



Independent Panel For Monitoring
Indian Elections

Briefing Paper

Electoral Integrity in India

An Agenda for Change:
Learnings from the 2024 General Election

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BRIEFING PAPER

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Executive Summary

1. In February 2024, we, as a group of experts from various disciplines and multinational backgrounds, formed the Independent Panel for Monitoring Indian Elections (IPMIE), in response to growing concerns about the integrity of India's 2024 General Election (GE). We set out to monitor all aspects of the election process, with the goal of ensuring transparency and fairness. During the GE period, we published eleven weekly bulletins and three in-depth reports documenting violations of electoral integrity. We conclude our efforts with this briefing paper summarising our key findings, and offering preliminary recommendations for changes to improve future elections, based on the 2024 experience.
2. Prior to 2024 GE, the state of electoral integrity in India was already reported as worsening. Persisting issues included: (i) weaknesses in electoral procedures and the voting process, particularly the continuing use of electronic voting machines (EVMs) and their susceptibility to tampering and manipulation, as well as inadequate end-to-end verifiability between vote tallies in EVMs and voter-verified paper audit trails (VVPAT); (ii) weaknesses in voter registration and in drawing of constituency boundaries, including the systematic exclusion of vulnerable communities from electoral rolls, and allegations that recent constituency delimitation exercises may amount to gerrymandering, (iii) the opacity of the political financing landscape, particularly since the introduction of electoral bonds in 2017, which enabled the ruling party to amass disproportionate donations from corporate actors, (iv) the partisan media landscape, dominated by actors seen as friendly to the Bharatiya Janata Party (BJP), and the preponderance of communal rhetoric and misinformation, all aligned to the BJP's tried-and-tested tactic of using religious polarisation for electoral benefit, (v) the dwindling reputation of the Election Commission of India (ECI), which has, in recent years, faced allegations of partisanship in favour of the BJP and its leaders, while being swift to penalise opposition parties and leaders for even minor infractions of election laws. The amendments to the appointments procedure of Election Commissioners, and the subsequent selection, on the eve of the 2024 GE, of two former civil servants seen to be close to senior BJP leaders, and (vi) the apparent failure of India's higher judiciary to step in and address issues that had contributed to eroding electoral integrity, completed the picture of an election likely to be make or break, on the test of electoral integrity.
3. As we have reported in the series of our bulletins and in-depth reports, 2024 GE was itself marked by widespread, serious, and escalated concerns about electoral integrity. Key among these were:

3.1 Electoral procedure and alleged infractions in vote counting: Experts alleged that the absence of adequate cross-verification between EVMs and VVPATs - the insistence on non-counting of VVPATs by design - may have facilitated large-scale, spurious injections of votes during each of the seven phases of voting. Fact that EVM manufacturing is not in the control of the ECI but with Public Sector Undertakings where the government has control, and BJP nominees are present, has added to doubts about the reliability of electoral process. After analysing discrepancies between provisional and final vote tallies released by the ECI, experts alleged that elections may have been 'stolen' in as many as 79 parliamentary constituencies, viz. around 14 per cent of the total number of constituencies.

Several reported instances from across the country of bogus voting and other voting day infractions, as well as widespread complaints of manipulation and other malpractices by ECI officials lent credence to these concerns. In multiple locations, particularly in Manipur, polling was marred by reports of vandalism, violence, and voter intimidation.

3.2 Voting registration and allegations of voter exclusion and suppression: State-led voter suppression measures were reported from Gujarat (where hundreds of Muslim fishermen were reportedly struck off from voter rolls), Uttar Pradesh (where dozens of voters in Muslim-concentration villages were reportedly physically assaulted and restrained from voting by policemen), and Jammu & Kashmir (where policemen detained party workers and activists unlawfully). Previous voter suppression methods, most notably in Assam, where around 100,000 residents had in the past been designated as 'doubtful voters' by the ECI, and the recent delimitation, sparking fears that Muslims and other vulnerable voters would be disadvantaged, also continued to impact the ability of state residents to meaningfully exercise their franchise.

3.3 Party financing and abuse of state agencies to deny level playing field: Data relating to electoral bonds, which the Supreme Court (SC) ordered the State Bank of India (SBI) to release, appeared to confirm the BJP's near-monopoly over political financing. There was also evidence to suggest that the BJP may have been involved in quid pro quo relationships with corporate donors, many of whom had secured lucrative government contracts, subsidies, and other forms of government support. Ahead of and during the GE period, central government agencies were systematically mobilised to target key parties and leaders of the INDIA bloc of opposition parties. Chief ministers of two opposition-ruled states were arrested and physically restrained from campaigning, along with previously incarcerated opposition leaders. Tax authorities too were mobilised to 'financially cripple' opposition parties, particularly the Indian National Congress.

3.4 Sectarian rhetoric and media coverage: Throughout the election period, the BJP, led by Prime Minister Narendra Modi, engaged in sectarian rhetoric on a hitherto unprecedented scale. At least 287 instances of hate speeches (including 61 by Modi) have been documented. The BJP's core narrative demonised Muslims (who were referred to as 'infiltrators' and 'jihadis', among other dehumanising terms), and falsely portrayed the opposition of conspiring against Hindus, Dalits and Adivasis on behalf of Muslims. Alongside, the most popular television broadcast networks continued to be highly partisan in favour of the BJP, and against opposition parties. Multiple investigative reports also uncovered vast, parallel networks of 'shadow advertisers' pushing a coordinated disinformation campaign on social media networks, seemingly on behalf of the BJP.

3.5 Electoral authority: The ECI appeared largely to act like an arm of the government, refusing to take decisive action against violations of the Model Code of Conduct (MCC) and of electoral laws by ruling party members, while acting with greater alacrity against opposition parties. The ECI's conduct throughout the election process, from the announcement of election dates (when it was accused of rubber-stamping a schedule that gave an edge to the BJP's star campaigners) to the final counting of votes (when malpractices by its officials are alleged to have 'tainted' the results in at least 18 constituencies), reflected a systematic abdication of its constitutional obligation to conduct free and fair elections. Efforts by opposition parties, election watch bodies and citizens groups, as well as by us as independent experts, to address the many concerns to ECI, went largely unheeded.

3.6 Lack of electoral redress: The performance of India's higher judiciary, particularly the Supreme Court (SC), during the 2024 GE was mixed. While it outlawed electoral bonds in February 2024 and ensured the release of related data, its response to petitions seeking remedies related to various electoral integrity weaknesses – including the new appointments procedure to the ECI, weaknesses in the EVM-VVPAT system, communal campaigning by BJP leaders, and the ECI's delay in publishing voter turnout data – was inadequate.

4. **Recommendations:** Based on our experience of weaknesses observed during the 2024 GE, suggestions made previously by experts and election watch bodies, and best practices followed by other successful electoral democracies, we propose the following preliminary recommendations for changes in laws, procedures and processes, to improve electoral integrity in India.

Besides the conduct of the entire 2024 General Elections and the weaknesses therein, these suggestions for improvements, require through public debate and discussion, including in the Parliament:

4.1 Electoral laws:

- Amend relevant sections of the Constitution to (i) protect all Election Commissioners, not just Chief Election Commissioner, from arbitrary removal, and hence strengthen the institutional independence of the ECI, (ii) include stronger protections to prevent gerrymandering during future delimitation processes, and (iii) allow some judicial review of election-related decisions while elections are ongoing, particularly in cases of clear constitutional violations (fundamental rights) or breaches of electoral laws.

- Amend the Representation of the People Act to (i) mandate real-time public disclosure of all financial contributions received by political parties, (ii) empower the ECI to act as the arbiter and regulator of all matters related to political parties, including the conduct of their financial audits, (iii) extend current disclosure requirements relating to election expenses and financial and criminal records to all political parties, not just candidates, (iv) ensure that enumerated ‘corrupt practices’ more closely mirror those proscribed in the non-statutory Model Code of Conduct, (v) empower the ECI to impose stricter election-time penalties on candidates and parties for violations of the MCC, and (vi) introduce stricter penalties for dereliction of duty and other malpractices by ECI officials.
- Amend the Model Code of Conduct to (i) include specific references to all activities proscribed as corrupt practices and electoral offences in the RPA, and prescribe minimum election-time penalties for the same, (ii) introduce specific sections focusing on the activities of candidates and parties on digital spaces and media networks, and (iii) introduce a section enumerating minimum expectations from the ECI itself, requiring it to draw on all its powers and ensure a level playing field. Overall the MCC would benefit from being more specific ‘dos’ and ‘don’ts’, with responsibilities of key actors marked out clearly, and specified timeframe for action, by all concerned.

4.2 Electoral process:

- Involve registered civil society organizations in revision and update of draft electoral rolls on a continuous basis.
- The entire voting process must have end-to-end verifiability and be transparent
- Videographic records of surveillance of the storage locations and other areas/locations (e.g. counting area, polling area) should be publicly available on request (downloadable) without charge
- Details of all the code, testing protocols etc. related to the EVM should be in the public domain. Similarly, the SoP related to the electoral process should also be in the public domain.
- ECI should provide a secure API (application programming interface) that allows download of all data pertaining to the election at all times.

4.3 Independence of Election Commission of India

- The appointments procedure for the CEC and other ECs must be amended to ensure that (i) the Search Committee has representation of all major political parties, and (ii) Selection Committee includes the PM, the Leader of Opposition, and the Chief Justice of India. CECs and all ECs must also be protected from arbitrary removals.
- The ECI must be brought under the direct oversight of Parliament, via a parliamentary committee, before which the CEC must mandatorily appear after each General Election and state-level elections, to present their report, and answer questions.
- The RPA must be amended to mandate greater public transparency from the ECI, particularly during election periods, and to specifically enumerate penalties for dereliction of duty by top-level ECI officials.
- The ECI must be granted enhanced powers to proactively regulate political parties, and to impose stricter election-time penalties for violations of the MCC.

List of Abbreviations

- AAP: Aam Aadmi Party
- BJP: Bharatiya Janata Party
- BRS: Bharat Rashtra Samithi
- CAA: Citizenship (Amendment) Act 2019
- CBI: Central Bureau of Investigations
- CCE: Citizens Commission for Elections
- CEC: Chief Election Commissioner
- CM: Chief Minister
- D-Voter: Doubtful Voter
- ECI: Election Commission of India
- ED: Enforcement Directorate
- EMB: Electoral Management Bodies
- EVM: Electronic Voting Machines
- FIR: First Information Report
- FPTP: First Past the Post
- GE: General Election
- INC: Indian National Congress
- INDIA alliance: Indian National Developmental Inclusive Alliance
- J&K: Jammu & Kashmir
- MCC: Model Code of Conduct
- MLA: Member of Legislative Assembly
- MP: Member of Parliament
- NRC: National Register of Citizens
- PM: Prime Minister
- RPA: The Representation of the People Act
- RSS: Rashtriya Swayamsevak Sangh
- SCI: Supreme Court of India
- SOP: Standard Operating Procedure
- SP: Samajwadi Party
- TMC: Trinamool Congress
- UP: Uttar Pradesh
- UT: Union Territory
- VVPAT: Voter Verified Paper and Audit Trail

Independent Panel for Monitoring Indian Elections – 2024

The members of the Panel are:

1. **Prof. Neera Chandhoke**, Distinguished Honorary Fellow, Centre for Equity Studies, and retd. Professor, Delhi University, India
2. **Dr. Thomas Daffern**, Philosopher and historian; chairman of World Intellectuals Wisdom Forum; Director, International Institute of Peace Studies and Global Philosophy (France and UK); Convenor, Commonwealth Interfaith Network
3. **Mr. Sakhawat Hossain**, former Election Commissioner of Bangladesh
4. **Dr. Harish Karnick**, former Professor, IIT, Kanpur, India
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Acknowledgments

The Independent Panel for Monitoring Indian Elections grew out of widespread apprehensions among ordinary citizens, in the run up to General Election 2024, about the sanctity of the upcoming elections and whether electoral integrity would be maintained. The impetus for the formation of the panel was provided by the Citizens' Commission on Elections, that has for long channelled these citizens' concerns, especially its coordinator, MG Devasahayam and convenor, Sundar Burra, who together with Sajjad Hassan, reached out to subject-matter experts in India and internationally, to come together to systematically monitor and report on the forthcoming elections. Their job was made easy by the abundant support provided by other members of the 'advisory group', including Tara Rao, Pamela Philipose, Ashok Sharma and Tonusree Basu. Together with the members of the panel, the advisory group provided overall direction to the work of the panel, since its inception in February 2024.

The day-to-day work of the panel, including research, drafting and producing reports and bulletins, organising release events and media outreach was undertaken by the Secretariat of the panel, a volunteer group made up of Abhimanyu Suresh, Prateek Pankaj and Aura Freeman, besides other researchers, led by Sajjad Hassan. Praveen Daas assisted the panel conduct conversations and release events.

We, members of the panel, acknowledge the contributions of the advisory group and the secretariat and are grateful to them.

The entire work of the IPMIE has been a labour of love for all those involved, this being our collective commons contribution to safeguarding electoral integrity, indeed defending democracy and human rights in India and beyond.

30 August 2024.

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1. Introduction and Background

In February 2024, a group of us – experts from diverse disciplines, from multinational backgrounds, all with pride and admiration in the promise that India holds for inclusive democracy – constituted ourselves as the [Independent Panel for Monitoring Indian Elections](#) (IPMIE), 2024, to observe and report on General Election 2024, as independent civil society monitors.

We were driven to this collective common exercise due to citizens’ groups reporting, ahead of elections, much anxiety and apprehension, around the sanctity of the voting process, and whether citizens would be accorded a free and genuine choice. Election monitoring groups too had been relaying for some time, concerns about the integrity of elections, and whether elections continue to be free and fair,¹ especially since the previous General Elections, in 2019. This included, especially, Citizens Commission for Elections (CCE)² and other groups³, who were raising several procedural and substantive concerns with conduct of elections in the recent past, all impinging on questions of electoral integrity. Of late international voices too had raised these concerns, notably the United Nations, in the weeks ahead of GE 2024, pointing to increasing restrictions on the civic space, as well as hate speech and discrimination against minorities, as India prepared for the election.⁴

The task that we set for ourselves was to monitor all aspects of GE-2024, including voter registration, campaigning, voting and counting system and process, and implementation of relevant laws and rules and conventions. The goal was to observe elections as they unfolded, publish reports and raise concerns publicly and directly with election authorities, in order to ensure that GE 2024 remained free, fair and transparent, safeguarding the electoral rights of Indian citizens.

This is what we did over the course of March – June 2024, as GE 2024 unfolded, since formal announcement of the election on 16 March 2024 through to the declaration of results on 5 June 2024. Based on information collected from public sources, already reported in the press, as well as through election watch bodies on the ground, we published eleven weekly bulletins – being brief collations of reports of violations of electoral integrity – and three in-depth reports, providing more detailed information on the violations, by each aspect of electoral integrity, and our analysis of those, to provide detailed documentation. We published these reports for wider public dissemination, and also provided these directly to the Election Commission of India, in the hope that election authorities would find the systematic documentation helpful for taking corrective action, in defence of electoral integrity.

As it turned out, we neither received any acknowledgment to our multiple communications to the ECI, nor did we - in our careful reading of the material we gathered and analysed throughout the process – see the ECI taking steps required of it by the Indian constitution and associated laws and procedures, to defend electoral integrity, ensure a level playing field between all parties, and ultimately defend the right of all citizens equally to vote, including ‘universal suffrage’, and ‘real’ and ‘informed’ choice.

We decided to conclude our engagement with the 2024 General Election, by producing a briefing paper, to summarise highlights from all our interim reports and bulletins, and especially propose recommendations for changes in laws and procedures, for improved electoral integrity in future. This is based on our reading on the weaknesses in norms and structures, and their enforcement, as they revealed to us during our monitoring endeavour.

We present these in the following pages. We especially look at electoral laws and procedures, when proposing our tentative recommendations.

¹ ‘ECI’s Conduct of 2019 Elections Raises “Grave Doubts” About Its Fairness: Citizens’ Report’ *The Wire* (15 March 2021) <<https://thewire.in/rights/election-commission-bjp-polls-fairness-citizens-commission-on-elections-report>> accessed 12 March 2024.

² ‘Citizens Commission on Elections Report’ (*Reclaim the Republic*, 16 October 2021) <<https://reclaimtherepublic.in/category/report/cce-report/>> accessed 13 March 2024.

³ ‘Association for Democratic Reforms: Improving and Strengthening Democracy in India’ <<https://adrindia.org/>> accessed 13 March 2024.

⁴ ‘Türk’s Global Update to the Human Rights Council’ (*OHCHR*, 4 March 2024) <<https://www.ohchr.org/en/statements-and-speeches/2024/03/turks-global-update-human-rights-council>> accessed 12 March 2024.

2. The State of Electoral Integrity Before the 2024 General Election: Signs of Weakening

Ahead of the 2024 GE, the state of electoral integrity in India was already seen as worsening. Persisting issues that had cast a shadow over the fairness and credibility of elections in India included:

- **Weaknesses in electoral procedures and the voting process⁵:** Even before the 2024 GE, the continuing use of EVMs had raised serious concerns about the integrity of electoral procedures and voting systems. A key weakness identified by EVM experts had been their susceptibility to remote or physical tampering. Fuelling these concerns was the fact that the two public-sector companies that manufacture EVMs are not under the control or supervision of the ECI, but of a department of the central government. The ECI continues to maintain that, by virtue of being stand-alone machines with one-time programmable chips and of being unconnected to the internet or Bluetooth, remote tampering of EVMs is impossible. Experts, however, contend that the possibility of side-channel attacks through electromagnetic channels were not considered at all in the EVMs' design. Several reported instances of EVMs being 'stolen' or going 'missing' have added to these concerns.
- Another persisting issue has been the absence of adequate end-to-end (E2E) verifiability between EVMs and VVPATs: as per current protocol, the electronic vote tally in EVMs are cross-verified with VVPATs' manual slip tally only for five EVMs per assembly constituency, a practice that statistics experts say would result in faulty EVMs not being detected in around half of all cases.
- **Weaknesses in voter registration and in drawing of constituency boundaries⁶:** Previous elections in India have been marred by reports of systematic exclusion of several vulnerable sections of the population from electoral rolls, particularly Muslims, Dalits, and Christians, as well as of groups such as migrant voters and the homeless. In Assam, around 100,000 Bengali-speaking residents designated as 'doubtful voters' by the ECI over previous decades have continued to be systematically barred from participating in elections. Voting rights have also been denied, for several years, to residents of Jammu & Kashmir (J&K), who had been without any form of popular government for close to six years. Assam and J&K, both with substantial Muslim populations, have also seen recent constituency delimitation exercises that critics say amount to gerrymandering to disadvantage Muslim residents.
- **Opacity in political financing, disproportionately impacting opposition parties⁷:** Historically, India's political financing landscape has been marked by a lack of transparency. Lacunae identified by experts included, inter alia, the lack of official caps on how much political parties could spend during elections, and income tax provisions that were abused by large donors to 'break down' their donations into multiple donations of smaller amounts. The introduction of the electoral bonds scheme (EBS) in 2017 further muddied the waters, due specially to its opaqueness, enabling corporate donors to purchase anonymous promissory notes issued by the state-owned State Bank of India (SBI) and deposit them into the bank accounts of any political party. Data available had already shown that the BJP had been the prime beneficiary of electoral bonds, receiving around ₹ 65.7 billion (around \$ 800 million) (55%) of the total sum of ₹ 120.1 billion raised by all parties between 2017 and 2023.
- **Partisan media landscape, and preponderance of communal rhetoric and misinformation⁸:** In recent years, the production and distribution of media content in India has been increasingly concentrated in the hands of a few, with many leading media outlets at both the national and regional levels being controlled by individuals with direct political ties to the BJP, or by corporate conglomerates who have been openly supportive of the BJP. Experts have also highlighted the financial incentives sustaining this system of open partisanship in favour of the BJP, noting that with advertising and sponsorships from privately-owned organisations declining, the dependence of media outlets on advertising support from the government had

⁵ Independent Panel for Monitoring Indian Elections, 'Baseline Report Ahead of the 2024 General Election' (2024) 28 <<https://indiaelectionmonitor.org/wp-content/uploads/2024/03/ipmie-final.pdf>>.

⁶ *ibid* 16–23.

⁷ *ibid* 24–27.

⁸ *ibid* 33–40.

grown significantly. In addition, many media owners had close corporate and personal links with the ruling party, ensuring that they had a vested interest in promoting the ruling party and its narrative through their media houses. The BJP's sophisticated 'IT Cell' operation also gave the party dominance over narratives on social media. Together, this had already resulted in a situation where the average Indian user of these services was subject to a daily and carefully constructed barrage of pro-BJP, anti-opposition and anti-minority content, including disinformation, with a wide range of actors pushing the same narratives from different sources and through different channels.

Ahead of the 2024 GE, the BJP continued to rely on religious polarisation – and all too often, violence – to sustain its power and prominence. Since 2019, the tone and tenor of such messaging had become more severe, with powerful Hindu religious leaders, including some with close ties to the BJP, making open genocidal calls against Muslims. Hate speech had also been directed at Christians and Sikhs, as well as Dalits. In January 2024, the consecration ceremony of the Ram Temple at the site of the illegally destroyed Babri Masjid in Ayodhya (Uttar Pradesh) was widely seen by political analysts as kicking off the BJP's GE 2024 campaign. The ceremony had sparked anti-Muslim violence in at least eight states across India, with Christians and Dalits too facing attacks.

- **Electoral authorities seen as abdicating constitutional responsibility⁹:** The Election Commission of India (ECI) has historically enjoyed a strong reputation as a bastion of electoral integrity. It is bestowed with far-reaching constitutional powers to crack down on 'corrupt practices' and 'electoral offences' enumerated in the Representation of the People Act (RPA), as well as guidelines specified in the Model Code of Conduct (MCC), which all political parties have agreed to abide by, and comes into effect as soon as elections are formally notified. In recent years, the ECI has faced persistent allegations of being a partisan actor in favour of the BJP. During the 2019 GE, as well as during subsequent state elections, there were several reported instances when the ECI was seen as failing to act decisively against violations by ruling party members, while swiftly penalising opposition leaders for lesser infractions. The appointment of two apparently subservient former bureaucrats as Election Commissioners the week before the notification of the 2024 GE, further diminished the ECI's credibility.
- **Poor prospects of electoral justice:** Despite ECI's dwindling reputation, India's higher judiciary had, in recent years, largely failed to step in and address issues that contributed to eroding electoral integrity. Matters that the courts had failed to act decisively on in recent years included the various irregularities highlighted in the extant EVM-VVPAT system, and the contentious delimitation exercises in Assam and J&K. Even when the courts attempted to step in, court directives have either been mostly ignored (as was the case with the SC's directives to all state governments to register suo motu hate speech cases) or have been circumvented (as was the case with the SC's guidelines to limit executive overreach in the appointment of Election Commissioner) by executive authorities. Prospects for electoral integrity, however, received a fillip from the courts in February 2024, weeks ahead of GE 2024, when the SC outlawed the contentious electoral bonds scheme and ordered the publication of all related data.

⁹ *ibid* 42–48.

3. 2024 General Election: A Compromised Election?

It was against this backdrop of an already weak electoral integrity that the 2024 GE were held. As it would turn out, GE 2024 itself was marked by widespread, serious and escalated concerns about electoral integrity in India. The following sections highlight specific irregularities witnessed during each stage of the electoral cycle. Read together, these allegations paint a dismal picture of the ECI's ability to fulfil its constitutional obligation to conduct free and fair elections. In fact the evidence presented potentially questions the very legitimacy of the elections, whose results were declared on 5th of June 2024.

3.1. Electoral Procedure

Allegations around voting and its count (EVM/VVPAT), and of votes being stolen

Since the conclusion of the 2024 GE, election experts have alleged that the absence of adequate cross-verification between EVMs and VVPATs might have facilitated large-scale, spurious injections of votes in various constituencies across the country, during each of the seven phases of polling.¹⁰

After analysing discrepancies between the provisional figures of votes polled that were released by the ECI after each phase of polling, and the final figures released after elections concluded, experts concluded that there had been a 'hike' of over 46.5 million total votes. On average, this amounted to about 4.72% of the total votes in each phase of polling, much higher than the historical variation of around 1%. Comparing this variation with the BJP and its allies' final victory tallies, experts alleged that elections may have been 'stolen' in as many as 79 parliamentary constituencies.¹¹ That is a significant 14% of the 543 constituencies, overall.

Independent media outlets and civil society groups have documented several individual instances of violations that appear to lend credence to these concerns: for instance, there were multiple instances of individuals linked to the BJP appearing to cast bogus votes. In [Dahod](#) (Gujarat), two BJP workers reportedly live-streamed themselves casting multiple bogus votes. While opposition alleged that the men had engaged in similar bogus voting in over two dozen other polling booths, the ECI was reported having ordered repolls only in one. Similarly, in [Farrukhabad](#) (Uttar Pradesh), the underage son of a BJP worker – who was later apprehended – was reported to have recorded himself casting his vote around eight times.

Further, experts have alleged that polling in at least 18 constituencies across the country was 'tainted' by manipulation and other malpractices related to EVMs by Returning Officers (the officials who oversee the conduct of elections in each constituency), whose conduct allegedly 'materially affected' the result of the election in each of these constituencies. 'Tainted' constituencies included those in Assam ([Karimganj](#), [Kokrajhar](#)), Maharashtra ([Mumbai North West](#)), Rajasthan ([Jaipur](#)) and Uttar Pradesh ([Farrukhabad](#)), among several others.¹²

These claims were further underlined by widespread complaints by the polling agents of several opposition candidates that they had not been provided copies of Form-17C, a mandatory return containing, inter alia, details of the total number of votes cast in each polling booth, that the ECI is required to provide to polling agents of all candidates.¹³

The integrity of voting operations strikes at the very heart of the democratic process. The allegations of the complicity of the ECI in these violations of electoral integrity during the 2024 GE (see [Section 3.5](#)) and the failure of the judiciary to take decisive action (see [Section 3.6](#)) regarding these allegations have done little to allay concerns that current systems and protocols are inadequate to ensure free and fair elections in India. In

¹⁰ MG Devasahayam and others, 'Notice to the Election Commission of India' (18 July 2024) para 14 <<https://indiaelectionmonitor.org/wp-content/uploads/2024/08/Notice-to-Election-Commission-July-24.pdf>>.

¹¹ *ibid* 25.

¹² *ibid* 37.

¹³ *ibid* 45–51.

the future, ensuring 100% cross-verification between EVMs and VVPATs should be a crucial necessary step in preserving the public trust in the reliability and integrity of official machinery used in the voting process.

Violence and other forms of voter intimidation by non-state actors¹⁴: While the ECI claimed that the 2024 GE had been largely ‘peaceful, inclusive and accessible’ and taken place in a ‘festive mood’, polling in multiple locations was marred by reports of vandalism, violence, and voter intimidation. In Manipur, which has been rocked by ethnic violence between members of the predominantly-Hindu Meitei community and the predominantly-Christian Kuki-Zo tribes since May 2023, at least three injuries were reported after unidentified men opened fire at two separate polling stations in Imphal. Firing was also reported from at least two other polling stations in the state. There were also multiple allegations of proxy voting, and of EVMs being destroyed by armed militants. Post-poll violence between members of different political parties was reported from Andhra Pradesh and West Bengal too.

¹⁴ Independent Panel for Monitoring Indian Elections, ‘Second Interim Report (Covering the Period 17 April to 22 May, 2024)’ (2024) 15–17 <<https://indiaelectionmonitor.org/wp-content/uploads/2024/04/IPMIE-Report-17-April-2024.pdf>>.

3.2. Voter Registration

Allegations of voter exclusion and suppression, to deny suffrage to those opposing the ruling party

Legacy problems that have marred previous Indian elections, such as the systematic exclusion of vulnerable sections of the population from voter rolls, and other state-led voter suppression methods, appeared to escalate during the 2024 GE.

- **State-led voter suppression measures¹⁵:** ‘Voter suppression’ especially affecting minorities was widely reported during the 2024 GE. In Gujarat, around 700 Muslim fishermen, whose homes had been demolished in 2023 over claims that they had been ‘illegally built’ on government land, were reportedly arbitrarily excluded from the voting rolls. Similarly, several Muslim voters in Mathura (Uttar Pradesh) alleged that their names had been arbitrarily deleted from the voter rolls. Perhaps most egregiously, during the third phase of polling, dozens of voters in at least four Muslim-concentration villages in Sambhal (Uttar Pradesh) alleged that they were violently assaulted and chased away from polling booths by police personnel as they were attempting to cast their votes. In Jammu & Kashmir (J&K), the principal political parties operating in the erstwhile state alleged that police authorities had arbitrarily detained their party workers and activists in attempts to ‘fix the election’.
- **Impacts of previous voter suppression methods, including via delimitation¹⁶:** In Assam, around 100,000 residents, mostly Muslims, who were designated as D-voters (doubtful voters) by the ECI over previous decades, as part of state-led efforts to target and penalise alleged ‘illegal migrants’, continued to be denied the right to cast their votes.

Also in Assam, where delimitation of parliamentary and assembly constituencies had concluded in August 2023, fears that Muslims and other marginalised groups, including some indigenous tribes, would be disadvantaged seemed to come to fruition. In some parliamentary constituencies where Muslim voters had previously played a decisive role in determining winners, like Barpeta, no major political party put up Muslim candidates during the 2024 GE, in line with the reconfigured demography.

The residents of Jammu & Kashmir were able to vote in the parliamentary elections, but continued to be denied legislative assembly elections, which the Supreme Court has mandated must be held in the Union Territory before September 2024.

¹⁵ *ibid* 11–14, 18.

¹⁶ *ibid* 18–19.

3.3. Party Financing

BJP monopolising finances, and targeting opposition in other ways, to deny a level playing field

The electoral playing field during the 2024 GE was skewed towards the BJP, with the ruling party enjoying a near-monopoly over political financing, while it systematically deployed central agencies under its control to target and immobilise the opposition. The BJP was also accused of ‘fixing’ elections in several constituencies by intimidating opposition leaders, or by having their candidacy summarily rejected.

- **BJP’s monopoly over political financing¹⁷:** Analysis of the data pertaining to the financing of political parties via electoral bonds, the release of which was ordered by the SC in February 2024 but initially resisted by the SBI, appeared to confirm that the BJP had cornered the lion’s share of the funding. There was also evidence to suggest that the BJP may have been involved in quid pro quo relationships with corporate actors on a hitherto unprecedented scale. Many private corporations facing investigations by state agencies – mostly those under the control of the BJP-led central government – appeared to have made donations to political parties through the electoral bond scheme, with the BJP being the prime beneficiary. Some of the BJP’s ‘loyal’ donors subsequently secured lucrative government contracts, subsidies, and other forms of government support.
- **Systematic targeting of opposition political parties and leaders¹⁸:** Central agencies such as the Central Bureau of Investigation (CBI) and the Enforcement Directorate (ED) also seemed to have been systematically mobilised to target key parties and leaders of the INDIA bloc of opposition parties, ahead and during 2024 GE. The chief ministers of two opposition-ruled states were arrested on seemingly bogus money-laundering charges: the Jharkhand Mukti Morcha’s Hemant Soren (February 2024) and the Aam Aadmi Party’s Arvind Kejriwal (March 2024). The SC’s intervention in the form of interim bail allowed Kejriwal to campaign for his party briefly before he returned to prison, while Soren – as well as previously incarcerated opposition leaders like Manish Sisodia (AAP), K. Kavitha (Bharat Rashtra Samiti), and Satyendar Jain (AAP) – continued to be in custody throughout the election period, physically restrained them from campaigning. Other leaders reported facing pressure from the BJP to either quit their roles in opposition parties, or face arrest. A news investigation reported that, since 2014, 23 political leaders with prior criminal investigations pending against them received reprieves from authorities, after they joined the BJP.

Tax authorities were also seemingly mobilised to ‘financially cripple’ INDIA bloc parties. Ahead of the first phase of polling, the Congress Party, India’s largest opposition party, alleged that its bank accounts holding more than \$32 million were frozen, and that some of its funds were also forcibly withdrawn by authorities.

- **Accusations of BJP ‘fixing’ elections and securing uncontested victories¹⁹:** During 2024 GE, India witnessed several instances of the BJP securing uncontested or virtually uncontested victories. In Surat (Gujarat) and Prime Minister Modi’s constituency Varanasi (Uttar Pradesh), opposition candidates, including those contesting independently, alleged that their candidacy was summarily rejected by the ECI. In Indore (Madhya Pradesh), where the Congress Party’s candidate joined the BJP on the eve of the elections, and in Gandhinagar (Gujarat), other opposition candidates alleged facing pressure to withdraw their candidacy.

¹⁷ Independent Panel for Monitoring Indian Elections, ‘First Interim Report (Covering the Period 16 March to 16 April, 2024)’ (2024) 19–22 <<https://indiaelectionmonitor.org/wp-content/uploads/2024/04/IPMIE-Report-17-April-2024.pdf>>.

¹⁸ *ibid* 14–18.

¹⁹ Independent Panel for Monitoring Indian Elections, ‘Second Interim Report (Covering the Period 17 April to 22 May, 2024)’ (n 14) 20–21.

3.4. Media Coverage

BJP's unprecedented use of sectarian rhetoric and domination of information spaces

Despite legal prohibitions (in the RPA as well as the MCC) on, inter alia, making religious appeals, promoting enmity between different communities and publishing false statements in the furtherance of electoral prospects, evidence shows that BJP doubled down on its sectarian rhetoric, splintering and manipulating public discourse using misinformation and fear-mongering.

- Unchecked use of communal rhetoric, including hate speech, by BJP²⁰:** Between the dates the 2024 GE was formally notified and the end of campaigning, South Asia Justice Campaign (SAJC) documented 287 instances of senior BJP leaders delivering hate speeches, a 600% increase from the 2019 GE period. Top offenders included PM Modi (61 speeches), HM Shah (43), and Yogi Adityanath (73) and Himanta Biswa Sarma (22), the Chief Ministers of Uttar Pradesh and Assam, respectively. (This analysis did not include other appeals to religion, such as references to the recently consecrated Ram Temple, which are prohibited by Indian law during elections but were reported from virtually every BJP campaign event.) PM Modi set the tone and tenor of this messaging: in the initial stages of campaigning, the opposition was portrayed as enemies of Hinduism. Shortly after the conclusion of Phase 1 of polling, Modi launched a direct attack on India's Muslim minorities, referring to them as 'infiltrators' and 'those with more children', and falsely accusing the opposition of conspiring to 'snatch' wealth from Hindus with the intention of distributing it to 'infiltrators'. This false narrative – of the opposition conspiring against Hindus, Dalits and Adivasis on behalf of Muslims – continued to be the core of the BJP's messaging throughout, till the end of the election period. Speeches by other leaders, such as Shah ('We will fix these cow-killers'), Adityanath ('We deal with them so harshly that their descendants will remember') and Sarma ('We will just break their legs once and no one will do love jihad again') appeared to contain overt references to violence. Other recurring (and false and prohibited) themes in the BJP's messaging included, inter alia, (i) the portrayal of the 2024 GE as a contest between 'vote jihad' and 'Ram Rajya', (ii) validation of discredited conspiracy theories such as 'love jihad' and 'land jihad', (iii) the portrayal of Muslims as a criminal, 'jihadi' community that is a burden on India and seeks to establish sharia law in the country.
- Highly partisan coverage by broadcast media²¹:** Throughout the 2024 GE period, the most popular television broadcast networks continued to be highly partisan in favour of the BJP. Election speeches by senior BJP leaders, particularly by PM Modi, received disproportionate coverage, often in the form of live telecasts. The coverage of opposition parties, including of key developments such as the criminalisation and immobilisation of key leaders on bogus charges, was overwhelmingly negative, and portrayed not as arbitrary exercises of state power, but as comeuppance for engaging in corruption and 'anti-national' activities. News developments seen as hindering the BJP's electoral prospects, such as the allegations of illegal quid pro quo relationships between BJP and its corporate donors, received muted coverage. Till the last moments of the GE, this trend continued. Exit polls that favoured the BJP's prospects of victory were given great prominence in the news, impacting the stock markets in the process. An analysis of 429 primetime news segments between 1 February and 12 April showed that 52% had anti-opposition themes, 5.6% had communal themes, and 27% were dedicated to praising PM Modi and the government.
- Unchecked misinformation on social media²²:** While key pro-opposition voices online, including those dedicated to busting the BJP's misinformation, enjoyed wide viewership, multiple investigative reports uncovered vast networks of 'shadow advertisers' pushing a coordinated disinformation campaign on social media networks, seemingly on behalf of the BJP. These undisclosed campaigners, who operated beyond the

²⁰ South Asia Justice Campaign, 'UPDATE | General Elections | 16 March – 31 May, 2024 (Hate Speech Monitor)' (*South Asia Justice Campaign*, 6 June 2024) <<https://southasiajusticecampaign.org/hate-speech-monitor/>> accessed 11 April 2024.

²¹ Independent Panel for Monitoring Indian Elections, 'First Interim Report (Covering the Period 16 March to 16 April, 2024)' (n 17) 26–35; Independent Panel for Monitoring Indian Elections, 'Second Interim Report (Covering the Period 17 April to 22 May, 2024)' (n 14) 31.

²² Independent Panel for Monitoring Indian Elections, 'Second Interim Report (Covering the Period 17 April to 22 May, 2024)' (n 14) 31.

scope of laws and ECI regulations pertaining to advertising spending, spent substantial amounts of money on undisclosed online advertisements promoting the BJP and maligning minorities and opposition parties.

3.5. Electoral Authority

Systematic abdication in favour of the ruling party

During the 2024 GE, India’s once-vaunted Election Commission appeared largely to act like an arm of the government, refusing to take decisive action regarding violations of the Model Code of Conduct (MCC) and of the Representation of the People Act (RPA) by ruling party members, while acting with great alacrity against opposition parties, failing to ensure a level playing field.

Fears that the ECI would once again (after similar allegations during the 2019 GE) abdicate its constitutional responsibilities had flared up in late-2023, when Parliament enacted a law laying out a new procedure for appointment of Election Commissioners (ECs). Overhauling a temporary procedure previously set in place by the SC, with safeguards against executive overreach, the new system empowers an executive-dominated panel to make appointments to the ECI, effectively cementing a virtual veto for the government of the day in deciding the officials who oversee elections across the country. Two days before the 2024 GE was formally notified, this panel appointed two new members to the three-member ECI. Both new appointees were recently-retired bureaucrats known to have worked closely with the BJP’s top leadership during their tenures in the Indian Administrative Service (IAS).²³

A brief review of the ECI’s conduct ahead of, during, and following the 2024 GE demonstrates the alleged partisanship, and the erosion of public trust in its ability act as an impartial arbiter.

Stage in electoral cycle	Review of ECI’s conduct
Announcement of election dates	The schedule of the 2024 GE was spaced out over 44 days in seven phases. Opposition parties and civil society organisations have alleged that this extended schedule gave an edge to the BJP, and allowed its star campaigners to travel extensively across states considered vital for the BJP’s electoral prospects. Experts also alleged that the schedule effectively gave PM Modi 12 ‘premium days’ to circumvent campaigning bans – which are constituency-specific, and in effect for 48 hours prior to polling – by delivering speeches broadcast nationally but delivered from locations where the ‘silence period’ is not in effect. ²⁴
Electoral procedures	Ahead of and during the 2024 GE, the ECI steadfastly and belligerently defended EVM-VVPATs in court and refused to meaningfully engage with concerns addressed by technical experts and civil society organisations. Experts also alleged that the ECI failed to meaningfully implement recent SC directions – issued in April 2024 – to increase transparency vis-à-vis the physical security of EVMs, and the cross-verification of vote tallies between EVMs and VVPATs. ²⁵
District boundaries	The ECI conducted the contentious delimitation exercise in Assam that was found to have disadvantaged Muslims and other vulnerable groups during the 2024 GE. ²⁶
Voter registration	The ECI failed to meaningfully address legacy issues of systematic exclusion of Muslims, Christians, Dalits and other vulnerable groups from voter rolls. During the 2024 GE, the ECI defended its conduct in instances where voters alleged they were arbitrarily removed from voter rolls (such as the deletion of 700+ Muslims from voter rolls in Gujarat. ²⁷ Separately, the ECI’s previous designation of 100,000 Assam residents as doubtful voters continued to deny them the right to vote. ²⁸

²³ Independent Panel for Monitoring Indian Elections, ‘First Interim Report (Covering the Period 16 March to 16 April, 2024)’ (n 17) 40.

²⁴ *ibid.*

²⁵ MG Devasahayam and others (n 10).

²⁶ Independent Panel for Monitoring Indian Elections, ‘Second Interim Report (Covering the Period 17 April to 22 May, 2024)’ (n 14) 18.

²⁷ *ibid.* 14.

²⁸ *ibid.* 18.

Party and candidate registration	On at least two occasions – in Varanasi (Uttar Pradesh) and Surat (Gujarat) – the ECI is alleged to have summarily rejected the nomination papers of opposition candidates, paving the way for uncontested or virtually uncontested victories for BJP candidates. ²⁹ The ECI also failed to take decisive action in constituencies like Indore (Madhya Pradesh) and Gandhinagar (Gujarat) where opposition candidates alleged facing pressure to withdraw their candidacy. ³⁰
Media coverage and communal election campaigning	<p>The ECI failed to take any meaningful action regarding communal fearmongering, which formed the core of the BJP’s election messaging. Regarding contentious speeches by PM Modi – including those where he made direct references to Muslims – the ECI issued only a notice to the BJP’s President, without mentioning Modi.³¹ It took no further action despite Modi and other senior BJP leaders continuing their incendiary sectarian rhetoric through to the end of the campaign period. The ECI also refused to address the open invocation of the Ram Temple by BJP leaders while seeking votes.</p> <p>The ECI later defended its new approach – of sending directives to party chiefs instead of those making the speeches – as a ‘new course’ to ensure accountability for political parties, who according to it have ‘prime responsibility’ to rein in individual leaders. Upon the conclusion of polling, the Chief Election Commissioner was reported saying that the ECI had decided ‘not to touch’ the top two leaders in each party (the BJP and the Congress), without giving further details of the reasoning behind this approach, which does not have any legal backing.</p> <p>Before Modi’s contentious speeches began, the ECI had initiated action – by directing the registration of FIRs – against some middle-level BJP leaders for hate speech. Throughout the election period, the ECI sent more forceful notices to several senior opposition leaders individually, including Randeep Surjewala (for making a disparaging remark about a BJP candidate), Supriya Shrinete (for a disparaging social media post about a BJP candidate), Atishi (for alleging that she had been approached by an unnamed BJP figure to join that party) and Shashi Tharoor (for making unverified allegations about a local BJP candidate).³²</p> <p>Regarding the posting of hateful online content by BJP’s official accounts, the ECI issued only one takedown order – in Karnataka, after polling had concluded, and without directly addressing the BJP. At the same time, the ECI issued takedown orders to X regarding social media posts by the opposition YSR Congress (post deleted and not available for analysis), the Telugu Desam Party (for a post alleging potential involvement of the YSR Congress in drugs trafficking), and the Aam Aadmi Party (for a post referring to PM Modi as a ‘Bond Chor’ (electoral bond thief)). A Bihar BJP leader’s post too was taken down, for a post personally attacking senior opposition leader Lalu Yadav.</p> <p>The ECI is not known to have initiated any action regarding pro-BJP ‘shadow advertisers’ operating outside ECI’s advertisement expenditure guidelines.³³ This failure to curb hateful online content was despite the ECI formulating a ‘Voluntary Code of Ethics’ for social media platforms to adhere to during elections, and setting up specialised fake news monitoring units.</p> <p>The ECI also took no action regarding partisan and divisive coverage of the election by broadcast media networks.</p>
Monopolising of party finances, and mobilisation of state agencies against opposition parties	<p>At the time electoral bonds were originally introduced, the ECI was reported to have stated its objections, but it has since changed its stance. It was only after insistence by the SC, that the ECI published the State Bank of India’s data pertaining to all electoral bonds encashed till February 2024.³⁴</p> <p>The ECI also did not address the issue of state agencies being mobilised against opposition parties, despite an advisory in 2019 that all enforcement actions during the election period must</p>

²⁹ *ibid* 20.

³⁰ *ibid*.

³¹ *ibid* 36.

³² *ibid*.

³³ *ibid* 31.

³⁴ Independent Panel for Monitoring Indian Elections, ‘First Interim Report (Covering the Period 16 March to 16 April, 2024)’ (n 17) 19.

	be neutral and impartial. Opposition parties’ requests to issue a similar advisory in 2024 went unheeded. ³⁵
Voting process	<p>Experts highlighted at least 18 constituencies where voting was ‘tainted’ by manipulation and other forms of counting-related malpractice by ECI officials, which they say ‘materially affected’ the results in these constituencies.³⁶</p> <p>While it is not known to have initiated any action regarding alleged infractions by its officials, it ordered repolls in a few other constituencies where discrepancies by non-state actors were caught on camera and caused public outcry.</p>
Vote count and results	<p>During the 2024 GE, the ECI courted controversy for excessively delaying the publication of voter turnout figures for different phases of polling, usually released shortly after the conclusion of each phase.³⁷ It divulged the absolute number of votes polled – instead of merely voting percentages – only after the final results were announced. ECI officials also faced widespread complaints from the polling agents of several opposition candidates across the country that they had not been provided copies of Form-17C, a mandatory form containing details of the total number of votes cast in each polling booth, thus disabling a manual count of the vote tally.³⁸</p> <p>Expert analysis of subsequently released voter turnout figures revealed a ‘hike’ of over 46.5 million compared to provisionally released figures, nearly five times the ‘hike’ witnessed in previous elections.³⁹ Some experts alleged that this ‘hike’ suggested a ‘spurious injection’ of votes in favour of the BJP, and that elections may have been ‘stolen’ in as many as 79 parliamentary constituencies.⁴⁰ (It is worth repeating that the BJP and its allies enjoy only a 56-seat lead over the opposition INDIA bloc in the Parliament that was formed after the 2024 GE.)</p>

Throughout the 2024 GE, the ECI failed dismally in its obligation to engage meaningfully and in good faith with all stakeholders, including civil society and citizens’ groups, regarding the issues highlighted in this briefing paper. We ourselves as the IPMIE regularly and consistently communicated all the above concerns directly to the ECI. We received no response at all.

Read together, the ECI’s conduct paints a devastating picture of the extent to which it may have failed its constitutional duty to ensure free and fair elections. Observers are noting, this might have brought into question the very legitimacy of the results announced on 5th of June.

³⁵ Independent Panel for Monitoring Indian Elections, ‘Second Interim Report (Covering the Period 17 April to 22 May, 2024)’ (n 14) 36.

³⁶ See section 3.1 of this paper.

³⁷ Independent Panel for Monitoring Indian Elections, ‘Second Interim Report (Covering the Period 17 April to 22 May, 2024)’ (n 14) 34.

³⁸ See section 3.1 of this paper.

³⁹ Ibid.

⁴⁰ Ibid.

3.6. Lack of Electoral Redress

Higher judiciary failing to defend electoral integrity

With India’s electoral authorities failing to ensure a level playing field during the 2024 GE, aggrieved citizens approached India’s higher courts seeking remedy. The response, however, was mixed, with various electoral integrity weaknesses remaining inadequately addressed. The failure of the higher judiciary, particularly the Supreme Court (SC), to take decisive action during the 2024 GE extended even to issues on which it had previously issued strong directives.

Issue	Response of higher judiciary
Virtual veto for the government in the procedure for appointment of Election Commissioners	<p>In 2023, in response to a Public Interest Litigation (PIL) seeking transparency in the process of appointment of Election Commissioners, the SC laid out a temporary appointments process. As per its guidelines, the Chief Election Commissioner (CEC) and ECs were to be appointed by a three-member committee comprising the Prime Minister (PM), the Chief Justice of India (CJI), and the Leader of the Opposition or the largest opposition party in Parliament. While specifying that this temporary system was to be valid only till Parliament enacted a law regarding the same, the SC had also warned of the ‘devastating effect of continuing to leave appointments in the sole hands of the Executive.’</p> <p>Ahead of the 2024 GE, Parliament enacted a new law laying out a new procedure by which the selection of the CEC and ECs was to be made by a three-member committee dominated by the government. It was this committee that appointed two members of the three-member Election Commission that oversaw the 2024 GE.</p> <p>Despite this new procedure disregarding its previous warnings about executive overreach, the SC refused to stay the appointments of the new Election Commissioners, citing, among other things, the fact that elections were around the corner.⁴¹</p>
Weaknesses in the EVM-VVPAT system, making it prone to manipulation	<p>In 2013, the SC had ordered EVMs to be supplemented with the Voter-Verified Paper Audit Trail (VVPAT) system during the 2014 GE. In 2019, it had directed an increase in the rate of random cross-verification of vote tallies in EVMs and VVPATs. Repeated pleas to return to paper ballots or to increase the cross-verification rate to 100% have previously been rejected.</p> <p>In April 2024, amid the 2024 GE, the SC dismissed another set of similar pleas.⁴²</p> <p>Nevertheless, the court ordered two new measures to increase transparency: the mandatory sealing and storage of EVMs’ Symbol Loading Units for a minimum period of 45 days after polling, and, if requested by losing candidates within seven days of declaration of results (and if they agree to bear costs), the checking and verification of burnt memory semi-controllers in up to 5% of the EVMs in each assembly segment of a parliamentary constituency. Experts have alleged that the ECI did not follow the SC’s directives in ‘letter and spirit’, noting that the administrative standard operating procedure (SOP) was issued only three days before the counting of results, and that the imposition of high costs and the lack of a technical SOP effectively prevented candidates from utilising the SC’s additional safeguards.⁴³</p>
Monopolising of political financing via electoral bonds	<p>In February 2024, the SC struck down the electoral bonds scheme as unconstitutional, noting that it violated the right to information and posed the risk of enabling quid pro quo relationships between political parties and their donors. The SC also ordered the SBI to disclose details of all electoral bonds encashed so far, despite the SBI’s initial request to delay the release of such data.</p>

⁴¹ Independent Panel for Monitoring Indian Elections, ‘First Interim Report (Covering the Period 16 March to 16 April, 2024)’ (n 17) 38–40.

⁴² Raghav Ohri, ‘Supreme Court Dismisses Pleas for VVPAT-EVM Tally, Calls Ballot System Demand “Regressive”’ *The Economic Times* (27 April 2024) <<https://economictimes.indiatimes.com/news/india/supreme-court-dismisses-pleas-for-vvpat-evm-tally-calls-ballot-system-demand-regressive/articleshow/109633291.cms?from=mdr>> accessed 27 August 2024.

⁴³ MG Devasahayam and others (n 10) para 63.

	<p>The analysis of SBI’s electoral bonds data revealed various instances of potential quid pro quo, with numerous BJP donors receiving lucrative government contracts, subsidies, and other forms of policy support.</p> <p>Despite these serious allegations, the SC, later dismissed a series of pleas requesting a court-monitored investigation into such potential instances of quid pro quo, remarking that its intervention would be ‘inappropriate and immature’, and that there are other remedies under the law.⁴⁴</p> <p>The SC has also faced criticism for not staying the EBS when it was first challenged, for not holding substantive hearings on EBS’ constitutional validity for several years, and for delaying its verdict till the eve of the 2024 General Election.⁴⁵</p>
Communal election campaigning by PM Modi and other senior BJP leaders	<p>In 2022 and 2023, the SC had ordered all state governments in India to take suo motu action to formally register cases following reported instances of hate speech, without waiting for any complaints.</p> <p>In violation of the SC’s directives, state police authorities did not register any cases suo motu (nor were they directed to do so by the ECI) regarding the contentious communal hate speeches by PM Modi and other senior BJP leaders during the 2024 GE. Despite this flagrant refusal of the authorities to comply with its directives, the SC and the Delhi High Court refused to entertain pleas by petitioners seeking directions to the ECI to act against PM Modi and other senior BJP leaders.⁴⁶</p>
Excessive delay in publishing voter turnout data by ECI	<p>Amid the excessive delay of the ECI in releasing voter turnout figures after each phase of polling, and widespread allegations that ECI officials had failed to furnish mandatory Form-17C copies to opposition candidates’ polling agents, several petitioners approached the SC seeking emergency directives to the ECI. The SC, however, dismissed all pleas, remarking that a petition regarding the same issue had been pending since 2019, and that the petitioners had not adequately pursued the matter since then.⁴⁷</p>

⁴⁴ ‘Supreme Court Declines SIT Probe into Electoral Bonds Scheme’ *The Economic Times* (2 August 2024) <<https://economictimes.indiatimes.com/news/india/supreme-court-declines-sit-probe-into-electoral-bonds-scheme/articleshow/112220624.cms?from=mdr>> accessed 27 August 2024.

⁴⁵ K Venkataramanan, ‘Why Did the Supreme Court Invalidate Electoral Bonds?’ *The Hindu* (17 February 2024) <<https://www.thehindu.com/news/national/why-did-the-supreme-court-invalidate-electoral-bonds-explained/article67858304.ece>> accessed 27 August 2024.

⁴⁶ ‘Hate Speech: Supreme Court Refuses to Entertain Plea against PM Modi, Anurag Thakur’ *India Today* (14 May 2024) <<https://www.indiatoday.in/law/story/hate-speech-supreme-court-refuses-to-entertain-plea-against-pm-modi-anurag-thakur-2538987-2024-05-14>> accessed 16 May 2024; Kawalpreet Kaur, ‘Why Delhi HC’s Dismissal of Petition Seeking Action on PM Modi’s Hate Speech Is Dangerous’ *The Wire* (29 May 2024) <<https://thewire.in/law/why-delhi-hcs-dismissal-of-petition-seeking-action-on-pm-modis-hate-speech-is-dangerous>> accessed 27 August 2024.

⁴⁷ Ananthakrishnan G, ‘Supreme Court Refuses to Direct Election Commission to Publish Booth-Wise Voter Turnout Data’ *The Indian Express* (24 May 2024) <<https://indianexpress.com/article/india/supreme-court-voter-turnout-data-form17c-lok-sabha-polls-ec-9349075/>> accessed 27 August 2024.

4. Recommendations

An agenda for preventing the slide

Below we provide our tentative recommendations, for changes in laws, procedures and processes, based on our experience of weaknesses observed during 2024 GE, suggestions made previously by experts and election watch bodies, and best practices followed by other successful electoral democracies. These are our initial thoughts, purpose being to get a conversation going, among stakeholders, before a final set of recommendations could be devised for further consideration.

Besides the conduct of the entire GE 2024 and the weaknesses therein, these suggestions for improvements, require through public debate and discussion, including in the Parliament. Needless to add, it must be civil society groups, election watch bodies, and constitutional and other experts who should jointly lead this process.

4.1. Electoral Laws

How can they be made better fit for purpose?

Constitutional provisions

The Constitution contains strong election-related provisions, including those:

- **Empowering the ECI to prepare electoral rolls for and conduct elections. (Art. 324)**

Suggested reform: Art 324.5 protects only the CEC from arbitrary removal (the removal procedure is similar to that of SC judges, via impeachment). This protection could be extended to all Election Commissioners, to strengthen the institutional independence of the ECI. [The appointments process of the CEC and EC must also be amended (see section 5.3)]

- **Prohibiting exclusion in electoral rolls on the basis of religion, race, caste, or sex. (Art. 325)**

Suggested reform: Art. 325 could be amended to include penalties for officials/authorities found guilty of arbitrarily/discriminatorily excluding eligible citizens from electoral rolls.

- **Empowering parliament (Art. 327) and state legislatures (Art. 328) to, inter alia, to make election-related provisions, including delimitation, and the preparation of electoral rolls.**

Suggested reform: In India, Delimitation Commissions have been set up four times in the past to conduct national-level delimitation. Some states (like Assam) have entrusted the responsibility of delimitation to the ECI. These delimitation exercises have, in their methodology, kept factors like physical features, density of population, geographical features, public convenience, etc. in mind.

Arts. 327 and 328 could be amended to include stronger protections to prevent gerrymandering during delimitation, by (i) entrusting the ECI to conduct all delimitation exercises, (ii) specifically enumerating the minimum criteria that must be considered – including minority interests, and (iii) specifically prohibiting any political party/group from gaining undue advantage from delimitation.

- **Barring interference by courts in electoral matters: the validity of delimitation-related laws is not allowed to be questioned in court (Art. 329A); and requiring that elections shall be called into question only via election petitions (Art. 329B)**

Suggested reform: Amend Art. 329 to allow for limited judicial review of election-related decisions while elections are ongoing, particularly in cases of clear constitutional violations (fundamental rights) or breaches of electoral laws (corrupt practices and electoral offences).

Special, election-time benches of state-level HCs could be activated during election periods, with appeals heard at the SC after conclusion of elections.⁴⁸

Legal provisions

Key provisions in the Representation of the People Act, 1951, include those relating to:

- **Registration of political parties (Part IVA), their entitlement to accept contributions, and disclosure requirements**

Suggested reform: Sections 29A to 29C could be amended to (i) mandate real-time public disclosure of all contributions received by political parties (via all avenues), and (ii) empower the ECI to conduct regular financial audits of all political parties. (In the US, contributions above \$1000 are to be reported to the FEC within 48 hours. In India, currently, contributions above INR 20000 are to be disclosed to the ECI in annual reports.)

The ECI could also be empowered to act as the arbiter and regulator of all matters related to political parties, and to impose penalties on them, including, in extreme cases, de-registration.

- **Nomination of candidates, disclosure of financial & criminal records**

Suggested reform: Currently, candidates are required to disclose (both at the nomination stage – Sec 33, and after election – Sec 75A) their financial records as well as criminal antecedents. This requirement could be extended to political parties as well – they could be mandated to disclose the criminal records of all their candidates. (In addition to mandatory real-time financial disclosure suggested earlier)

- **Election expenses (Section 76 onwards)**

Suggested reform: Currently, only political candidates are required to maintain records of election-related expenses, starting from the date of nomination to the declaration of results. This requirement must be extended to all political parties, and the period for which such records must be maintained should be increased.⁴⁹

⁴⁸ Drawing from the experience in Brazil, where there is a highly developed system of specialised electoral courts.

⁴⁹ Such requirements exist in other democracies like the UK, Canada, Australia, and France.

- **Corrupt practices** (Section 123)

Suggested reforms: (i) Amend the prohibition on seeking assistance from government servants for electoral prospects (Sec 123.7), to include specific references to investigative and enforcement agencies, and impose penalties for discriminatory/arbitrary actions by officials (and their superiors) against candidates, (ii) extend penalties for corrupt practices to political parties, and not just to candidates, and (iii) allow special election-time benches of state-level HCs to adjudicate allegations of corrupt practices.

More broadly, the ‘corrupt practices’ section of the Act could also be amended regularly to more closely mirror the provisions of the Model Code of Conduct.

- **Electoral offences:** (Section 125 onwards)

Suggested reforms:

- Introduce a specific offence related to violations of fundamental rights in connection with elections.
- Impose stricter penalties for the offence of promoting enmity between classes. (Sec 125).
- Introduce a clause specifying that electoral offences committed in electronic/digital spaces are equally liable for penalties.
- Similar to the section enumerating restrictions on the printing of pamphlets and posters (Sec 127A), introduce a section regulating the activities of candidates and political parties on social media.
- Amend the section related to ‘offences by companies’ (Sec 126B) to specifically mention the owners and agents of media companies that may engage in electoral offences.
- Similar to the provisions related to ‘offences by companies’, introduce a section relating to offences by registered and non-registered non-commercial entities.,
- Allow special election-time benches of state-level HCs to adjudicate serious allegations of electoral offences before the conclusion of the election period.

Additionally, introduce stricter penalties for breaches of official duty by ECI officials. (Sec 134)

Other reforms to the RPA could include the addition of provisions:

- Empowering the ECI to impose stricter election-time penalties on candidates (beyond notices and temporary campaign bans; perhaps monetary penalties) for violations of the MCC.
- Introducing penalties for district-level ECI officials failing to direct the registration of FIRs regarding serious electoral offences.
- Mandating the conducting of daily press briefings by ECI officials during election periods.

4.2. Model Code of Conduct

Improving scope, enforcement, and accountability

It is important to develop clearer guidelines for the ECI to enforce the MCC consistently across different cases, and to improve transparency regarding its decision-making.⁵⁰ Keeping this in mind (and the suggestions already made in previous sections), some suggested reforms to the MCC could include the following:

Suggested reforms:

- Amend the ‘general conduct’ section to include specific references to all activities proscribed as corrupt practices and electoral offences in the RPA, including and particularly those relating to the use of communal statements and misinformation. Also prescribe minimum election-time financial penalties (in addition to those that might incur after adjudication at the court level) for each of these violations.
- Introduce specific sections focusing on the activities of candidates and political parties on (i) digital spaces and (ii) media networks. (Currently, there exists a separate ‘voluntary code of conduct’ for social media platforms – but political parties/candidates themselves are not subject to this.)
- Introduce a section enumerating minimum expectations from ECI itself, requiring it to:
 - Guarantee a level playing field for all parties, without fear or favour, throughout the election process, drawing on all its powers,
 - Expeditiously address (and make public the details of its deliberations about) allegations of violations of the MCC/RPA, especially those by ‘star campaigners’,
 - Commit to conducting daily press conferences, and
 - Commit to expeditiously act against errant officials for dereliction of duty.

⁵⁰ Some scholars have suggested that the current, non-statutory status of the MCC may be more suitable for the ECI to more expeditiously and flexibly act during elections, to ‘nudge’ political parties and candidates towards ethical behaviour. Among others, they have suggested a more structured legal framework to complement the MCC, which could be via amendments to the RPA. (See representative arguments summarised [here](#).)

4.3. Electoral Process

Improving verifiability and transparency

Small changes in the electoral process could completely change the degree of verifiability and transparency of elections in India. It is unlikely to add any major cost for conducting an election but is likely to significantly simplify processes due to the increased automation and total transparency. These recommendations concern with the actual mechanics of the election process.

Suggested reforms:

- Involve registered civil society organizations in revision and update of draft electoral rolls on a continuous basis. These draft electoral rolls can be verified and then incorporated in the official electoral roll. Currently, too many people from certain classes and groups are disenfranchised since their names do not appear on voter rolls. At present, the ECI's voter roll revision process needs improvement.
- The entire voting process must have end-to-end verifiability and be transparent. The current process is opaque and has very poor end-to-end verifiability. The following steps are suggested to make the process more transparent and improve verifiability:
 - Make a change in the VVPAT box so that the printed VVPAT slip is physically accessible to the voter who checks the slip for correctness and then physically puts it in the VVPAT box as a record of his/her vote. As at present the vote is also recorded in the control unit of the EVM.
 - In addition to the candidate's name, party affiliation and symbol, print a suitable security cum candidate identification barcode on the VVPAT slip.
 - At the time of counting for each VVPAT unit the VVPAT slips should be counted using bar code scanners and the corresponding control unit counts should also be recorded.
 - Evolve a detailed SoP whenever there is a mismatch between the VVPAT count and the control unit count at the time of counting. In any SoP that is prescribed the VVPAT count should always have primacy in the event there is no resolution possible.
 - Unique individual identification codes should be engraved on each component (i.e. ballot unit, control unit, VVPAT unit) of an EVM so that each component can be uniquely identified. In all records this unique identification code should be used to identify the individual component unit. This will also help in inventory management and tracking of component units of EVMs.
 - Transportation of the VVPAT and control units to the storage area must happen in metal container based vehicles equipped with GPS. The container with the EVM units should be properly sealed.
 - The storage area of the VVPAT and control units after voting ends and before counting begins should be under 24x7 video surveillance.
 - As soon as voting is over and internet access is available the presiding officer of each booth should upload data (using his/her mobile) in a form that contains data about i) Unique identifiers of the booth, control and VVPAT units ii) time at which voting closed iii) number of voters assigned to the booth iv) number who voted as per voter roll data (form 17A) v) total votes cast as per control unit vi) a readable image of the current form 17C-Part-1. All this data

should be publicly available on the ECI website as soon as it is uploaded. Note that percentage figures and total votes cast can be trivially calculated from this data. The ECI website can report summary information using this data every 2 hours after voting closes. This gives real time, time series information about percentages, total counts, booths for which data is still pending etc.

- All postal ballots must be counted and reported first.
- While counting, data can be released and uploaded on the website in real time in batches, say after 50 or 100 VVPAT units are counted.
- The videographic records of surveillance of the storage locations and other areas/locations (e.g. counting area, polling area) should be publicly available on request (downloadable) without charge.
- The details of all the code, testing protocols etc. related to the EVM should be in the public domain. Similarly, the SoP related to the electoral process should also be in the public domain. Both robustness and security improve when an open and evolving process for improvement is put in place.
- The ECI should provide a secure API (application programming interface) that allows download of all data pertaining to the election at all times.

4.4. Independence of Election Commission of India

Structural and institutional changes

Key weaknesses in the ECI's structural/institutional set-up that have been identified by experts include:

- **Oversized role of the executive in appointments:** Currently, appointments to the ECI are made as per the CEC and other ECs (Appointments, Conditions of Service, and Term of Office Act), 2023. The Act specifies the appointments process (by the President, upon the recommendation of an executive-dominated Selection Committee, from among names shortlisted by a Search Committee headed by the Law Minister)

***Suggested reform:** The appointments process must be amended to ensure that (i) the search committee must be at the parliamentary level, with representation of all major parties, and (ii) the selection committee must include the Prime Minister, the Leader of Opposition, and the Chief Justice of India.⁵¹*

- **Lack of protection from arbitrary removals:** Currently, the Constitution (Art. 324.5) protects only the CEC (whose removal procedure is similar to that of an SC judge, via parliamentary impeachment) from arbitrary removal. Other Election Commissioners may be removed by the President on the recommendation of the CEC.

***Suggested reform:** Amend Art. 324.5 to insulate all Election Commissioners from arbitrary removal once appointed.*

- **Lack of transparency and accountability:** Currently, the ECI as such is not subject to direct parliamentary oversight. Its decisions are subject to judicial review.

***Suggested reform:** While it is important to retain and strengthen the ECI's institutional and operational independence, some measures to consider include:*

- *Bringing the ECI under the direct oversight of Parliament⁵², and require the CEC to appear before the committee after each General Election and legislative assembly election.*
- *Requiring the mandatory disclosure of the ECI's deliberations, particularly those related to the notification of elections, as well as those relating to the examination of serious allegations of corrupt practices and electoral offences by star campaigners.*
- *Amending current provisions of the RPA that fix penalties (which must be enhanced) for dereliction of duty (Sec 134) to specifically mention dereliction of duty by top-level officials.*
- *Introducing a provision to the RPA mandating greater public transparency from the ECI, particularly during election periods.*

Other **general reforms** could include:

⁵¹ In South Africa, parliament plays a role in recommending and nominating members of the EC; in Brazil, where elections are regulated by the Superior Electoral Court (STF), some members are elected from among STF judges, in addition to representation from the lawyer community

⁵² Akin to Australia's Joint Standing Committee on Electoral Matters

- *Enhancing the powers of the ECI to proactively regulate political parties (as suggested in section on Legal Provisions relating to registration of political parties), which might require increasing the size of ECI's permanent staff.*
- *Empowering the ECI to impose stricter election-time penalties on candidates (beyond notices and temporary campaign bans; perhaps monetary penalties) for violations of the MCC.*
- *Checking the powers of the government to enact laws that potentially curtail the media's right to freedom of information and expression and to fashion legislative instruments to serve its narratives.*

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