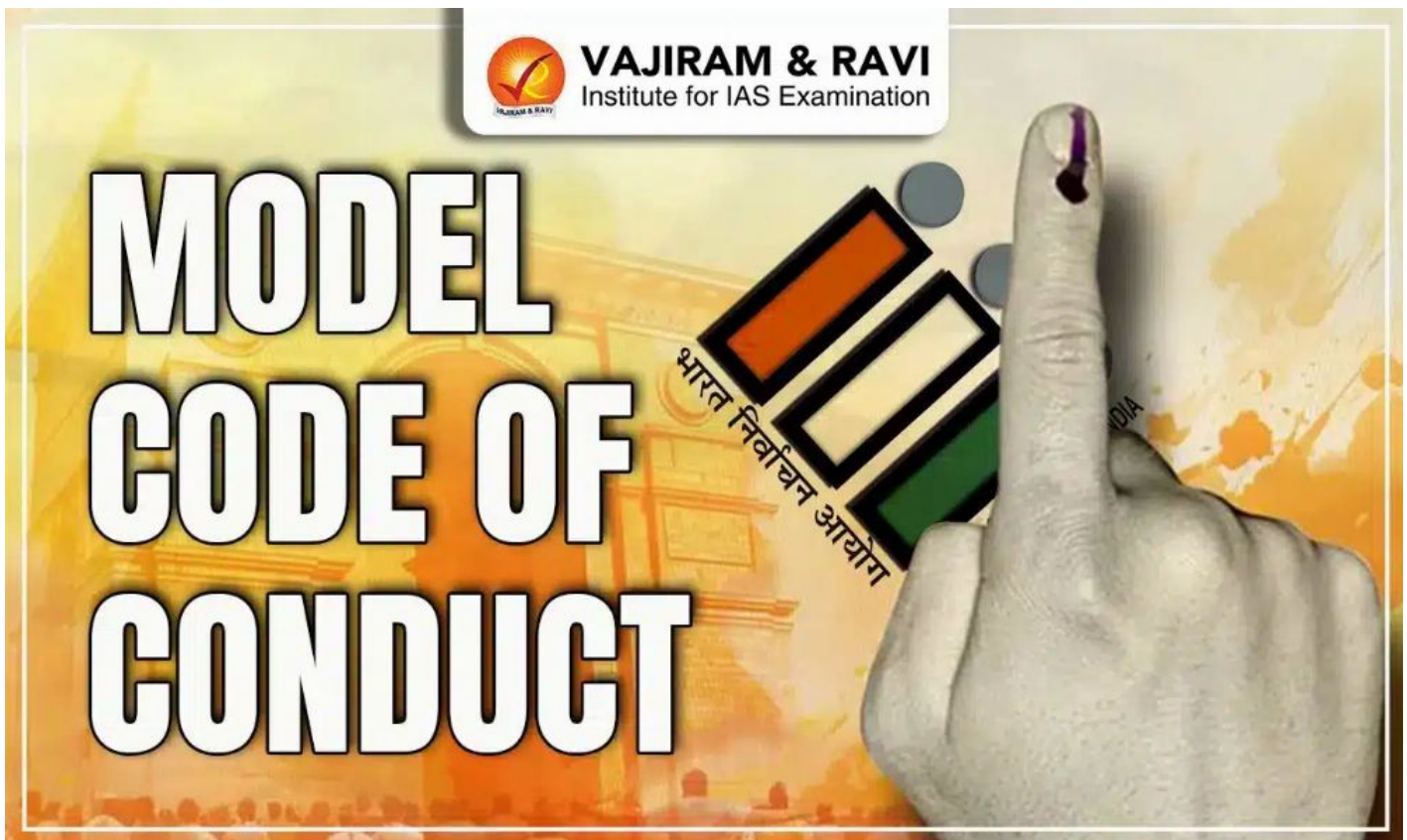


Model Code of Conduct, Evolution, Features, Provisions, Challenges

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The Model Code of Conduct (MCC) originated during the 1960 Kerala Assembly elections as a set of guidelines to ensure fair electoral practices. It was adopted nationwide in the 1962 Lok Sabha elections and refined through the 1960s and 1970s to curb corrupt practices involving money and muscle power. The 1991 general elections marked a turning point, making the Model Code of Conduct a more robust and enforceable framework.

In 2013, following a Supreme Court directive, the ECI included manifesto guidelines in the Model Code of Conduct. Although not legally binding, the MCC plays a crucial role in maintaining transparency, fairness, and discipline during elections. Despite challenges like weak enforcement, new digital malpractices, and limited ECI powers, it remains vital for free and fair elections in India.

Model Code of Conduct Overview

The Model Code of Conduct (MCC) is a set of rules established by the Election Commission to regulate the behaviour of political parties and candidates during the election period.

- **Objectives:** To keep the campaigning, polling and counting process transparent, peaceful and orderly

- To check any abuse or misuse of state finances and machinery by the party in power
- To ensure that electoral offences, malpractices, and corrupt practices are prevented by all means.
- **Duration:** The Model Code of Conduct is enforced from the date of announcement of the election schedule by the Election Commission of India and is operational till the process of elections is completed.
 - This includes the counting process and result declaration.
 - The Election Commissioners themselves declare the completion of the MCC.
- **Scope:** During general elections to the Lok Sabha, the code is applicable throughout the country.
 - Entire State: During general elections to the state's Legislative Assembly, the code applies to the entire State.
 - Specific constituency: During bye-elections, the Model Code of Conduct would only apply to the concerned Constituency area.
- **Enforceability:** The MCC is not a statutory document; it is only a guiding principle.
 - However, certain provisions can be implemented by invoking other legal provisions like the Indian Penal Code of 1860 and the Representation of the People Act of 1951.

Model Code of Conduct Evolution

The Model Code of Conduct (MCC) originated during the 1960 Assembly elections in Kerala, and with time, it has evolved into the Model Code of Conduct (MCC).

- **Nationwide adoption:** In the **1962 Lok Sabha elections**, the ECI circulated the code to all recognised political parties and State governments, which was generally followed.
- **Midterm elections of 1968 and 1969:** The ECI prepared a document on the minimum standard of conduct and behaviour, entitled 'Role and Responsibilities of Political Parties during Elections
- **Refinement period:** The ECI refined the code between **1962** and **1991** to address corrupt electoral practices involving muscle power and money.
- **1991 general election:** It was a watershed event in the course of the evolution of the MCC. The Model Code was further amplified and reissued, and from this election, the ECI has become more proactive in ensuring the observance of the code.

Model Code of Conduct Provisions

The key provisions of the Model Code of Conduct outline the standards of behavior that political parties, candidates, and ruling parties must adhere to during elections. It provides guidelines for their overall conduct in campaigning, organizing meetings and processions, activities on the polling day, and the functioning of the government while in power.

- **General conduct:** This mandates the candidates refrain from creating or making hateful remarks that can lead to enmity between any sections of the society based on caste, religion, linguistic or any other ground.
 - It also prohibits bribing the voters, faking voters or organising meetings "during the period of 48 hours ending with the hour fixed for the close of the poll".
- **Meetings:** As per the MCC, political parties and their candidates are required to notify local police authorities in advance about the schedule and venue of their events to facilitate necessary arrangements.

- **Procession:** Advance intimation has to be there for any procession by a party of candidate and the same cannot be changed once the permission has been granted.
 - If two parties' or candidates' procession route coincide, they should decide in advance to resolve the same.
- **Polling Day:** All political parties and candidates have to abide by the law and coordinate with election officials on the day of polls.
 - No serving of liquor is allowed at the polling booths and the display of any posters, flags, symbols or any other propaganda material is also prohibited.
- **Polling Booth:** Except the voters, as per the MCC, no one without a valid pass from the Election Commission shall enter the polling booths.
- **Observers:** The Election Commission appoints Observers and if the candidates or their agents have any specific complaint or problem regarding the conduct of elections they may bring the same to the notice of the Observer.
- **Party in Power:** The ECI states that the party at the Centre or in the State or States concerned, will have to ensure that no cause is given for any complaint that it has used its official position for the purposes of its election campaign in any manner.
- **Guidelines on Election Manifestos:** The MCC lays down detailed guidelines for the election manifestos that parties publish before the elections.
 - It mandates that parties must not make promises that attempt to vitiate the purity of the election process or exert undue influence on the voters in exercising their franchise.

Model Code of Conduct Related Judgements

- **Association for Democratic Reforms v. Union of India or Electoral bond judgement (2024):** In its February 2024, the Supreme Court of India struck down the Electoral Bond Scheme, highlighting that anonymous and unlimited corporate donations had skewed electoral competition in favor of the ruling party, potentially leading to quid pro quo arrangements.
- It was said to undermine the level playing field for elections, integral and core purpose of the Model Code of Conduct (MCC).
- **Ashwini Kumar Upadhyay v. Union of India (2022):** In its reference Order, the Court noted that freebies are granted using taxpayer money "only for increasing the popularity of the party and electoral prospects."
- However, the Court also acknowledged that not all promises amount to freebies; some may pertain to welfare schemes or initiatives aimed at public benefit and therefore cannot be deemed as undermining the free and fair conduct of elections.
- **Subramaniam Balaji v. State of Tamil Nadu (2013):** The **Supreme Court of India** 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.
- **A. Neelalohithadasan Nadar vs George Mascrene (1994):** Though the judgement does not directly related to a violation of the Model Code of Conduct, but it upholds principles that are central to it.

- The court's ruling determined that the integrity of the electoral process takes precedence over the secrecy of the ballot.
- **Election Commission of India vs State of Tamil Nadu and Others (1993):** Supreme Court of India states that “The ECI is a high constitutional authority charged with the function and the duty of ensuring free and fair elections and of the purity of the electoral process.
 - The extensive powers vested in the Commission are commensurate with the significant Constitutional responsibilities it is entrusted with.
- Additionally, **Section 125** of the Representation of People Act 1951, provides for a three-year sentence as maximum punishment for promoting feelings of enmity or hatred between different classes of citizens on the ground of religion.
 - The **apex court can give a standing direction** to the ECI to initiate criminal proceedings under Section 125 of the Representation of People Act 1951 whenever such occasion arises and also take the violators off the campaign till the ongoing elections are over.

Model Code of Conduct Issues and Challenges

Several issues and controversies have arisen regarding the Model Code of Conduct, posing challenges for the Election Commission in ensuring its effective enforcement.

- **Enforcement:** Since the MCC lacks legal enforceability, concerns arise about its effectiveness and the Election Commission’s capacity to maintain a fair and equal playing field for all candidates.
- **New forms of electoral malpractices:** Advancements in technology and the rise of social media have given rise to new types of electoral malpractices, such as using these platforms for voter bribery and manipulation.
- **Weak response and delayed action:** The ECI’s response to inappropriate remarks by influential political figures has often been slow or inadequate, allowing political actors to regain confidence in violating the MCC without fear of repercussions.
- **Lack of power to disqualify candidates:** The Election Commission lacks the explicit authority to disqualify candidates involved in electoral malpractices committed by political parties or the media.
 - At best, it can direct the registration of a case and reprimand the perpetrators.

Model Code of Conduct Way Forward

Certain measures can be adopted to strengthen the effective implementation of the Model Code of Conduct, such as:

- **Legal enforcement:** In 2013, the Standing Committee on Personnel, Public Grievances, Law and Justice proposed that the Model Code of Conduct should be given legal status and incorporated into the Representation of the People Act, 1951.
- **Law Commission recommendation (2015):** The ruling party often issues government-funded advertisements showcasing its achievements just before the MCC is announced, giving it an unfair edge over opponents.

- To ensure a level playing field, the Law Commission recommended banning such advertisements for up to six months before the dissolution of the House or Assembly.
- **Use of technology:** Technology-driven tools, including AI-based systems, can be employed to monitor and prevent MCC violations on social media platforms.
- **Independence of ECI:** The Election Commission should be accorded greater autonomy, akin to that of the Comptroller and Auditor General (CAG), to empower it to enforce the MCC more effectively and take stricter actions when required.

Model Code of Conduct UPSC PYQs

Question 1: Discuss the role of the Election Commission of India in the light of the evolution of the Model Code of Conduct. **(UPSC Mains 2022)**

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