



KAMARAJ IAS ACADEMY
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Model Code of Conduct

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Why is in news? Model Code of Conduct comes into force for 2024 Lok Sabha elections: What does it mean?

The Election Commission of India (ECI) announced on March 16 that the country would vote in seven phases in the Lok Sabha elections, from April 19 to June 1 and the results will be announced on June 4. With this, the Model Code of Conduct (MCC) comes into effect.

Chief Election Commissioner Rajiv Kumar asked all political parties and their leaders to strictly adhere to the MCC, which lays down a list of dos and don'ts for leaders and parties ahead of elections. Amongst other things, **the code bars the government from announcing policy decisions.**

Model Code of Conduct:

The MCC of ECI is a **set of guidelines issued to regulate political parties and candidates prior to elections.**

It is applicable to **political parties and candidates.**

The rules range from issues related to speeches, polling day, polling booths, portfolios, the content of election manifestos, processions, and general conduct, so that free and fair elections are conducted.

It helps EC in keeping with the mandate it has been given **under Article 324 of the Constitution**, which gives it the power to supervise and conduct free and fair elections to the Parliament and State Legislatures.

In 2019, a **new addition regarding election manifestos was added**, instructing parties to not issue promises which were 'repugnant to the ideals of the Constitution'.

It also explains **how parties can lodge complaints to the EC observers** in case of dispute and instructs how the Ministers of the parties in power must conduct themselves when the MCC is in force.

Historical background:

MCC traces its origins to the **1960 Assembly elections in Kerala**, where a 'Code of Conduct' was prepared by the State Administration for political leaders.

Subsequently, in the **1962 Lok Sabha elections**, the Election Commission of India (ECI) circulated the code to all recognized political parties and State governments, which was generally followed.

However, to address the issue of corrupt electoral practices, using muscle power and money from 1962 to 1991, the ECI refined the code, adding a section to regulate the 'party in power' and prevent it from gaining an unfair advantage during elections.

The **code was renamed the MCC and made more stringent**, but despite demands that it be incorporated into the law, no such legislation was passed.

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After 1991, the ECI enforced the MCC using new means, and in cases of violation, the Chief Election Commissioner **T.N. Seshan** exercised constitutional power under Article 324 to postpone elections.

In **2013**, the Supreme Court directed the Election Commission to include guidelines on election manifestos in the MCC, which were subsequently included in the code for the 2014 general elections.

Enforcement and Applicability:

The MCC comes into force **from the date the election schedule is announced** until the date that results are out.

The MCC is applicable to **all elections to the Lok Sabha, State Assemblies.**

It is also applicable for **State Legislative Council elections from Local Bodies, and Graduates' and Teachers' Constituencies.**

During **bye-elections**, the Model Code of Conduct would be applicable in the **area of the concerned Constituency only.**

Restrictions imposed by MCC:

The MCC contains **eight provisions** dealing with general conduct, meetings, processions, polling day, polling booths, observers, the party in power, and election manifestos.

As soon as the code kicks in, **the party in power** — whether at the Centre or in the states — should ensure that it **does not use its official position** for campaigning.

No policy, project or scheme can be announced that can influence the voting behaviour.

The party must **also avoid advertising** at the cost of the public exchequer or using **official mass media** for publicity on achievements to improve chances of victory in the elections.

The code also says the ministers must **not combine official visits with election work or use official machinery** for the same.

The ruling party cannot use government transport or machinery for campaigning.

It should also ensure that public places such as maidans etc., for holding election meetings, and facilities like the use of helipads are provided to the opposition parties on the same terms and conditions on which they are used by the party in power.

The issue of advertisement at the **cost of public exchequer** in the **newspapers and other media** is also considered an offence.

The ruling government **cannot make any ad-hoc appointments** in government, public sector undertakings etc., which may influence the voters.

Political parties or candidates can be **criticised based only on their work record** and no caste and communal sentiments can be used to lure voters.

Mosques, Churches, Temples or any other places of worship should not be used for election campaigns.

Bribing, intimidating or impersonation of voters is also barred.

Holding public meetings **during the 48-hour period before** the hour fixed for the closing of the poll is also prohibited. The 48-hour period is known as **“election silence”**.

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The idea is to allow a voter a campaign-free environment to reflect on events before casting her vote.

Legality of MCC:

The MCC evolved as **part of the ECI's drive to ensure free and fair elections** and was the result of a consensus among major political parties.

It has **no statutory backing**. Simply put, this means anybody breaching the MCC can't be proceeded against under any clause of the Code.

Everything is voluntary. The EC uses moral sanction or censure for its enforcement.

It is **not enforceable** by any laws passed by the Parliament. Violating many of its guidelines **may not attract punitive action**.

The ECI can issue a notice to a politician or a party for an alleged breach of the MCC either on its own or based on a complaint by another party or individual.

Once a notice is issued, the person or party must reply in writing — either accepting fault and tendering an unconditional apology or rebutting the allegation.

In the latter case, if the person or party is found guilty subsequently, he/it can attract a written censure from the ECI — something that many see as a mere slap on the wrist.

Several actions such as causing tension between castes, religious or linguistic communities, appealing to caste or communal feeling for securing votes, etc., are listed as **'electoral offenses' and 'corrupt practices'** under the **Indian Penal Code and the Representation of the People Act, 1951**.

Some recent additions to the MCC:

The regulation of **opinion polls and exit polls** during the period notified by the ECI.

The **prohibition of advertisements in print media** on polling day and one day prior to it unless the contents are pre-certified by screening committees.

The restriction on government advertisements featuring political functionaries during the election period.

Challenges in enforcing MCC:

Reliance on Political Cooperation: The MCC's effectiveness depends on the cooperation from political parties and governments, which can be inconsistent.

Interpretation of Clauses: Some MCC clauses, such as maintaining the "purity of the election process," are subjective and difficult to enforce uniformly.

ECI's Vigilance and Action: The Election Commission of India's role is crucial. They acted against leaders from different parties like BJP, Congress, and AAP, but the effectiveness and consistency of these actions are under scrutiny.

Enforcement: The MCC is not enforceable by law, and the lack of legal backing for the MCC raises questions about its effectiveness and the ability of the Election Commission to ensure a level playing field for all candidates.

Lack of power to disqualify candidates: The Election Commission does not have the power to disqualify candidates who commit electoral malpractices. At best, it may direct the registration of a case.

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Inability to de-register political parties: The ECI does not have the power to deregister any political party for electoral violations. This raises concerns about the accountability of political parties and the lack of consequences for their actions.

Way forward:

Experts say that MCC should be **provided with statutory backing**. It should be made a part of the Representation of the People Act, 1951 to make the MCC more powerful.

Establishment of **special fast-track courts** to solve the MCC violation cases at a faster rate.

Public awareness about MCC needs to be developed. The use of apps like cVIGIL should be encouraged to reduce violations during polls.

Stakeholders including Internet companies should come up with a code for Social Media and the Internet

For dealing with digital media: In March 2019 Facebook, WhatsApp, Twitter, Google, ShareChat and TikTok presented a '**voluntary code of ethics**'. Among other things, that involves insisting on transparency in political ads.

Independence of ECI: The Election Commission should be granted greater independence similar to the Comptroller and Auditor General (CAG) to enable it to take more stringent actions for the implementation of MCC.

The **Law Commission** thus suggested **imposing a ban on government-sponsored advertisements** highlighting its achievements for up to six months before the expiry of the House/Assembly to ensure a level playing field for all.