

# ELECTION

MODULE - 5

# What is Election?

Election is a reform driven Mechanism by way of which People exercise their right to vote and Elect their Representative who would in turn would represent and protect their rights in a Responsible and Lawful manner, maintaining Peace and Development.

Elections are a significant part of the Indian democratic structure. Elections in India are held for the Lok Sabha and Rajya Sabha, the State Legislative Assemblies (Vidhan Sabha) and Legislative Council (Vidhan Parishad). Elections are conducted as per constitutional provisions and the laws made by the Parliament. Article 324 of Indian Constitution explains about the provision of election commission in India.

# Lok Sabha Election

Lok Sabha is composed of representatives of the people chosen by direct election on the basis of the adult suffrage. The maximum strength of the House envisaged by the Constitution is 552. This may include up to 530 members from the states, up to 20 members from the Union Territories. The president can nominate two members from Anglo-Indian community. The 95th Amendment Act, 2009 extended the period for further ten years till 2020.

*Direct Election:* The members of Lok Sabha are elected through direct election by the people. Every citizen of the country, who is more than 18 years of age, can vote in the election irrespective of his/her social status, religion, caste, race etc.

*Territorial Constituency:* Each state is divided into territorial constituencies for the purpose of elections. One member of Lok Sabha is elected from each constituency. That means, the number of seats for the election are equal to the number of constituencies.

*Readjustment of constituencies after each census:* After every census, there may be a need to readjust the constituencies; as the delimitation is based on population and not on area.

*Reservation of seats for SCs and STs:* The constitution provides for reservation of seats for Scheduled Castes (SCs) and Scheduled Tribes (STs) in the Lok Sabha. The 95th Amendment Act, 2009 extended the period of reservation for further ten years till 2020.

# Rajya Sabha Election

- Rajya Sabha is the Upper House of Parliament, which cannot have more than 250 members according to the Constitution of India. Members of Rajya Sabha are not elected by the people directly. They are elected by the members of the legislative assemblies of the states in accordance with the system of proportional representation by means of the single transferable vote.
- Every State is allotted a certain number of members. Representatives of union territories are chosen as prescribed in the law enacted by Parliament.
- Twelve members of the Rajya Sabha are nominated by the President, who has earned distinction in the fields of literature, art, science and social service.
- Rajya Sabha is a permanent body. It is not subject to dissolution but one-third of its members retire after every two years. At present, Rajya Sabha comprises of 245 members of whom 233 are representatives of the states and union territories and 12 are nominated by the President of India

# State Legislative Assembly (Vidhan Sabha)

- ***Direct Election:*** The legislative assembly is composed of representatives of the people chosen by direct election on the basis of the universal adult suffrage. The maximum strength is fixed at 500 and minimum strength at 60.
- ***Nominated Member:*** The governor can nominate one member from Anglo-Indian community if, in his opinion, the community is not adequately represented in the House.
- ***Territorial Constituencies:*** Each state is divided into territorial constituencies for the purpose of elections. One member of legislative assembly is elected from each constituency.
- ***Readjustment after each census:*** After each census, a readjustment is to be made in the total number of seats in the legislative assembly of each state and the division of each state into territorial constituencies.
- **87th Amendment Act, 2003** provided for readjustment of parliamentary constituencies in each state on the basis of 2001 population census without changing the number of seats allotted to each state.
- ***Reservation of seats for SCs and STs:*** The constitution provides for reservation of seats for Scheduled Castes (SCs) and Scheduled Tribes (STs) in the legislative assemblies.

# Legislative Council (Vidhan Sabha)

- The total number of members in the legislative council of a state having such a council shall not exceed one-third of the total number of members in the legislative assembly of the state. However, the strength of the legislative council should not be less than forty except Jammu and Kashmir. The actual strength of a council is fixed by the parliament. The composition of legislative council is partly through indirect election partly through special constituencies and partly by nomination.
- Therefore, an urgent political reform is the need of the hour, which would include referendum on electoral reform, increase in cooperation across party lines and creating a more transparent and accountable political system in India

# COMPOSITION of CEC

1. The Chief Election Commissioner and, if necessary, additional election commissioners will make up the election commission, as determined by the president from time to time.
2. The president shall appoint the chief election commissioner and the other election commissioners.
3. The chief election commissioner shall serve as the election commission's chairman whenever another election commissioner is so appointed.
4. After consulting with the election commission, the president may additionally appoint any regional commissioners he deems essential to help the election commission.
5. The President may, by regulation, establish the terms of duty and length of office for the regional commissioners and election commissioners.
6. Even though he serves as the election commission's chairman, the chief election commissioner has the same authority as the other election commissioners. The majority vote of the commission's members decides on every issue. Equal salaries, allowances, and other benefits are given to the Chief Election Commissioner and the other two election commissioners.

# DUTIES AND RESPONSIBILITIES OF CEC

1. The chief election commissioner should ensure no discrimination or biases towards anyone while on **election duty**.
2. He should ensure that elections are held under complete transparency, and nothing is hidden from the people, i.e. the citizens of India who are the backbone behind India's elections.
3. The Chief election Commissioner should make sure that there is no manipulation or partisanship
4. during the conduct of elections at his **election duty**.
5. The Chief election commissioner has to present a list of all the eligible voters.
6. They should supervise the nomination of a candidate for becoming a part of the elections or a political party.
6. Registration of different political parties



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7. Monitoring an election campaign and keeping a check on misbehavior or false practices are taken up, if any, while on **election duty**.
8. Helps the media in covering the elections and the process thoroughly.
9. Keep an eye on the counting of votes.
10. Organizes polling booths for the conduct of elections and reaches the booth for **election duty**.
11. Declaration of the results of the election.
12. The chief election commissioner ensures that all **election commission rules** are followed.

# CEC- POWERS

1. Determining the territories of electoral constituencies based on the Delimitation Commission Act of the Parliament.
2. Preparing and revising electoral rolls and managing the registration of all the eligible voters.
3. Notifying the date and schedule of elections and keeping an eye on the process during **election duty**.
4. Granting recognition to different political parties and assigning election symbols to them.
5. Appointment of officers for control of disputes regarding the arrangement of elections.
6. Determination of a code of conduct that all the political parties and their candidates must follow.
7. Preparation of programs to help to publicize the policies of all the political parties during the election on social media and television.
8. Advising the President about disqualification of MPs and MLAs
9. Requesting the governor or the President for appointing staff required for conducting elections.

# IMP OF CEC

1. The conduct of national and state elections is done under the guidance and monitoring of the election commission.
2. The chief election commissioner ensures that all the political parties function during the following discipline. If parties fail to maintain inner-party democracy', it can be derecognised by the chief election commissioner.
3. A chief election commissioner keeps an eye on the conduct of fair, transparent, credible, autonomous elections while maintaining professionalism.
4. The Chief Election Commissioner and the election commission **describe the procedure of voting on the polling day.**
5. All political parties and stakeholders in the process of elections are taken care of by the Chief election Commissioner.
6. The Election Commission plays a significant role in maintaining constitutional principles and citizens' democratic rights in a democracy, just like the judiciary does. So, if you had a trouble-free voting experience, you can entirely thank the Election Commission for its efficient operation.
7. The process of developing electoral democracy can also be credited to the ECI. For instance, the Election Commission developed the Model Code of Conduct (MCC) to guarantee equal playing time for all political parties.

# Types of Election Laws

- 1.Representation of the People Act, 1950
- 2.Representation of the People Act, 1951
- 3.Delimitation Act, 2002

# Representation of People's Act 1950

1. Allocation of seats in the House of the People, State legislative Assemblies and the State Legislative Councils.
2. Delimitation of Parliamentary, Assembly and Council Constituencies
3. Election officers like chief electoral officers, district election officers, electoral registration officers and so on.
4. Electoral rolls for Parliamentary, Assembly and Council constituencies
5. Manner of filling seats in the Council of States to be filled by the representatives of union territories.
6. Local authorities for purpose of elections to the State Legislative Councils
7. Barring jurisdiction of civil courts.

# Representation of People's Act 1951

1. Qualifications and disqualification for membership of Parliament and State Legislatures
2. Notification of general elections
3. Administrative machinery for conducting elections
4. Registration of political parties
5. Conduct of elections
6. Free supply of certain material to candidates of recognised political parties
7. Disputes regarding elections
8. Corrupt practices and election offenses
9. Powers of Election Commission in connection with inquiries as to disqualification of members
10. Re-elections and time limit for filling vacancies
11. Miscellaneous provisions relating to elections
12. Barring the jurisdiction of civil courts

# Delimitation Commission (Act)

- The Delimitation Commission, also known as the Boundary Commission of India, was established by the Indian government in accordance with the guidelines given by the Delimitation Commissions Act. This commission, which the President of India specifically established, collaborates with the Election Commission of India to uphold the fictitious boundaries of Lok Sabha seats and local legislatures around the nation based on the most recent census.

# Delimitation Meaning

- In order to reflect population changes based on the most recent census data for the elections, delimitation is the act of redrawing the boundaries for particular geographical seats in a nation. The commission must delimitate constituencies in accordance with the Delimitation Commission Act's regulations as an impartial panel. It is a high-level or high-power entity that was established by a Parliamentary Act, and since the Commission's instructions are subject to legal action, no one may challenge them in court.
- Setting or fixing borders for constituencies across the nation is the goal of same. "One Vote One Value" is the Commission's only goal. Boundary commission is another name for the delimitation commission. The Delimitation Commission is appointed by the Indian President and collaborates with the Indian Election Commission.



# Delimitation Act

- Delimitation must be carried out in a specific way for it to perform properly. According to Article 82, the Parliament must enact the Delimitation Act when each cycle of the census is complete. Article 170 of the same Act states that following each census, States are also divided into territorial constituencies.
- The Central or Union Government must establish a Delimitation Commission after the Act is passed and put into effect. The Commission releases delimitation and related policies whenever it has the authority.

# Objectives

- The Delimitation Commission of India's primary objective is to define the boundaries or limits of state legislatures and Lok Sabha constituencies to reflect demographic fluctuations. The most current census serves as the basis for redrawing boundaries each year. For instance, the current Lok Sabha constituency delineation is based on the 2001 census.
- This constituency delineation aids in distributing the number of Lok Sabha seats to the various Indian states as well as those of each state's legislative legislatures. The Delimitation Commission's poll results could influence the seats.

# Demilitation Functions

- In order to choose the number of constituencies and their boundaries and ensure that each constituency has a population that is about equal, the boundaries are determined. Based on the most recent population census results, the Commission is in charge of modifying the representation of the various territorial constituencies in the House of People and the numerous territorial constituencies in the Legislative Assembly of each state.
- The Commission also decides whether seats for scheduled castes and scheduled tribes groups in areas with significant numbers should be awarded (Articles 330 and 332). If there are disagreements among the Commission members, the decision of the majority will be taken into account. The Indian Gazette, state gazettes, and regional language media are the means by which the Commission makes draught recommendations available to the public.
- Additionally, it offers open forums where members of the public can express their opinions orally or in writing. The draught proposal may need to be modified if necessary. When the President specifies a date, the final order is published in the Gazettes and goes into force on that day.

# ELECTORAL PROCESS

- **Notification for Election-** When the President in the case of the Lok Sabha and the Governor in the case of the State Assembly issues a notification for the election, on the advice of the Election Commission, the election process formally begins. Candidates have seven days to submit their nominations.
- **Filing of Nomination-** The nomination paper must be submitted in the proper format and include the candidate's name, age, postal address, and electoral roll serial number. At least two voters who are enrolled in the concerned constituency must properly propose and second the candidate.
- **Deposition of Security Deposit-** Each applicant is required to submit a security deposit when submitting their nomination. If the candidate does not receive at least  $\frac{1}{6}$  of all legitimate votes cast, the security deposit is lost.
- **Scrutiny and Withdrawal-** On the day set by the Election Commission, the Returning Officer examines each nomination form she receives. This is done to make sure that all paperwork is completed in accordance with the established protocol and is accompanied by the necessary security deposit. A nomination paper may be rejected by the returning officer. The last day for candidates to withdraw is the second day following the examination of nomination papers.
- **Election Campaign-** The process by which a candidate seeks to convince voters to support him as opposed to other candidates is called campaigning. All recognized national and regional parties now have free access to state-owned electronic media, including All India Radio (AIR) and Doordarshan, to conduct their election campaigning.

# Officers on Election DUTY

**OBSERVER – The aim of the post is to officiate the entire monitoring of Election right from Campaign, Nomination filing, election day to vote counting. They are responsible to record untoward events and maintain a strict vigilance to strengthen the entire system of Election to be conducted in free and fair manner.**

## **Special Officers on Election Duty:**

To ensure that elections are held in free and fair manner, the Election Commission appoints thousands of polling personnel to assist in the election work. These personnel are drawn among magistrates, police officers, civil servants, clerks, typists, school teachers, drivers, peons etc. Out of these there are three main officials who play very important role in the conduct of free and fair election. They are Returning Officer, Presiding Officer and Polling Officers.

# Officers on Election DUTY

## **Returning Officer**

In every constituency, one Officer is designated as Returning Officer by the Commission in consultation with the concerned State government. However, an Officer can be nominated as Returning Officer for more than one constituency. All the nomination papers are submitted to the Returning Officer. Papers are scrutinised by him/her and if they are in order, accepted by him/her. Election symbols are allotted by him/her in accordance with the directions issued by the Election Commission. He/she also accepts withdrawal of the candidates and announces the final list. He/she supervises all the polling booths, votes are counted under his/her supervision and finally result is announced by him/her. In fact, the

Returning Officer is the overall incharge of the efficient and fair conduct of elections in the concerned constituency.

# Officers on Election DUTY

## **Presiding Officers**

Every constituency has a large number of polling booths. Each polling booth on an average caters to about thousands of votes. Every such booth is under the charge of an officer who is called the Presiding Officer. He/she supervises the entire process polling in the polling booth and ensures that every voter gets an opportunity to cast vote freely. After the polling is over he/she seals all the ballot boxes and delivers them to the Returning Officer.

## **Polling Officers**

Every Presiding Officer is assisted by three to four polling officers. They check the names of the voters in the electoral roll, put indelible ink on the finger of the voter, issue ballot papers and ensure that votes are secretly cast by each voter.