

## New Lows in the Indian General Election Campaign

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### Summary

*The ongoing Indian general election campaign has been marked by personal attacks and inflammatory remarks. While India's Election Commission (EC) has penalised some political leaders, the EC and its Model Code of Conduct have looked increasingly impotent in checking the coarseness of the election campaign.*

India's Election Commission (EC) has a formidable reputation for impartially running the world's biggest and most complex elections. However, its record is poor when it comes to handling abusive and inflammatory campaign speeches. The EC has been severely tested by the coarse and invective-filled campaign being run by most political parties for the 2019 general election.

The first three provisions under '[general conduct](#)' in the EC's Model Code of Conduct (MCC) prohibit candidates from aggravating differences or creating mutual hatred; confine criticism of other political parties only to their policies and to refrain from digging up the private life of candidates; and ban appeals to caste or communal feelings. Notwithstanding the EC's short ban on election campaigning imposed on political leaders such as Uttar Pradesh Chief Minister Yogi Adityanath and Bahujan Samaj Party supremo Mayawati over religiously-charged remarks, the speech provisions of the MCC do not seem to be working very well.

The primary reason for this is the legally non-binding nature of the MCC. Though certain provisions of the MCC may be enforced through invoking the Indian Penal Code, the Code of Criminal Procedure and the Representation of the People Act (RPA), the EC has traditionally argued against making the MCC legally binding. It has said that, since elections must be completed within a few weeks and court proceedings drag on for much longer, it was not feasible to make the MCC enforceable by law.

Section 123(3) of the RPA, for instance, prohibits candidates or their agents from appealing for votes on the grounds of religion or religious symbols among other things. In the celebrated 'Hindutva' cases, for example, Ramesh Prabhoo's election in 1987 to the Maharashtra Assembly was nullified for appealing for votes on the [grounds of religion](#). Prabhoo's agent, Bal Thackeray, was also disqualified from contesting elections for six years. However, in most instances, the court verdicts are given long after the elections and, in Prabhoo's case, the Supreme Court passed its judgment eight years after his election.

Though the idea of a MCC goes back to the 1960s, the Code and, indeed, the EC received more teeth during T N Seshan's tenure as Election Commissioner in the 1990s. While Seshan used the threat to cancel or postpone elections to enforce the MCC, he was more successful

in curbing undue advantage to the incumbent government than checking hate or communal speech. Seshan began filming election events to curb inflammatory campaign speeches and publicising violations of the MCC. While, in some instances, it shamed politicians, this seems to have had little impact in recent times. Part of the problem, as [noted](#) by historian David Gilmartin, was that the MCC unsuccessfully tried to tame the unruliness and ugliness of Indian politics. There is also the thorny issue of suppressing free speech, which has been [raised](#) by Finance Minister Arun Jaitley, among others.

The ongoing election campaign is testimony to the inefficacy of the EC in tackling violations of the MCC. Before Adityanath's religiously-charged [remarks](#) on Ali and Bajrangbali, which provoked a 72-hour ban, he had referred to the Indian army as "Modi's *senā*" (army). Though the EC had, in the first instance, served a show-cause notice to Adityanath, it let him off with a warning. That did not deter Adityanath from continuing to give speeches with communal overtones. However, it remains to be seen if the short ban on campaigning is a deterrent for Adityanath or the likes of Samajwadi Party's Azam Khan, both of whom are serial offenders in this respect.

Besides the MCC lacking legal teeth, Prime Minister Narendra Modi himself has been regularly testing the Code and setting a poor example. While alluding to Congress President Rahul Gandhi's decision to contest from Wayanad, which has a high Muslim population, Modi said the Hindu community should now be aware that Rahul was contesting from a seat "where the minority is majority". At another rally, Modi exhorted young voters to dedicate their vote to those who carried out the Balakot airstrike, despite the EC's directive to not drag the armed forces into the election campaign. In the latest instance, Modi, on 4 May 2019, attacked Rahul by saying that Rahul's father, former Prime Minister Rajiv Gandhi, ended his life as "*bhrashtachari* number 1" (corrupt number 1). Modi's divisive campaign style has encouraged the opposition, in turn, to personally target him. This is reflected in the Congress' personal attacks on Modi to the extent of Rahul calling the Prime Minister a *chor* (thief).

The EC's role is also under the scanner with regard to complaints about the Prime Minister's violations of the MCC. There have been at least six complaints against Modi for violating the MCC's speech provisions and, in all the cases, the EC has given him a clean chit. However, somewhat unusually, in five of these cases, one member of the three-member EC, Ashok Lavasa, [recorded](#) his dissent.

The EC did well to impose short-term bans on prominent leaders such as Adityanath and Mayawati but it has lost some of its sheen in its handling of the MCC violations. The shortcomings of the MCC in relation to campaign speeches are also quite apparent. It is perhaps time to rethink the utility of the MCC, at least with regard to campaign speeches and the coarsening of election campaigns.

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