the case of *Association for Democratic Reforms v. Union of India*⁷, the Supreme Court invalidated the Electoral Bonds Scheme, holding that anonymous political donations impermissibly impaired public scrutiny and democratic accountability.

Simultaneously, controversies regarding the accuracy of electoral rolls have intensified. The deletion of 6.5 million⁸ names in Bihar in 2025, without disaggregated explanation, invited judicial scrutiny and widespread criticism. These issues escalated further with high-profile allegations of large-scale voter fraud in August 2025, citing irregularities in voter rolls based on the Commission's own records.

Taken together, these developments reveal a widening gap between the constitutional assurance of conducting impartial elections and the growing decline in public confidence in institutions. This paper, therefore, critically examines the constitutional framework of electoral governance, evaluates contemporary challenges to integrity and transparency, and argues for reforms necessary to restore public confidence in the ECI.

1.1 Objectives of the Study

- 1.1.1** To examine the constitutional and statutory mandate of the ECI, as envisaged under Articles 324–329 of the Constitution of India and the *Representation of the People Acts, 1950*⁹ and *1951*¹⁰ (hereinafter, “RPA, 1950 and RPA, 1951”), alongside judicial pronouncements affirming its autonomy and plenary powers.
- 1.1.2** To evaluate contemporary challenges to electoral integrity and transparency, including the criminalisation of politics, opacity in campaign finance (particularly after the Supreme Court’s 2024 Electoral Bonds judgment), voter roll manipulations and deletions, and concerns over the ECI’s institutional accountability.
- 1.1.3** To analyse the 2025 electoral roll controversy as a case study, examining allegations of large-scale irregularities, the institutional response of the ECI, and its implications for public trust in electoral governance.
- 1.1.4** To propose institutional and legal reforms to reinforce the independence, transparency, and credibility of the ECI, drawing upon judicial directives,

⁷ *Association for Democratic Reforms v. Union of India* (2024) INSC 113.

⁸ The Hindu, “Bihar Deletes 6.5 Million Voters in Electoral Roll Revision,” 2025.

⁹ The Representation of the People Act, 1950.

¹⁰ The Representation of the People Act, 1951.

Law Commission reports, and comparative best practices in electoral governance.

2. RESEARCH METHODOLOGY

This research adopts a doctrinal and analytical methodology, primarily examining constitutional provisions, statutory enactments, and judicial decisions governing electoral processes in India.

2.1 Primary Source Framework: To reinforce doctrinal analysis with verifiable evidence, the research incorporates a structured primary-source framework. The following sources form the evidentiary foundation of the study:

- Election Commission of India (ECI) notifications, circulars, handbooks, and SOPs on electoral roll revision, CCTV/webcasting retention, and technological safeguards.
- Supreme Court and High Court case records, including affidavits, counter-affidavits, interim orders, and final judgments in petitions relating to voter roll deletions and electoral transparency.
- Parliamentary Debates and Standing Committee Reports concerning the 2023 legislation on appointment of Election Commissioners.
- RTI responses and machine-readable voter roll datasets obtained from State Election authorities.
- Statutory financial filings and election expenditure returns submitted by political parties and candidates.
- Technical audit reports and operational manuals relating to EVMs and VVPATs.

These primary sources enable triangulation of administrative practices, independent verification of claims, and empirical assessment of contemporary electoral irregularities.

2.2 Constitutional Analysis of Article 324: A textual and contextual analysis of Article 324¹¹ of the Constitution of India is undertaken. Article 324 grants the ECI the authority to supervise, direct, and manage elections for the Parliament, State Legislatures, and the offices of the President and Vice-President. The analysis extends to Part XV (Elections), which establishes constitutional safeguards intended to secure the ECI's autonomy and independence.

¹¹ *Supra* note 1.

2.3 Judicial Interpretation: Judicial pronouncements are critically examined to assess their impact on electoral governance and institutional autonomy. Landmark decisions include *Indira Nehru Gandhi v. Raj Narain*¹², which asserted genuine elections as part of the Constitution's basic structure; *T.N. Seshan v. Union of India*¹³, which affirmed the quasi-judicial powers of the ECI; *People's Union for Civil Liberties (PUCL) v. Union of India*¹⁴, which expanded the *right to information*¹⁵ in electoral contexts; and *Association for Democratic Reforms v. Union of India*¹⁶, which invalidated the Electoral Bonds Scheme. These cases collectively illuminate the judiciary's evolving role in safeguarding electoral integrity.

2.4 Statutory Framework: The study maps statutory provisions under the RPA, 1950 and 1951, which regulate voter registration, conduct of elections, candidate qualifications and disqualifications, electoral rolls, and petitions. These statutes contextualise the ECI's operational scope and institutional limitations.

2.5 Doctrinal Gaps and Critiques: The research evaluates procedural and institutional gaps, including the restrictive forty-five-day limitation period for filing election petitions (RPA 1951, Section 81)¹⁷, the absence of mandatory electronic publication of electoral rolls, and the limited statutory remedies for large-scale voter roll anomalies. These gaps highlight the divergence between constitutional ideals and the realities of electoral administration.

2.6 Data Collection and Verification Process

The research adopts a multi-step process for identifying, retrieving, and verifying primary documents:

- Retrieval of official ECI documents from e-Gazette, ECI website archives, and press releases.
- Collection of judicial filings and orders using electronic court record systems for Supreme Court and High Court matters.
- Filing of RTI applications to obtain district-level roll revision logs and audit trails where publicly unavailable.
- Extraction of parliamentary materials (debates and committee reports) from Lok Sabha and Rajya Sabha digital archives.
- Verification of each factual claim through cross-referencing at least two independent primary sources wherever feasible.

¹² *Indira Nehru Gandhi v. Raj Narain* (1975) 2 SCC 159.

¹³ *T.N. Seshan v. Union of India* (1995) 4 SCC 611.

¹⁴ *People's Union for Civil Liberties (PUCL) v. Union of India* (2003) 4 SCC 399.

¹⁵ Right to Information Act, 2005.

¹⁶ *Supra* note 7.

¹⁷ *Supra* note 10.

2.7 Analytical Methods Used

The analysis uses:

- **Doctrinal synthesis** to derive constitutional standards from Articles 324–329, RPA 1950 & 1951, and landmark judgments.
- **Documentary analysis** to evaluate administrative orders, judicial affidavits, and audit logs.
- **Descriptive statistics** to examine deletion patterns during the 2025 Bihar revision.
- **Comparative institutional** method using global electoral bodies (Elections Canada, IEC South Africa) to support reform proposals.

2.8 Limitations and Ethical Considerations

- The study is limited by partial non-disclosure of certain custodial logs and technical reports, some of which are exempt under statutory confidentiality clauses.
- All voter-identifying information remains anonymised; only aggregated data is used.
- Where primary documents were unavailable despite RTI attempts, such absence is explicitly identified as a transparency gap of institutional relevance.

This combined doctrinal-empirical methodology ensures that the analysis remains grounded both in constitutional principle and verifiable administrative practice, thereby addressing contemporary concerns around electoral transparency and institutional independence. In addition to primary sources, the study engages with authoritative secondary sources. The Law Commission's 170th Report¹⁸ on Electoral Reforms (1999) and 255th Report¹⁹ on Electoral Disqualifications (2015) provide comprehensive reform recommendations. Reports of the Association for Democratic Reforms (ADR)²⁰ contribute data-driven insights on campaign finance and candidate backgrounds. Contemporary scholarship, including *Vasudev Devadasan's article*²¹ on the ECI's independence and analytical articles published in the Economic & Political Weekly²², further enrich the discourse with critical perspectives on recent developments.

¹⁸ Law Commission of India, *170th Report on Electoral Reforms*, 1999.

¹⁹ Law Commission of India, *255th Report on Electoral Disqualifications*, 2015.

²⁰ Association for Democratic Reforms (ADR), *Reports on Electoral Finance and Criminalisation of Politics (2019–2024)* (17 Mar 2025).

²¹ Vasudev Devadasan, "Eroding Independence: Why India's Election Commission Needs Urgent Repair," *Verfassungsblog*, (19 August 2025).

²² Economic & Political Weekly, "Electoral Integrity and Campaign Finance in India," (2020).

3. ELECTORAL INSTITUTIONS AND INTEGRITY: A CONSTITUTIONAL ANALYSIS

3.1 Electoral Institutions & Constitutional Vision

The Constitution of India makes elections the foundation of its democracy, entrusting the ECI under Article 324 with the superintendence, direction, and control of elections to Parliament, State Legislatures, and the offices of the President and Vice-President. Designed as an autonomous body, the ECI was intended to safeguard the electoral process from political and executive interference, ensuring impartial and free elections in a diverse democratic context.

The ECI exercises administrative, advisory, and quasi-judicial functions. Its responsibilities extend to constituency delimitation, political party registration, enforcement of the Model Code of Conduct, monitoring of election expenditures, and appointment of election observers. It also advises the President and Governors on disqualification matters and supports judicial processes in election disputes.

Its quasi-judicial role includes resolving disputes over party recognition and allocation of election symbols, functions derived primarily from the RPA, 1950, the RPA, 1951, and the Conduct of Election Rules, 1961. Complementary provisions in Articles 325 and 326 guarantee inclusive electoral rolls and universal adult suffrage, while Articles 327–329 delegate legislative competence for elections and limit judicial intervention to election petitions.

Judicial rulings have played a pivotal role in affirming the independence of the ECI. In *Indira Nehru Gandhi v. Raj Narain*²³, the Hon'ble Supreme Court underscored that free and fair elections form part of the Constitution's basic structure. In *T.N. Seshan v. Union of India*²⁴, the Court recognised the ECI's plenary quasi-judicial powers, thereby empowering it to enforce electoral fairness. More recently, *Anoop Baranwal v. Union of India*²⁵ addressed the process of appointing Election Commissioners, attempting to insulate the institution from executive dominance. However, subsequent legislation diluted these safeguards, raising concerns about renewed executive encroachment on institutional independence.

Together, constitutional provisions and judicial interpretations affirm the ECI's central role in preserving electoral integrity and democratic accountability. Their

²³ *Indira Nehru Gandhi v. Raj Narain* 2 (1975) SCC 159.

²⁴ *T.N. Seshan v. Union of India* (1995) 4 SCC 611.

²⁵ *Anoop Baranwal v. Union of India* (2023) SCC OnLine SC 214.

effectiveness, however, depends on consistent enforcement and insulation from political influence, particularly in the face of challenges such as voter disenfranchisement, opaque funding, and partisan pressures.

3.2 Electoral Integrity & Transparency

India's electoral landscape faces persistent challenges that threaten electoral integrity and transparency.

3.2.1 Criminalisation of Politics: A significant share of elected representatives face pending criminal charges. According to the ADR, 2025 Report²⁶, approx. 45% of sitting Members of Parliament and State Legislatures have declared criminal cases, many involving serious offences.

This entrenched trend distorts democratic representation and perpetuates the politicisation of crime. The *Law Commission of India's 170th Report*²⁷ and *255th Report*²⁸ have repeatedly highlighted the urgent need for disqualification reforms, yet comprehensive legislative action remains pending.

3.2.2 Campaign Finance Opacity: Money power further distorts electoral competition. In *Association for Democratic Reforms v. Union of India*²⁹, the Supreme Court struck down the Electoral Bonds Scheme, holding that anonymous political donations violated citizens' *right to information* under Article 19(1)(a)³⁰ of the Constitution. The decision marked a watershed in electoral finance jurisprudence, exposing how opacity in political funding undermines transparency and accountability.

3.2.3 Electoral Roll Manipulations: Manipulation of voter rolls has become another major concern. The deletion of approximately 6.5 million³¹ names during Bihar's 2025 electoral roll revision, conducted without clear methodology or adequate public disclosure, raised serious apprehensions of arbitrary disenfranchisement. These controversies intensified with high-profile allegations³² of large-scale irregularities later in 2025, including duplicate registrations, unverifiable addresses, and systemic flaws in electoral records. The Commission's defensive posture and limited

²⁶ Association for Democratic Reforms (ADR), *Reports on Electoral Finance and Criminalisation of Politics (2019–2024)* (17 Mar 2025).

²⁷ Law Commission of India, *170th Report on Electoral Reforms*, 1999.

²⁸ Law Commission of India, *255th Report on Electoral Disqualifications*, 2015.

²⁹ *Association for Democratic Reforms v. Union of India* (2024) INSC 113.

³⁰ The Constitution of India; D.D. Basu's, *Commentary on the Constitution of India* (9th edn, LexisNexis Butterworths Wadhwa 2016).

³¹ The Hindu, "Bihar Deletes 6.5 Million Voters in Electoral Roll Revision," (2025).

³² The Hindu, "Rahul Gandhi Alleges Massive Voter Fraud in Lok Sabha Polls," (7 August 2025).

transparency in addressing these issues deepened public distrust, highlighting institutional accountability deficits.

To strengthen the critique of electoral roll discrepancies, the ECI's own procedural framework provides crucial context. The Manual on Electoral Rolls mandates that no name may be deleted without a recorded enquiry, stating that "No name shall be deleted from the electoral roll unless due enquiry has been made³³ by the Electoral Registration Officer and the fact of such enquiry is duly recorded". Field verification through door-to-door enquiry is compulsory in all deletions except those supported by documentary proof of death or permanent shifting.³⁴

Additionally, each deletion must contain a specific reason code (death, shifting, duplication, or "not found after verification"), and all proposed deletions must be published in the Draft Roll with a mandatory 30-day window for objections.³⁵ The absence of district-wise reason codes, field-verification logs, and machine-readable deletion data in the 2025 Bihar Special Intensive Revision therefore reflects a clear departure from these mandated procedures.³⁶ This procedural opacity was significant enough to invite judicial scrutiny, culminating in the Supreme Court's direction in *Association for Democratic Reforms v. Election Commission of India* (2025) requiring publication of deleted names along with documented reasons.³⁷ These primary-source benchmarks underscore that the scale and manner of the 2025 deletions cannot be reconciled with the safeguards laid out in the ECI's own normative framework.

Taken together, these challenges expose a troubling divergence between constitutional ideals and electoral realities. Transparency in electoral administration remains elusive, while unchecked criminalisation and monetary influence dilute democratic legitimacy. Although the ECI has introduced institutional reforms and technological innovations, meaningful enhancement of independence, procedural transparency, and accountability remains essential to uphold India's constitutional promise of democracy.

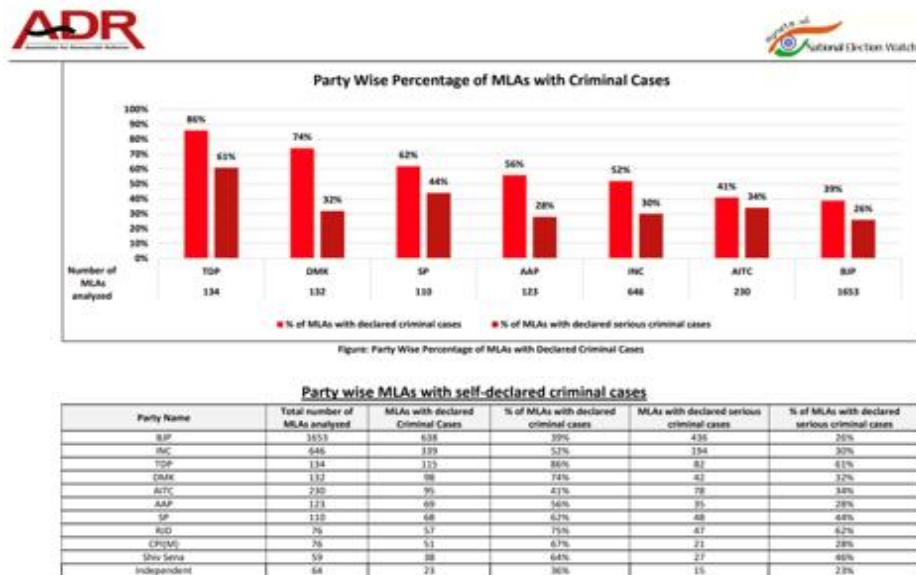
³³ Election Commission of India, Manual on Electoral Rolls, Chapter IV, para 4.15.

³⁴ *Id. at.*, para 4.19.

³⁵ Election Commission of India, Manual on Electoral Rolls, Chapter V, para 5.6.

³⁶ Election Commission of India, Manual on Electoral Rolls, Annexure XIII (Reason Codes for Deletion).

³⁷ *Association for Democratic Reforms v. Election Commission of India*, W.P. (Civil) No. 640 of 2025 (Supreme Court of India, Interim Order, 2025).



Data in this Kit is presented in good faith, with an intention to inform voters. MLAs' affidavits obtained from the ECI website (<https:// affidavits.eci.gov.in/>) with nomination papers is the source of this analysis. Website: www.adrindia.org, www.myna.info

Table 1: Association for Democratic Reforms (ADR) Report dated 17th March 2025³⁸

4. ARGUMENTS AND DISCUSSION

4.1 Erosion of Institutional Independence and Transparency in the ECI

The independence of the ECI, once regarded as the cornerstone of India's democratic resilience, has come under sustained strain in recent years. Executive dominance over the appointment process of Election Commissioners has re-emerged as a key concern. In *Anoop Baranwal v. Union of India*³⁹, the Supreme Court mandated that appointments be made by a collegium comprising the Prime Minister, the Leader of the Opposition, and the Chief Justice of India, until Parliament enacted legislation to the contrary. Parliament's subsequent legislation, however, substituted the Chief Justice with a Union Cabinet Minister nominated by the Prime Minister, thereby restoring executive primacy and diluting the intended safeguards for institutional independence.

Concerns over transparency further undermine public confidence. In 2025, the destruction of polling booth CCTV footage, which had previously been available for scrutiny under *Right to Information*⁴⁰ norms, marked a significant departure

³⁸ Association for Democratic Reforms (ADR), *Reports on Electoral Finance and Criminalisation of Politics (2019–2024)* (17 Mar 2025).

³⁹ *Anoop Baranwal v. Union of India* (2023) SCC OnLine SC 214.

⁴⁰ The Right to Information Act, 2005.

from earlier practices of public accessibility.⁴¹ Although justified by the Commission as a measure to prevent the spread of misinformation, this restriction effectively curtailed opportunities for independent verification and citizen oversight, running contrary to the constitutional principles of openness and accountability in electoral administration.

Institutional credibility was further tested in the 2025 “*Special Intensive Revision*”⁴² of Bihar’s electoral rolls, where approximately 6.5 million voter names were deleted without adequate explanation or disclosure of granular data. This exercise invited widespread criticism for its lack of transparency and raised apprehensions of disenfranchisement. The Supreme Court, in *Association for Democratic Reforms v. ECI*⁴³, intervened to mandate the publication of deleted voter lists with reasons and to expand documentation for reinstatement.

Despite judicial correction, the episode underscores institutional lapses in protecting voter inclusion and highlights the pressing need for procedural safeguards to restore public confidence in electoral governance.

In addition to these concerns, the ECI’s revised instructions on CCTV and webcasting retention further intensified apprehensions regarding transparency. The Commission’s 2025 order, issued through Notification No. 491/SM/SOP/2024/Communication, reduced the mandatory retention period of polling-station CCTV and webcasting footage from one year to just forty-five days.⁴⁴ This change represents a significant departure from earlier instructions, which explicitly required storage for at least one year for the purposes of audit, inquiry, and legal scrutiny.⁴⁵ The abrupt shortening of the retention period restricts opportunities for independent verification and undermines the ability of courts, political parties, and civil society observers to examine allegations of malpractice. Notably, the earlier one-year retention rule played a critical role in permitting post-poll review and strengthening public trust.⁴⁶ The rollback, therefore, heightens institutional opacity at a moment when transparency is constitutionally vital to preserving electoral legitimacy.

⁴¹ The Indian Express article “EC cuts storage time for election CCTV footage to 45 days, cites ‘misuse’ concerns” was published on June 20, 2025.

⁴² The Hindu, “Bihar Deletes 6.5 Million Voters in Electoral Roll Revision,” 2025.

⁴³ *Association for Democratic Reforms v. Election Commission of India* (Bihar Electoral Rolls Case, WP (Civil) 640/2025)

⁴⁴ Election Commission of India, Notification No. 491/SM/SOP/2024/Communication (June 2025).

⁴⁵ Election Commission of India, “Instructions on Storage and Retention of Webcasting/CCTV Footage,” Instruction dated 10 January 2019, para 12.

⁴⁶ *People’s Union for Civil Liberties (PUCL) v. Union of India*, (2003) 4 SCC 399.

4.2 Article 324 : Constitutional Vision and Contemporary Practice

Article 324 of the Constitution of India establishes the ECI as an autonomous constitutional authority vested with the superintendence, direction, and control of elections to Parliament, State Legislatures, and the offices of the President and Vice-President. The provision reflects the framers' intent to insulate electoral processes from political or executive interference, thereby ensuring credible elections as the foundation of India's democratic framework. The Commission was designed to operate independently, both administratively and quasi-judicially, with safeguards comparable to those afforded to the judiciary. Notably, the CEC enjoys security of tenure, being removable only through a process analogous to that of a Supreme Court judge.

Judicial interpretation has consistently underscored this vision. In *Indira Nehru Gandhi v. Raj Narain*⁴⁷, the Supreme Court held that free and fair elections are part of the Constitution's basic structure. Similarly, in *Mohinder Singh Gill v. Chief Election Commissioner*⁴⁸, the Court affirmed the plenary nature of the ECI's powers under Article 324, while in *T.N. Seshan v. Union of India*⁴⁹, it emphasised the Commission's role as the guardian of electoral fairness.

However, contemporary practice reflects a widening disconnect from this constitutional ideal. The appointment process, constitutionally entrusted to the President but traditionally exercised on the aid and advice of the Council of Ministers, has remained opaque and susceptible to political influence.

Although the Supreme Court in *Anoop Baranwal v. Union of India*⁵⁰ directed that appointments be made by a collegium comprising the Prime Minister, Leader of the Opposition, and Chief Justice of India, Parliament subsequently enacted legislation substituting the Chief Justice with a Union Cabinet Minister, thereby restoring executive dominance and diluting institutional independence.

Institutional opacity further exacerbates these concerns. The Election Commission's 2025 directive mandating the destruction of polling booth CCTV and webcasting footage after forty-five days, a practice previously subject to public access under the *Right to Information*⁵¹ framework, represents a significant

⁴⁷ *Indira Nehru Gandhi v. Raj Narain* (1975) 2 SCC 159.

⁴⁸ *Mohinder Singh Gill v. Chief Election Commissioner* (1978) 1 SCC 405.

⁴⁹ *T.N. Seshan v. Union of India* (1995) 4 SCC 611.

⁵⁰ *Anoop Baranwal v. Union of India* (2023) SCC OnLine SC 214.

⁵¹ The Right to Information Act, 2005.

departure from transparency norms⁵². Likewise, large-scale deletions during Bihar's "Special Intensive Revision"⁵³ of electoral rolls in 2025, undertaken without adequate public explanation or methodology, raised apprehensions of arbitrary disenfranchisement and partisan bias.

Moreover, while Article 324 empowers the ECI to enforce the Model Code of Conduct, issue election schedules, and regulate campaign practices, inconsistent enforcement and perceptions of partiality have weakened its moral authority. This divergence between constitutional vision and present practice challenges the foundational democratic premise that elections must be genuinely free and fair. Bridging this divide requires statutory reform, institutional transparency, and judicially enforceable safeguards to restore Article 324's promise and sustain public faith in India's electoral democracy.

4.3 Technology and Electoral Integrity : EVMs, VVPATs and Misinformation Challenges

Technological innovations such as Electronic Voting Machines (hereinafter, "EVM"), and Voter Verifiable Paper Audit Trails (hereinafter, "VVPAT"), have transformed India's electoral process by enhancing efficiency, expediting results, and enabling verification mechanisms. EVMs consist of two units, that is, the Ballot Unit (BU), through which the voter casts a ballot, and the Control Unit (CU), which records and stores votes. The VVPAT, an independent attachment, prints a slip indicating the candidate's name and symbol, visible for approximately seven seconds before being securely stored for audit purposes. The ECI has established safeguards including mock polls, randomisation, sealing, and multi-layered custody protocols to ensure integrity and tamper resistance.

Concerns of manipulation nevertheless persist. Political actors have repeatedly alleged possibilities of hardware tampering or software interference. However, expert technical committees, alongside judicial pronouncements, have found no credible evidence of systemic tampering. In *Subramanian Swamy v. Election Commission of India*⁵⁴, the Supreme Court upheld the credibility of EVMs while mandating the phased introduction of VVPATs as an indispensable component of verifiable elections. These rulings underscore that persistent distrust is grounded more in perception and misinformation than in demonstrable technical flaws.

⁵² The Indian Express article "EC cuts storage time for election CCTV footage to 45 days, cites 'misuse' concerns" was published on June 20, 2025.

⁵³ The Hindu, "Bihar Deletes 6.5 Million Voters in Electoral Roll Revision," 2025.

⁵⁴ *Subramanian Swamy v. Election Commission of India* (2013) 10 SCC 500.

Emerging threats from misinformation and digital disinformation further complicate electoral integrity. Deepfake videos, AI-generated content, and coordinated online campaigns can distort electoral narratives, mislead voters, and erode trust in democratic institutions.

The ECI has issued advisories⁵⁵ to curb the spread of manipulated digital content, yet challenges remain in enforcement across social media platforms. Such threats highlight that technological safeguards in voting hardware must be complemented by broader regulatory and educational frameworks.

Technology alone cannot secure electoral legitimacy. Ensuring transparency in the handling of EVMs and VVPATs, coupled with public education initiatives, is vital for sustaining voter confidence.

Addressing misinformation requires coordinated efforts between the ECI, judiciary, social media intermediaries, and civil society to establish rapid detection and countermeasures. Absent such safeguards, even robust technology risks being undermined by public scepticism, thereby weakening democratic trust.

In this context, the findings of the ECI's Technical Committees provide material clarification of the technological safeguards that govern EVM and VVPAT operations. The 2013 Technical Committee categorically affirmed that the Control Unit cannot be re-programmed in the field⁵⁶ and contains no wireless or external communication interfaces, thereby eliminating the possibility of remote tampering or software manipulation.

Subsequent assessments by the 2019 Technical Expert Committee reiterated these safeguards, emphasising the multi-layered chain of custody, unique paper seals, and the mandatory logging of all EVM and VVPAT movement in Form 17C.⁵⁷ Moreover, ECI handbooks specify that each VVPAT slip remains visible to the voter for approximately seven seconds before falling automatically into a sealed compartment, creating an independent physical audit trail.⁵⁸

⁵⁵ “Responsible and ethical use of social media platforms and strict avoidance of any wrongful use of manipulated, distorted, or AI-generated content”, via ECI's guideline dated 6 May 2024, Notification No. 491/SM_SOP/2024/Communication.

⁵⁶ Election Commission of India, Report of the Technical Committee on EVMs (2013), paras 7 & 11.

⁵⁷ Election Commission of India, Report of the Technical Expert Committee on EVMs and VVPATs (2019), Section 8.

⁵⁸ Election Commission of India, Handbook for Returning Officers (Latest Edition), Chapter XI.

Importantly, VVPAT audits in multiple State Assembly elections—including Madhya Pradesh, Rajasthan, and Telangana—recorded 100% matching between EVM counts and VVPAT slips across all randomly selected polling stations.⁵⁹ These primary-source validations reinforce that while public scepticism persists, available technical and audit data has consistently affirmed the integrity and verifiability of the EVM–VVPAT system.

4.4 Democratic Theory: Free and Fair Elections as Basic Structure

Unbiased electoral process form the bedrock of democratic theory, rooted in the principles of popular sovereignty, political equality, and the consent of the governed. The Supreme Court of India has unequivocally recognised that democratic elections constitute essentials of the Constitution's basic structure, rendering them inviolable and indispensable to the republic's democratic framework. In *Indira Nehru Gandhi v. Raj Narain*⁶⁰, the Court struck down provisions seeking to immunise electoral outcomes from judicial review, affirming that electoral integrity is a constitutional imperative rather than a mere administrative concern. Similarly, in *Kihoto Hollohan v. Zachillhu*⁶¹, the Court reiterated that democracy is part of the basic structure of the Constitution.

The ECI functions as the constitutional arbiter of this democratic contract, tasked with ensuring elections remain free from coercion, manipulation, and bias. Its independence and impartiality are vital to preserving public trust in electoral outcomes. Judicial pronouncements such as *Mohinder Singh Gill v. Chief Election Commissioner*⁶² and *Subramanian Swamy v. Election Commission of India*⁶³ have affirmed both the plenary nature of Article 324 powers and the necessity of technological safeguards like VVPATs to reinforce voter confidence.

Despite this robust constitutional vision, contemporary realities expose significant challenges. The politicisation of the appointment process, inadequate enforcement of electoral laws, and limited transparency in campaign finance illustrated most notably in the controversy surrounding the Electoral Bonds Scheme which erode institutional independence and electoral credibility. The

⁵⁹ Election Commission of India, Press Note: “Random VVPAT Verification – Summary of Results,” Madhya Pradesh Assembly Election 2023; Rajasthan Assembly Election 2023; Telangana Assembly Election 2023.

⁶⁰ *Indira Nehru Gandhi v. Raj Narain* (1975) 2 SCC 159.

⁶¹ *Kihoto Hollohan v. Zachillhu* (1992) Supp (2) SCC 651.

⁶² *Mohinder Singh Gill v. Chief Election Commissioner* (1978) 1 SCC 405.

⁶³ *Subramanian Swamy v. Election Commission of India* (2013) 10 SCC 500.

*criminalisation of politics*⁶⁴ and the pervasive role of money power distort the level playing field, undermining the principle of political equality.

Equally concerning are procedural deficiencies, such as large-scale and opaque electoral roll deletions, which risk disenfranchisement, and the proliferation of digital misinformation, which threatens to mislead voters and compromise informed choice. These systemic challenges collectively dilute electoral legitimacy and risk undermining constitutional democracy. If the foundational guarantee of free and fair elections is compromised, governance becomes susceptible to democratic backsliding, thereby threatening constitutional protections and eroding citizens' faith in institutions. Safeguarding electoral integrity through robust constitutional, legal, and institutional measures including transparent appointments, strengthened oversight of campaign finance, technological audits, and proactive regulation of digital misinformation, is thus, imperative to preserve the Constitution's basic structure and sustain the vibrancy of Indian democracy.

4.5 Critical Evaluation: Institutional Adequacy in Safeguarding Democracy

4.5.1 Institutional Strengths and Defences: Proponents of the current framework argue that India's democracy has demonstrated remarkable resilience despite political volatility, social heterogeneity, and electoral scale, largely due to the robustness of its constitutional bodies. The ECI, through its regulatory interventions and innovative adoption of EVMs and VVPAT, has enhanced electoral efficiency and transparency, mitigating logistical challenges inherent to the world's largest electorate. Its enforcement of the Model Code of Conduct and scrutiny of *candidate disclosures*⁶⁵, recognised in judgment of *Association for Democratic Reforms*⁶⁶, further exemplify its proactive role in strengthening democratic processes.

India's judiciary is also viewed as a powerful bulwark against electoral malpractice, with the Supreme Court and High Courts stepping in to protect constitutional guarantees of electoral fairness and the rule of law, as seen in *People's Union for Civil Liberties v. Union of India*⁶⁷. Likewise, civil society organisations and a free press play vital roles in exposing irregularities, promoting transparency, and enhancing citizen participation.

⁶⁴ *Association for Democratic Reforms v. Election Commission of India* (Bihar Electoral Rolls Case, WP (Civil) 640/2025).

⁶⁵ *Association for Democratic Reforms v. Union of India* (2024) INSC 113.

⁶⁶ *Association for Democratic Reforms v. Election Commission of India* (Bihar Electoral Rolls Case, WP (Civil) 640/2025).

⁶⁷ *People's Union for Civil Liberties (PUCL) v. Union of India* (2003) 4 SCC 399.

From this perspective, while institutional imperfections are inevitable in any democracy, the foundational architecture of India's democratic institutions remains sound, warranting incremental reforms rather than radical restructuring.

4.5.2 Persistent Shortcomings and Vulnerabilities: Critics, however, highlight systemic deficiencies that cast doubt on the sufficiency of existing institutions to safeguard democracy fully. The erosion of the ECI's independence through politicised appointments undermines its impartiality, a cornerstone of free and fair elections. Despite technological innovations, opaque campaign financing⁶⁸, exemplified by the now-invalidated Electoral Bonds Scheme, and the proliferation of misinformation continue to weaken electoral integrity. The normative legal framework remains inadequate in curbing the *criminalisation of politics*⁶⁹ and money power, perpetuating an uneven political playing field. Judicial interventions, while impactful, are often reactive and constrained by procedural delays and a doctrine of limited interference in political questions. Moreover, civil society and media watchdogs increasingly face legislative restrictions, economic pressures, and targeted disinformation campaigns that compromise their oversight capacities. These vulnerabilities reveal structural gaps that render the current institutional framework insufficient to meet contemporary challenges. They underscore the pressing need for comprehensive reforms that enhance transparency, insulate constitutional bodies from executive influence, and equip institutions with stronger enforcement mechanisms to preserve democratic legitimacy.

5. KEY FINDINGS

The doctrinal and analytical inquiry undertaken in this research reveals both the constitutional aspirations and the operational challenges facing the ECI. While the framers of the Constitution envisaged the ECI as a bulwark against political manipulation, recent controversies underscore vulnerabilities that threaten its institutional legitimacy. The following key findings emerge:

⁶⁸ Economic & Political Weekly, "Electoral Integrity and Campaign Finance in India," 2020.

⁶⁹ Association for Democratic Reforms (ADR), Reports on Electoral Finance and Criminalisation of Politics (2019–2024) dated 17th March 2025.

5.1 Constitutional Design Flaws: The Appointment Process

Article 324 envisages appointment of Election Commissioners by the President “*subject to the provisions of any law made by Parliament.*”⁷⁰ In the absence of parliamentary legislation for decades, appointments effectively remained within executive discretion. In *Anoop Baranwal v. Union of India*⁷¹, the Supreme Court attempted to address this lacuna by prescribing a collegium comprising the Prime Minister, Leader of the Opposition, and Chief Justice of India. However, Parliament’s subsequent enactment of the 2023 Act substituted the Chief Justice with a Cabinet Minister, restoring executive dominance. Procedural opacity including instances where the Leader of the Opposition received shortlists minutes before deliberation has drawn consistent criticism for undermining fairness and checks and balances.

5.2 Procedural Gaps in Addressing Mass Voter Fraud

The “*Special Intensive Revision*”⁷² of electoral rolls in Bihar in 2025 resulted in the deletion of over six million voters⁷³ without transparent methodology or adequate safeguards. Interim orders of the Supreme Court in *Association for Democratic Reforms v. Election Commission of India*⁷⁴ compelled disclosure of deleted names and remedial mechanisms. The episode nevertheless exposed systemic incapacity to address mass disenfranchisement swiftly, raising concerns of both administrative lapses and potential partisan misuse.

5.3 Lack of Transparency in ECI Functioning

Institutional opacity has become a serious constitutional concern. The ECI’s 2025 directive mandating destruction of polling booth CCTV/webcasting footage after forty-five days, previously accessible under the *Right to Information Act, 2005*⁷⁵ curtailed opportunities for independent verification and heightened doubts about electoral integrity. Similarly, the reluctance to disclose granular data on electoral rolls and campaign finance has impeded scrutiny, undermining the constitutional

⁷⁰ The Constitution of India, D.D. Basu’s Commentary on the Constitution of India

⁷¹ *Anoop Baranwal v. Union of India* (2023) SCC OnLine SC 214.

⁷² The Hindu, “Bihar Deletes 6.5 Million Voters in Electoral Roll Revision,” 2025

⁷³ Association for Democratic Reforms v. Election Commission of India (Bihar Electoral Rolls Case, WP (Civil) 640/2025).

⁷⁴ “Responsible and ethical use of social media platforms and strict avoidance of any wrongful use of manipulated, distorted, or AI-generated content”, via ECI’s guideline dated 6 May 2024, Notification No. 491/SM_SOP/2024/Communication.

⁷⁵ The Right to Information Act, 2005.

expectation that the ECI not only ensure fairness but also the perception of fairness in electoral processes.

5.4 Crisis of Trust in Electoral Institutions

The 2025 allegations⁷⁶ by opposition leaders regarding large-scale voter roll irregularities, based on the ECI's own revision data, marked an unprecedented confrontation that exposed a deeper trust deficit. Institutional responses, which appeared defensive and limited in transparency, intensified public scepticism and risked diminishing the ECI's standing as a non-partisan constitutional arbiter.

5.5 Technology: Supplementary, Not Substitutive

Technological innovations such as EVMs and VVPATs have enhanced efficiency and verifiability, as recognised in *Subramanian Swamy v. Election Commission of India*⁷⁷. However, persistent suspicions of tampering, combined with risks posed by misinformation, deepfakes, and cybersecurity threats, highlight that technology cannot substitute for institutional independence. Its effectiveness depends on the credibility, autonomy, and transparency of the electoral authority.

5.6 Overall Synthesis

The research demonstrates that while constitutional and legal doctrines provide a robust theoretical safeguard for electoral integrity, systemic deficits in transparency, independence, and accountability have precipitated a legitimacy crisis. Restoring the ECI's stature requires not incremental adjustments alone but a renewed commitment to institutional independence, procedural rigour, and unwavering transparency.

6. REFORM PROPOSALS

Electoral legitimacy is indispensable for democratic survival. Credible elections sustain public trust, governmental authority, and societal cohesion. In India, once regarded as a model electoral democracy, increasing challenges like opaque voter roll revisions, campaign finance controversies, and doubts over institutional independence, threaten this legitimacy. While technological tools such as EVM and VVPAT have strengthened efficiency and verifiability, they cannot substitute for institutional integrity, which remains the true guarantor of electoral fairness.

⁷⁶ The Hindu, "Rahul Gandhi Alleges Massive Voter Fraud in Lok Sabha Polls," 7 August 2025.

⁷⁷ *Subramanian Swamy v. Election Commission of India* (2013) 10 SCC 500.

6.1 Suggestions for Reform

- 6.1.1 **Transparent Digital Voter Rolls and Polling Data:** Electoral transparency requires open, verifiable data. Digitised voter rolls in machine-readable formats, coupled with real-time access to polling data, would enable effective scrutiny and timely correction of anomalies. The Supreme Court's interim directions in the 2025 Bihar voter roll case affirm the necessity of such safeguards.⁷⁸
- 6.1.2 **Accountability in Voter Roll Deletions:** Mass deletions during Bihar's 2025 revision⁷⁹ highlight the need for advance public notice, accessible grievance mechanisms, mandatory audit trails, and judicial oversight. Institutionalising these safeguards would protect inclusiveness and prevent arbitrary disenfranchisement.
- 6.1.3 **Campaign Finance Transparency Post-Electoral Bonds:** Following the Supreme Court's 2024 invalidation of the *Electoral Bonds Scheme*, the ECI must be empowered to enforce strict disclosure norms on donations and expenditures. Statutory reforms ensuring real-time reporting of political funding would curb opaque financing and restore the principle of political equality.
- 6.1.4 **Regulation and Safeguarding of Electoral Technology:** Misinformation, cyber manipulation, and technical risks necessitate stronger safeguards. Standardised VVPAT verification procedures, independent technical audits of EVMs, enhanced cybersecurity protocols, and public awareness campaigns are essential to reinforce confidence in electoral technology.
- 6.1.5 **Strengthened Appointment Process for the ECI:** Reforming appointments is central to restoring institutional independence. Several models merit consideration:

Proposal 1: Collegium Appointment System - A three-member collegium comprising the Prime Minister, Leader of the Opposition, and Chief Justice of India to recommend candidates, ensuring bipartisanship.

Proposal 2: Expanded Collegium with Parliamentary Oversight - Inclusion of neutral experts or retired judges, with parliamentary ratification of recommendations, to enhance legitimacy.

Proposal 3: Statutory Safeguards and Tenure Security - Enactment of clear statutory provisions guaranteeing secure tenure and restrictions on

⁷⁸ *Association for Democratic Reforms v. Election Commission of India* (Bihar Electoral Rolls Case, WP (Civil) 640/2025).

⁷⁹ The Hindu, "Bihar Deletes 6.5 Million Voters in Electoral Roll Revision," 2025.

post-retirement appointments, as recognised in *T.N. Seshan v. Union of India*⁸⁰, to insulate commissioners from executive pressure.

A more robust foundation for these reform proposals emerges when situated against the recommendations of authoritative primary bodies.

The Law Commission of India, in its 170th Report on Electoral Reforms, unequivocally identified institutional independence as the central precondition for credible elections, recommending that appointments to the ECI be made through a collegium comprising the Prime Minister, Leader of the Opposition, and the Chief Justice of India.⁸¹

The 255th Report later reiterated the urgent need to decriminalise politics by providing for disqualification upon framing of charges for serious offences⁸², thereby strengthening electoral integrity. These domestic recommendations align closely with global electoral governance standards.

The Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, in its 79th Report, similarly observed that the present appointment mechanism lacks sufficient insulation from executive influence and called for statutory reform to restore neutrality.⁸³

International best-practice frameworks reinforce these concerns: the International IDEA Handbook on Electoral Management Design emphasises independence, impartiality, transparency, and professionalism as the four foundational pillars of any Election Management Body⁸⁴, while the IFES Election Integrity Guidelines stress the necessity of appointment processes that minimise risks of partisan capture.⁸⁵ The EISA Principles for Election Management likewise underscore that appointment criteria must be merit-based, public, and transparent.⁸⁶

⁸⁰ Electoral Bonds Case: Association for Democratic Reforms v. Union of India (2024) INSC 113.

⁸¹ *T.N. Seshan v. Union of India* (1995) 4 SCC 611.

⁸² Law Commission of India, *170th Report on Electoral Reforms* (1999), para 2.2.2.

⁸³ Law Commission of India, *255th Report on Electoral Disqualifications* (2015), para 7.4.2.

⁸⁴ Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, 79th Report on Electoral Reforms (Year), para 3.12.

⁸⁵ International IDEA, *Electoral Management Design: The International IDEA Handbook* (Chapter 1).

⁸⁶ International Foundation for Electoral Systems (IFES), *Election Integrity Assessment Framework*, Module 2.

Collectively, these primary-source standards validate the need for a strengthened appointment process, transparent campaign finance regulation, and an auditable voter-roll architecture that aligns India's electoral governance with comparative global democracies.

7. CONCLUSION

India's democratic architecture has long relied on the assurance that elections are conducted with unimpeachable neutrality, procedural integrity, and institutional transparency. Judicial pronouncements affirming free and fair elections as part of the Constitution's basic structure reflect not merely doctrinal symbolism but the operational heartbeat of a functioning republic.⁸⁷⁸⁸ Yet, as the analysis in this paper demonstrates, the gap between this constitutional promise and ground-level implementation is widening at an uncomfortable pace. Persistent opacity in electoral roll management, the recent dilution of transparency norms in surveillance retention, and the structural imbalance embedded in the current appointment mechanism for Election Commissioners together signal an ecosystem that is drifting from its original constitutional design.

The study's findings underscore several hard realities. The Election Commission's own manuals lay down a stringent due-process model for voter roll deletions: one that demands field verification, public notice, reason codes, and audit trails. The 2025 Bihar revision exercise, however, showcased how quickly these safeguards can collapse when procedural discipline is compromised. Similarly, the shift from a one-year retention rule for CCTV/webcasting footage to a 45-day window weakens the evidentiary backbone essential for post-poll scrutiny. Added to this is the long-standing concentration of executive power over appointments to the ECI, which continues to raise legitimate concerns regarding institutional independence, despite repeated interventions by the judiciary, the Law Commission, and various parliamentary committees.

The broader implication is difficult to ignore: the India's electoral governance now sits at a strategic inflection point. The technological infrastructure: EVMs, VVPATs, audit trails has steadily evolved, but technology cannot substitute for trust. Public confidence will continue to erode unless transparency, data accessibility, and institutional insulation are restored as foundational rather than ornamental values.

⁸⁷ Electoral Institute for Sustainable Democracy in Africa (EISA), *Principles for Election Management, Monitoring and Observation in the SADC Region*.

⁸⁸ *Indira Nehru Gandhi v. Raj Narain* (1975) 2 SCC 159.

Mohinder Singh Gill v. Chief Election Commissioner (1978) 1 SCC 405.

The empirical and doctrinal evidence presented in this paper converges on a clear takeaway: credible elections require more than procedural compliance; they demand verifiable openness, balanced institutional design, and a culture of accountability that resists executive overreach.

Accordingly, the reform proposals outlined herein are not aspirational wish-lists but operational imperatives. A statutory, bipartisan appointment mechanism, publicly auditable voter-roll architecture, strengthened campaign finance scrutiny, and a mandated, technology-agnostic transparency framework are no longer optional enhancements, they are necessary correctives. International best-practice standards reinforce this direction, and India, as the world's largest democracy, cannot afford to set the bar lower than the norms it helped shape on the global stage.

Ultimately, safeguarding electoral legitimacy is not a project for the ECI alone. It requires coordinated vigilance from the legislature, judiciary, civil society, and the citizenry. But the Commission remains the keystone. Only when its independence is structurally guaranteed, its procedures are transparent by default, and its accountability mechanisms are unambiguous will India's democratic promise align fully with democratic practice. Until then, the responsibility remains on policymakers and institutions to course-correct with urgency, clarity, and constitutional fidelity.