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Q15

Discuss the role of the Election Commission of India in the light of the evolution of the Model Code of Conduct.

UPSC Civil Services Mains 2022 · GS II · 15 marks · Constitutional Bodies

Appointment to various Constitutional posts, powers, functions and responsibilities of various Constitutional Bodies.

Core demand of the question

- Discuss the role of the **Election Commission of India** in the light of the evolution of the **Model Code of Conduct**

Revision summary

The ECI's authority is **Article 324**, read with the **Representation of the People Acts**.

The MCC began as a 1960s inter-party understanding and became a national campaign code administered by the Commission.

Seshan-era practice turned censure, officer transfers and poll postponement into real sanctions.

The Code is not itself an Act; bite comes when it overlaps the 1951 Act, IPC, and the Commission's 324 directions.

During the process, Gill-type jurisprudence keeps ordinary writs from running the election.

Digital campaigning is the present stress on both the Code and the statute.

Introduction

Article 324 gives the **Election Commission of India** superintendence, direction and control of elections to Parliament, State legislatures, and the offices of President and Vice-President. The **Model Code of Conduct** is not a statute; it is a set of political norms the Commission has thickened, since the 1960s, into the daily law of the campaign, using 324, the 1951 Act, and criminal law as the hard edge.

Body**Evolution of the Model Code**

- The Code began as a modest Kerala-era understanding among parties in the 1960s about meetings, processions, and ministerial misuse of office, and was later circulated nationally by the Commission.
- Over decades it grew into a document covering the party in power, ministers' official machinery, transfers, foundation stones, welfare announcements, hate speech, and, more recently, social-media and star-campaigner discipline.
- **T.N. Seshan's tenure in the 1990s is the inflexion:** the Commission treated the Code as enforceable through postponement of polls, transfer of officers, and public censure, which made **Article 324** visible to the voter.

- The Code remains morally and administratively binding on parties that have consented to it; Parliament has not enacted it as a stand-alone Act, which is both its flexibility and its weakness.

Role of the ECI through the Code

- The Commission announces the Code from the date of the election notification (and, in practice, often from the date of the programme), freezing certain kinds of government advertising and policy largesse that could swing a constituency.
- It deploys expenditure observers, police and flying squads, and media-certification cells so that the Code's clauses on money, posters, and paid news have an operational arm.
- Where the Code overlaps a legal prohibition - corrupt practice, official machinery, or an IPC offence - the Commission can set the criminal and RPA processes in motion, not only write a letter to a party president.
- Where the Code is only a norm (tone of speeches, courtesy, timing of a welfare tweet), the Commission uses advice, naming, and the threat of a ban on campaigning for a period, which works if parties still fear the Commission's public legitimacy.

Limits and criticisms

- Critics say the Code is extra-legal when it stalls welfare for months, and too weak when it cannot stop communal speech on encrypted platforms.
- Courts have generally respected the Commission's **Article 324** space during the process (Gill), while still reviewing patent illegality; the Code itself is not beyond judicial comment.
- Uneven enforcement between national leaders and local cadres, and the problem of the "caretaker" government's legitimate ongoing business, are real.
- Statutory backing of some MCC clauses is a recurring **Law Commission** and standing-committee idea; the risk is ossifying a flexible code, the gain would be clearer penalties.

Role, restated in light of that evolution

- The ECI's role is no longer only the preparation of rolls and the conduct of the poll; it is the referee of a long campaign, and the MCC is the referee's handbook.
- **Evolution of the Code is therefore evolution of the Commission:** from a scheduling body to a constitutional regulator of incumbency advantage.
- The next test is digital campaigning, deepfakes, and cross-border money - areas where a 1960s code and a 1951 Act both strain, and where the Commission must still act under 324 without waiting for a perfect statute.

Flow diagram

Art 324 ECI -> Model Code of Conduct
 Model Code of Conduct -> Kerala 1960s party agreement
 Model Code of Conduct -> Seshan-era enforcement
 Seshan-era enforcement -> Observers censure postponement
 Model Code of Conduct -> RPA IPC where Code meets statute

Conclusion

The **Model Code of Conduct** grew from a party agreement into the **Election Commission's** principal tool for levelling incumbency during the poll process. **Article 324**, not a dedicated MCC Act, is what makes that tool bite. The Commission's role in the light of that evolution is to remain a credible referee - firmer on official machinery and hate speech, and careful not to become an unelected government of welfare itself.

Facts & figures

Article 324

Superintendence, direction and control of elections vested in the **Election Commission of India**.

Model Code of Conduct

Set of guidelines for parties and governments during elections, evolved from 1960s practice and issued by the ECI; not a standalone statute.

Mohinder Singh Gill v. CEC (1978)

Held that once the election process starts, challenges generally wait for the election petition, while the Commission may still act fairly under **Article 324**.

T.N. Seshan

Chief Election Commissioner in the 1990s whose tenure is associated with aggressive enforcement of the MCC and electoral rolls.

Representation of the People Act, 1951

Statutory backbone (corrupt practices, expenditure, officers) that the Commission uses where the MCC coincides with law.

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