

Institutional Autonomy and Operational Independence: A Comparative Analysis of Electoral Governance in India and the United Kingdom

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Abstract

Electoral management bodies (EMBs) must be independent to achieve a democratic legitimacy but formal legal independence does not necessarily imply the absence of political manipulation. This paper is a comparative study on institutional autonomy and operational independence on the electoral system of governing structures in India and the United Kingdom. It separates de jure legal protections and de facto administrative operations and explores the legality of constitutional formulation, appointment systems, monetary systems and governance frameworks to determine how EMB independence is affected by constitutional design, appointment, and financial systems and governance systems.

The constitutionally enshrined Election Commission in India has effective formal safeguard under Article 324, unlike the Electoral Commission in the United Kingdom being a statutory institution, which exists within the context of parliamentary sovereignty. Whereas India is more structurally entrenched, the UK is more transparent in their appointments and has decentralized administration.

The paper arrives at a conclusion that independence is a multidimensional concept and that constitutional status is not enough to be independent without open procedures, financial stability, integrity of the administration and institutional norms. The comparison highlights that structural protection and operating practices define the efficacy and credibility of electoral administration in the contemporary democracies.

1. Introduction

The independence and autonomy of the Electoral Management Bodies (EMBs) constitute the basis of the integrity of democratic elections. Although the democratic theory assumes the neutrality of elections administration, the institutional structure and working performance of EMBs differ greatly amongst political systems (Norris, 2014; International IDEA, 2021). The difference between institutional autonomy, the legal safeguards provided to an EMB, and operational independence, its practice without interference by the political process, has gained more and more importance in the comparative electoral governance literature (Elklit and Reynolds, 2002; Birch, 2011).

The two different electoral governance models in India and the United Kingdom are different types of democracy. India is governed by a constitutional authority, the Election Commission of India which is incorporated under Article 324 of the Constitution of India. The United Kingdom on the other hand depends upon a statutory institution, the Electoral Commission, established by the Political Parties, Elections and Referendums Act 2000 (PPERA). Although both institutions are aimed at guaranteeing electoral integrity, they are constitutionally situated differently, appointed by various methods, based on financial structures, and executive associations.

This paper will discuss the difference in the institutional autonomy according to de jure and the operational independence according to de facto in these two democracies. It states that constitutional entrenchment does not necessarily imply operational independence and vice versa, statutory institutions might display functional resilience using institutional norms, accountability, and professionalization of the administration (Pastor, 1999; Mozaffar and Schedler, 2002). Through a comparative examination of India and the United Kingdom, the paper will add to the existing literature on the electoral governance, democratic accountability and institutional design.

2. Conceptual Framework: Institutional Autonomy and Operational Independence

The division of Electoral governance scholarship lies in the theoretical-legal structure of EMBs and their actual operation in political contexts (Norris, 2014; Hartlyn, McCoy, and Mustillo, 2008). Institutional autonomy is the constitutional or statutory assurances, which shield an EMB against arbitrary termination, executive control, or political influence. These are the appointment processes, tenure protection, removal protection and financial insulation (Elklit and Reynolds, 2002).

Operational independence, in its turn, relates to the actual ability of the EMB to make discretionary decisions, apply the electoral rules, deal with cases of conflicts, and control political participants without interference (Birch, 2011). This difference is a mirror of the wider discussion of the issues of public administration between the formal power and practical administrative power (Peters, 2010). The important factor in electoral integrity, as Schedler (2002) argues, lies not only on legal frameworks but also on the plausible independence of institutions charged with its enforcement.

The international IDEA (2021) recognizes three main dimensions of EMB independence, namely, structural independence, financial independence and functional independence. The aspects of structural independence pertain to the appointment and tenure security, financial independence is associated with the budgetary autonomy, and functional independence is concerned with the authority to make binding decisions independently of any external endorsement.

Comparative governance theory presupposes that institutions institutionalized in the text of the Constitution are more autonomous (Lijphart, 2012). Nevertheless, researchers warn that the formal entrenchment can intertwine with informal political forces, dominance of the executive or administrative obstacles (Levitsky and Way, 2010). This way, it will be necessary to evaluate de jure and de facto dimensions.

This research paper takes the twofold approach:

1. De Jure Autonomy – Constitutional/statutory protections, ouster, process of appointment, finance.
2. De Facto Operational Independence- Freedom to make decisions, interaction with the executive, the authority to enforce the rules, control over the administration, and the confidence of the population.

3. The Electoral Governance Model in Comparative Perspective.

There are generally independent, governmental, or mixed models of electoral governance systems (Elklit and Reynolds, 2002). Independent models work based on autonomous bodies that are not under the control of the executive. In government models, the management of the election is under a ministry or executive department. Mixed models are hybrid in nature that combines oversight commissions and government implementation structures.

India is an independent constitutional paradigm. The Constitution has given the Election Commission specific powers and also gives it the wide scope of supervising elections to Parliament and state legislatures. Article 324 has been understood by the Supreme Court of India with a broad meaning and strengthens the supervisory role of the Commission (Gill, 1978). Theoretical improvements in institutional autonomy are provided by this constitutional status.

In the United Kingdom, it is a statutory independent model. The Electoral Commission was set up in the year 2000 as a means of controlling political finance, conducting elections and encouraging voter turn out. In contrast to the model in India, the UK electoral administration at local level is still decentralized and is carried out by the returning officials in the local authorities (James, 2012). The Commission is not an administrative body but more of a regulator and supervisory body.

Compared scholarship implies that the constitutional EMBs can have a greater formal authority more so the statutory commissions are more based on the political conventions and administrative norms (Pastor, 1999; Mozaffar and Schedler, 2002). The comparison of India and the UK thus provide a good comparison between constitutional entrenchment and the statutory independence.

4. De Jure Autonomy: Indian and United Kingdom Law Foundations.

The first factor that determines the institutional independence of an Electoral Management Body (EMB) is the legal basis. In India, Article 324 constitutionally entrenches the Election Commission of India under Article 324 which vests with the Commission the superintendence, direction and control of elections (Constitution of India, 1950, art. 324). The constitutional text guarantees that the Chief Election Commissioner (CEC) and Election Commissioners could not be ousted out of office other than on reasons and comparable to those of a judge of the Supreme Court (Constitution of India, art. 324). This difficult removal criterion ideally shields the commissioners against arbitrary executive behavior, which enhances de jure independence (Bhargava and Acharya, 2008). The scholars believe that entrenching constitutions provides a lasting institutional protection against political encroachment (Lijphart, 2012).

In comparison, in the United Kingdom the Electoral Commission is autonomous by statute and not constitutional. The Commission, which is the subject of this study, has its legal foundation according to the Political Parties, Elections and Referendums Act 2000 (PPERA) which is the parliamentary legislation (James, 2012). Although statute offers formal security - e.g. set terms of commissioners and independent budgetary conditions - without constitutional entrenchment such security may be changed by future majorities in law (Norris, 2014). The parliamentary supremacy of the UK means that any legislative act can be changed via normal legislative procedures, which in theory reveals the independence of the Commission to the political opposition (Rawlings, Leyland, and Young, 2014). Therefore, despite having formalized statutory independence, the UK Commission has less strict legal grounds than the constitutionally established one in India.

In India, the Supreme Court has supported the independence of the Commission by means of judicial interpretation. In *I.R. Coelho v. The Court* reiterated that the authority of the Commission in Article 324 of the constitution is transferrable to the latter executive notification unless it is expressly limited by amendment (Yadav, 2013). This school of thought emphasizes the idea that constitutional autonomy does not just limit itself to text but to the mechanism of judicial enforcement as well. Under the UK constitution, judicial review offers the executive a check on the administrative decision making process yet it does not apply to protect the structural independence of the Commission to be amended by the parliament (Ewing, Gearty, and Hendy, 2015). Therefore, the *de jure* autonomy in the UK is dependent on what the statutory provisions and political conventions provide and not constitutional permanence.

All in all, the formal legal provisions that seek to ensure independence are exhibited in both models but what makes the model in India stand out in terms of the constitutionality of the legal autonomy is the constitutional content of the legal provisions in the UK in comparison to the statutory provisions. This difference explains the influence of the law to build institutional capacity to withstand political interference.

5. Operational Independence Practice, Administration, and Executive Influence.

Operational independence is the practical capacity of an EMB to exercise its operational capabilities without any outside force, especially that of the executive arm of government. Although legal protections provide the structural framework of the independence, the actual performance of electoral administration shows how the safeguards work practically.

The independence of the Commission in its operations has been challenged a number of times in India at high-stake election periods. Indian model The Indian model puts the control over electoral schedules, electoral rolls, nomination of the candidates and resolutions of the disputes at the hands of the Commission. The Commission also carries out massive voter sensitization campaigns and does a lot of logistical organization at federal, state level (Chandra, 2004). Some scholars however note that even with constitutional safeguards, the Commission is subjected to implicit executive pressure particularly when it comes to the enforcement of model code of conduct and delimitation exercises (Sridharan, 2016). Also bureaucratic stagnation and reliance on governmental apparatus to implement electoral activities on the ground may limit the freedom of operation (Khan, 2019). These dynamics imply that constitutional autonomy cannot simply imply the free hand of operation.

The functions of the Electoral Commission in the United Kingdom are informed by its statutory functions. The main activities of the Commission are the control of political finance, the establishment of criteria to register during the election, and the consultation of the Parliament over the electoral issue (Electoral Commission, 2020). In contrast to the centrally operated electoral machine in India, the UK is characterized by a highly decentralized administration of elections: returning officers, who are employed by local authorities, are in charge of the logistical side of elections (James, 2012). In this model, there is a common system of governance where the Commission establishes regulatory parameters as the local authorities handle ballots, voter lists, and polling logistics. The independence of the Commission in its operations is in turn associated with the decrease in administrative domination and the increase in the ability to influence the practice through regulatory directions, adherence supervision, and public disclosure (John & Smith, 2018).

Both situations are also different in terms of executive influence. The position of the executive in electoral administration in India is limited by constitution, yet informal politics and bureaucratic duplicity can be used in the actual implementation of the procedures (Sridharan and Bawa, 2018). Political parties tend to mount pressure in the UK using legislative arenas, where statutory frameworks are discussed, and direct executive intervention in the Commission regulatory decisions is barred by legal and normative safeguards (Cowell-Meyers and Scarborough, 2018). In such a way, operational independence in the UK is created due to a mixture of statutory independence and institutionalized political traditions that require respect of the borders of the institution.

6. Financial and Appointment Autonomy

Institutional independence relates very much with how an EMB exercises control over its finances and independent appointment processes. Budgetary independence reduces the amount of executive leverage that EMBs have in planning and running electoral operations, and effective appointment procedures can help to make sure that the election of commissioners is carried out on merit and not based on political obligation.

The Election Commission of India is financially independent with its allotment by the Consolidated Fund of India that cannot be changed without the Parliament approval (Constitution of India, 1950). The Commission sends its estimates directly to Union Finance Ministry but after they are approved, such resources cannot be reprimanded by the executive (Bhargava & Acharya, 2008). Through this design, the executive reliance on finances should be minimized and the institutional control should be maximized in theory.

To compare, the funding of the UK Electoral Commission itself is calculated by the annual estimates method, which is approved by the Parliament after the recommendations of the Speaker Office of the Commission on Elections (House of Commons, 2019). Although the process offers a good legislative control, it also brings politics in the budgetary decisions, which might affect financial stability. Nevertheless, there are legal provisions to guarantee the fundamental operations of the Commission and to ensure that budget decisions are arbitrary and thus that the functioning capacity is not compromised (Norris, 2014).

The two models are also differentiated in terms of the appointment processes. In India, the President of India appoints the commissioners on the basis of the executive recommendation and does not have a specific independent selection committee (Sridharan, 2016). Researchers note that such an executive-oriented system of appointing the executive can lead to a perception of lack of independence, despite the robust removal protections. Commissioners in the UK are appointed under a public appointments process that is regulated by the Speaker Committee and includes a cross-party representation process and advertisement publicly of vacancies (Electoral Commission, 2020). This would be done to depoliticize appointments and make them more transparent.

Although the two systems are formally protected, each has challenges. The process of appointments in India does not have clarity of selection committee and this leads to the concern of political patronage and the process of appointment in the UK, although more open, can still be influenced by parliament. The Indian financial arrangements are less prone to executive discretion whereas the UK structure of annual estimations incorporates political inputs in budgetary management. These distinctions bring to my attention the extent to which structural arrangements predetermine the level of autonomy that EMBs might enjoy in practice.

7. Digital Governance and Digital Institutional Control

Digital infrastructures, data management systems, and regulatory technologies are increasingly influencing the conduct of the electoral governance in the modern democracies. The autonomy of the electoral management institutions should be, likewise, considered within the context of the digital process of voter databases, campaign finance control systems, and information dissemination mechanisms (Norris, 2014; International IDEA, 2021). Digital governance brings in a novel electoral information architecture control: operational autonomy.

Election commission of India handles one of the largest electoral databases in the world in India. The computerization of electoral lists, incorporation of voter registration systems and application of electronic voting systems have placed administrative power in the Commission (Chopra, 2019). Efficiency and transparency Digital voter registration systems add dependencies on technical infrastructure, government IT divisions, and contracted services (Khan, 2019). Experts postulate that the autonomy of constitutional institutions in their operations can be indirectly limited by the inter-networking of digital infrastructure with bureaucracies controlled by the executive (Peters, 2010). Therefore, even though digitalization enhances administrative strength, it can also lead to increased independence difficulty through the importation of electoral governance into the larger state information systems.

The Electoral Commission is a body in the United Kingdom that is more of a regulator and not an actual administrator of the voter databases. The electoral registers are held in the form of electoral registration officers in the local authorities, and standards are issued, compliance audited and political finance reporting regulated by the Commission (James, 2012). Campaign spending reporting On-line transparency databases have raised regulatory scrutiny (Electoral Commission, 2020). Nevertheless, the Commission has no direct control over the technological infrastructure of elections roll management. This decentralization minimizes the chances of the executive dominance, yet it can restrict the uniform application ability (John and Smith, 2018).

Transparency and accountability is another area that is influenced by digital governance. Centralized digital platforms in India promote election process visibility, although critics warn that the lack of transparency in the algorithmic processes or the process of correcting the data can cause less trust in the population in case of poor oversight mechanisms (Norris, 2014). Public disclosure and open reporting towards violations of political finance is part of transparency in UK, which enhances regulatory legitimacy (Cowell-Meyers and Scarborough, 2018). Operational independence in the digital era hence does not only rely on the legal protection but also on the technological control, transparency architecture, and control capacity.

8. Comparative Analysis: Key Convergences and Divergences

Comparative analysis of India and the United Kingdom shows that there is structural contrast in as well as a functional similarity in electoral governance.

To begin with, India has greater *de jure* autonomy because of constitutional status in the area of legal entrenchment. The capacities of the Election Commission are entrenched in the framework of the constitution and buttressed by the judiciary (Yadav, 2013). Contrary to this, the UK Electoral Commission is constitutionally bound by parliamentary law, and the structural safeguards of the institution are theoretically more easily changed (Rawlings et al., 2014). Formally the model of India looks more closed off.

Second, it concerns appointment practices, the UK has relatively more transparent and committee-based processes, including cross-party scrutiny (Electoral Commission, 2020). The appointment process in India, which is based on executives, has created controversy regarding the perceived neutrality even though the removal protection is high (Sridharan, 2016). Therefore, the removal safeguards of India are strong, but the process of selection at the beginning makes one worry about the *de facto* independence.

Third, under financial autonomy, India has constitutional protection associated with the Consolidated Fund which limits executive misappropriation (Bhargava & Acharya, 2008). The budgetary process in the UK is conducted through parliamentary committees, which develop oversight, but possibly, political negotiation (House of Commons, 2019). In India, financial autonomy is stronger structurally but in the UK, there is parliamentary control which offers an institutional balance.

Fourth, India has a centralized approach to operational control, which gives the electoral logistics wide administrative powers. The UK follows a concept of decentralization where the local governments conduct elections and the elections are overseen by the regulations (James, 2012). Centralization leads to consistency whereas decentralization spreads the power but can create inconsistency in enforcement.

Lastly, under the digital governance, the centralized electoral information system in India enhances coordination between the administrative system and also brings in doubts of technological dependency and data governance. The regulatory framework of the UK, with its focus on the transparency and reporting, allows increasing accountability but reduces the ability to control operations directly (Norris, 2014).

These divergences indicate that the institutional autonomy and the operational independence do not always change parallel. An institutionally constrained body can be operationally constrained even when deeply

entrenched in a constitution, whereas a statutory institution can develop a sense of independence by developing institutional norms, transparency, and professionalization.

9. Conclusion

This paper has analysed the concept of institutional autonomy and operational independence in electoral governance using a case study of India and the United Kingdom. The analysis via a differentiation of constitutional preservation in the form of de jure and operational functioning in the form of de facto binding unveils that constitutional entrenchment on its own cannot guarantee absolute independence. Even though the Election Commission of India enjoys a robust constitutional protection and centralized power, the procedures of appointing and reliant on digital modalities may pose a challenge in its operations. In contrast, the United Kingdom parliamentary sovereign statutory Electoral Commission maintains its independence with open and transparent appointment policies, regulatory professionalism, and established democratic principles and values.

This comparison brings out a larger point in the literature on electoral governance: the multidimensional nature of independence. It involves institutional protections, fiscal stability, nominal accountability, technological regulation and customary regard of institutional constraints (Norris, 2014; International IDEA, 2021). Democratic resilience lies not just on the design of laws but long term political dedication to neutral governance.

With digital change and the rising levels of political polarization, the independence of electoral management organizations in their operations continues to be at the heart of democratic legitimacy. Future studies can be broadened to other democracies and focus on the way digital infrastructures transform institutional autonomy in new governance settings.

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