

# *Panchayat* Elections in India

## A Report

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**A Report**

*by*

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## **Executive Summary**

- Elections have been an integral part of India since time immemorial. It has been practiced in different forms and arrangements at different times and regions. In the Indian context, an election can be understood as the system through which people vote to elect their representatives on a regular basis. Elections form the core of democracy<sup>1</sup> and regular elections at various intervals form the basis of a vibrant democracy. In India, elections can be generally categorized in two kinds, general elections and by – elections. In case of general elections, elections are held simultaneously in all constituencies on the same day or within a few days in a phased manner. Whereas, in case of bye-elections, a single constituency election may be called to fill a vacancy caused by a member’s death or resignation. The current system of election in India was different from what was being practiced in the past. They have evolved with time, with the change in the polity and region in different eras.

In ancient times, there were small independent republics as mentioned in various accounts of Magasthene, Baroda plate of Karkaraja, Radhanpur plates of Govind II, Camplates of Govind IV and Kavi (Broach district) plates of Kridhna III, etc. Historic pieces of evidence show that these republics flourished in northern as well as southern parts of India and in some of these republics every adult male member had the right to vote and to be present in the general assembly which decided all public affairs. These republics are comparable to Athenian democracy<sup>2</sup> wherein important public decisions were taken through mass meetings following the system of direct democracy<sup>3</sup> which is also referred to as participatory democracy<sup>4</sup>.

Over the years, with the increase in population and the growing complexities of social structure, it became increasingly difficult for all citizens to assemble in one place for the

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<sup>1</sup> The term Democracy means ‘rule by the demos’, where demos stands for ‘the many’ or ‘the people’ and cracy for ‘power’ or ‘rule’.

<sup>2</sup> Athenian democracy refers to the system of democratic government used in Athens, Greece from the 5th to 4th century BCE. Under this system, all male citizens - the *dēmos* - had equal political rights, freedom of speech, and the opportunity to participate directly in the political arena.

<sup>3</sup> Direct democracy is defined as direct participation of citizens in democratic decision making.

<sup>4</sup> Participatory democracy happens when individual citizens of a democracy participate in the formation of policies and laws through consistent engagement.

purpose of deliberations on State affairs and gradually this resulted in the evolution of some kind of representative government<sup>5</sup>. Thus these republics moved towards electing members on their behalf to take important decisions.

Elections, on the basis of electoral rolls consisting of names and details of local people, were introduced in India for the first time under the Indian Councils Act, 1909 (Morley Minto Reforms). The elective element for Indians in Legislature was further continued in 1919 Act and 1935 Act, however, in these Acts the eligibility for enrolment as electors was restricted to a miniscule section of Indians having certain high qualifications, like ownership of property, payment of income tax, holding of land, educational qualification, Government Service, etc. After the independence of the country in 1947, the Constituent Assembly, for fulfilling the aspirations and expectations of the people of India decided that election to the House of the People and State Legislative Assemblies under the Constitution of India should be on the basis of the universal adult franchise while upholding the notion of 'one person, one vote, one value'. Subsequently, it was explicitly provided under Article 326 of the Indian Constitution.

However, elections to the third-tier of the Indian federal system *i.e. panchayats and municipalities* did not find a place in the Indian Constitution. Nonetheless, M. K. Gandhi promoted his idea of village *Swaraj* but it could not find enough supporters in the Constituent Assembly. Thus, the rural local government in India which is referred to as *panchayats* were added in the non-justiciable part of the constitution, under Directive Principles of State Policy. Though *panchayat's* history is as old as India's history, post-independence it was incorporated under Article 40 which provided that *the State shall take steps to organize village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government*. Hence, it was said that the fate of *panchayats* was left in the hands of the States.

- Over time, *panchayats* faced a number of challenges including the absence of regular elections, prolonged suppressions, insufficient representation of weaker sections like scheduled castes, scheduled tribes, and women, inadequate devolution of powers, and lack of financial resources. Therefore, in order to revive the moribund *panchayats*, the 73<sup>rd</sup> Constitutional Amendment Act was passed in 1992, ratified by more than 50% of the

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<sup>5</sup> Representative democracy is a form of government in which the people elect their representatives to create laws and policy on their behalf.

States, and came into effect on 24 April 1993 (celebrated as National *Panchayati Raj* Day). It added Part IX, ‘The *Panchayats*’ to the Constitution which contained provisions from Articles 243 to 243O.

- Thereafter, the 73<sup>rd</sup> Constitutional Amendment, brought the State governments under constitutional obligation to adopt the new system and create new institutions in accordance with the provisions of the 73<sup>rd</sup> Constitutional Amendment. Inter alia, it provides for three-tier *panchayats* (at the village, intermediate, and district level)<sup>6</sup>, direct elections to the members of *panchayats* at each level<sup>7</sup>, reservation of seats for SCs, STs and women<sup>8</sup>. The amendment also led to the creation of an independent constitutional body, State Election Commission (SEC) to superintend, direct and control the preparation of the electoral rolls for, and the conduct of all elections to the *panchayats* shall be vested in a State Election Commission consisting of a State Election Commissioner to be appointed by the Governor<sup>9</sup>, etc.
- Though the State Legislatures have passed the conformity acts to the 73<sup>rd</sup> Constitutional Amendment, it is yet to be implemented in its letter and spirit. It is observed that the independence of SECs is often jeopardized by the State governments due to which regular and timely elections to *Panchayats* are not held. In view of such predicaments, the terms of reference (TOR) of this report of the Indian Institute of Public Administration (IIPA) pertaining to *Panchayat* Elections assume special significance since they cover key areas, such as:
  1. to study implementation of constitution of State Election Commission, work assigned to the commission, funding of the commission and service conditions of a State Election Commissioner, as provided in Article 243K of the Constitution of India;
  2. to study the status of and explore the possibility of use of common electoral rolls for *panchayat* elections, assembly elections, general elections and its impact;
  3. to explore scope of the common State Election Commission to cover all UTs;
  4. to ascertain reasons, constraints, and hurdles such as court cases, pandemics,

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<sup>6</sup> See Article 243B of the Indian Constitution

<sup>7</sup> See Article 243C of the Indian Constitution

<sup>8</sup> See Article 243D of the Indian Constitution

<sup>9</sup> See Article 243K of the Indian Constitution

delimitation, etc. responsible for the non-conducive environment for holding elections and causing delays in holding *panchayat* elections;

5. to study and compare the various qualifications criteria such as education criteria, which are mandated by the States for the elected representatives of *panchayats*.
- The study team of IIPA adopted a five-stage methodology to carry out the study. The stages involved desk research, sampling frame and size, field surveys, data analysis, report submission. The study was conducted in a positivist frame. The study used mixed methodology while using qualitative as well as quantitative methods.
  - Desk Research included review of academic papers, books, journals, newspaper articles, websites, official documents, State Election Commission (SEC) Reports, Law Commission Reports, Joint Parliamentary Committee Reports and debates. It also included the study of Constitutional provisions, judgments of High Court and Supreme Court, *Panchayat Raj* Act, conformity State Acts, rules and procedures etc. Apart from secondary data, primary data was also collected. In-depth interviews were held with the officials of SEC to understand the nuances of its functioning and the reasons for the delay in election. Focus group discussions were held with the elected representatives to understand the role of different institutions during the elections and the impact of various qualification criteria. Field survey was carried out through structured and semi-structured questionnaires consisting of open-ended questions for the comments and suggestions from stakeholders.
  - As per the TOR, the universe of the study includes all States / UTs covered under Part IX of the Constitution of India. The study covered 30 States / UTs. Chandigarh, Delhi, Ladakh, Meghalaya, Mizoram, and Nagaland have not been covered under this study due to the absence of statutory provisions for the elections to *panchayats* in these States/ UTs. Furthermore, given the nature of the study and location of the State Election Commission, the capital district of each State was purposively selected and a total of 137 *panchayats* (covering the village, intermediate and district *panchayats*) and 780 respondents were covered. These respondents include State Election Commissioners, officials of SECs, State officials of the Department of *Panchayat Raj*/ Rural Development, elected representatives, and *panchayat* officials.
  - The study team found that there is plethora of literature available on decentralization through *panchayats*, decentralized democracy, and how India votes in elections considering

the factors like caste, gender, religion, community affiliations, money power, muscle power and affinity to leaders. However, there is minuscule literature on how India conducts its *panchayat* elections. The limited existing literature on elections focuses on Parliamentary and Assembly elections. Therefore, elections to *panchayats* is a less researched area. One of the reasons could be the wide variations across the States. Thus, this report attempts to capture these variations at the pan-India level.

- The study team of IIPA notes that the removal process of the State Election Commissioner is followed in all States/ UTs as provided under Article 243K clause (2) *i.e.* s/he can only be removed in like manner and on the like grounds as a Judge of a High Court. However, the appointment and service conditions including tenure, age limit, salary and emoluments vary as per the law made by State Legislature.

**Table 1: Tenure of State Election Commissioner in States/ UTs**

SI. No.	Tenure (in years)	State/UTs
1.	Two	Tamil Nadu, Tripura
2.	Three	Jharkhand
3.	Five	Andhra Pradesh, Bihar, Gujarat, Haryana, Karnataka, Kerala, Maharashtra, Odisha, Punjab, Rajasthan, Telangana, Arunachal Pradesh, Assam, Himachal Pradesh, Mizoram, Sikkim, Uttarakhand, Jammu and Kashmir, NCT of Delhi, Puducherry.
4.	Six	Chhattisgarh, Goa, Madhya Pradesh, Uttar Pradesh, West Bengal, Andaman and Nicobar, Dadra & Nagar Haveli and Daman & Diu, Lakshadweep

Source: Filled-in questionnaires received from States/UTs by the IIPA, 2022 and State *Panchayat Acts*

Note: Tenure of the Chief Election Commissioner is six years.

- The study team of IIPA observes that some States/ UTs violate the constitutional mandate of holding regular elections. Article 243E mandates that election process of *panchayats* shall be completed within five years from the date on which it was appointed but State Governments often delay *panchayat* elections for ulterior motives. They do so, as they have retained certain powers relating to the conduct of elections like issuance of election notification, delimitation of constituencies, earmarking of reserved seats, etc, under the State Acts/ Rules. Moreover, the common reasons cited for delay in elections to *panchayats* are delimitation, reservations, unscrupulous litigation, the indirect intervention of State

governments, pandemics, and floods. At present, elections had been delayed in the State of Andhra Pradesh, Bihar, Haryana, Jharkhand, Karnataka, Madhya Pradesh, and Puducherry. In addition to this, the State Election Commission (SEC) has to depend upon the State Government for logistic support like staff and finances.

**Table 2: Delay in Elections to Panchayats in States and UT**

Sl. No.	States/UTs	Elections not held (month, year)	Reason for the Delay
	(1)	(2)	(3)
1.	Andhra Pradesh	GP: Feb, 2026 BP: April 2019 DP : April 2019	Pandemic
2.	Bihar	March-April 2021	Flood and Pandemic
3.	Haryana	January 2021	Delimitation
4.	Jharkhand	December 2020	Reservation
5.	Karnataka	GP: Dec,2025 BP: February 2021 DP: February 2021	Delimitation
6.	Madhya Pradesh	February 2020	Delimitation and Reservation
7.	Puducherry	July 2011	Reservation

Source: Author's compilation, from filled-in questionnaires received from States/UTs by the IIPA, 2022 and Ministry of Panchayati Raj, GoI

Notes: 1. GP- Gram *Panchayat*, BP- Block *Panchayat*, DP- District *Panchayat*

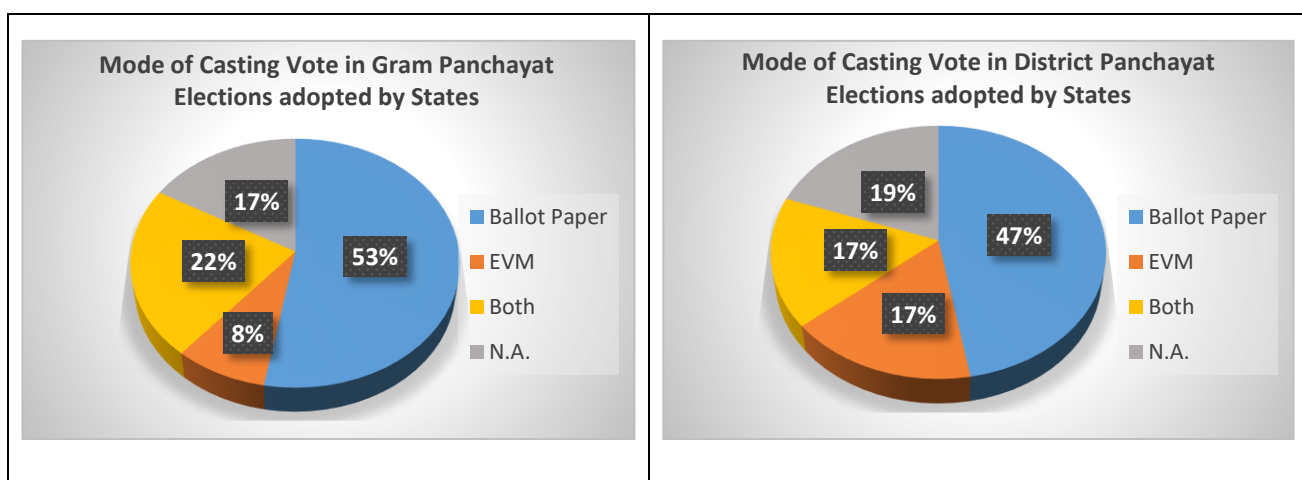
2. *Panchayat* election in the State of Bihar and Madhya Pradesh are underway during the writing of this report.

- The funding to SECs to perform their functions independently is one of the grey areas. States responded positively when asked about the adequacy of funds to carry out the elections, however, they have raised their concerns regarding the insufficiency of funds to procure EVMs, hire a lawyer for court cases, and take other initiatives. Therefore, it is recommended that the expenditure by SECs should be 'charged' on the consolidated fund of States and not 'voted' by the State legislatures, as it would provide more autonomy to SECs for fulfilling their constitutional mandate.
- It was found that 53 percent of the States conduct *gram panchayat* elections by adopting the ballot paper as a mode of casting vote. Only three States/UTs (Kerala, Sikkim, and Dadra & Nagar Haveli and Daman & Diu) conduct *gram panchayat* elections through



EVMs in all constituencies of the *gram panchayat*. However, other States are in a transitional phase wherein 22 percent of the States have adopted EVMs in some of the constituencies while in the rest of the constituencies, ballot papers are still followed. They have been categorized as ‘Both’ in the figure given below. However, in the higher levels of *panchayat* elections, *i.e.* intermediate and district *panchayats* the share of EVMs used by States increases. For instance, in district/*zilla panchayat* elections, 17 percent of States use EVMs in all the constituencies.

**Fig 1: Mode of Casting Vote in Elections of *Panchayats* under States/UTs**



Source: Filled-in questionnaires received from States/UTs by the IIPA, 2022

Note: In parliamentary and assembly elections votes are casted through EVMs in all constituencies.

- The electoral roll is the bedrock of every election at each level (national, state, and local). ECI prepares and revises it for the general elections and State assembly elections whereas SECs do it for elections to the local governments. The method and process for preparing the electoral roll for the elections to *panchayats* vary across the States. Some States adopt the assembly electoral roll prepared by ECI in toto and divide it ward-wise, some States take assembly rolls as the starting point or draft document and revise it according to the local requirements (majority of States prefer this arrangement) while other States (Jammu and Kashmir, Kerala, Sikkim, Uttar Pradesh and Uttarakhand) prepare their separate electoral roll, afresh. However, the eligibility criteria for the registration as voter are identical in both cases. Therefore, the duplicacy of work creates confusion, adds complexity, wastes public money, time and effort. Hence, it is suggested that a common electoral roll could be adopted. It must also cater to the requirements of SECs concerns such as registration of voter at ward level, dynamic reorganization and delimitation of

villages, etc. Further, all States/ UTs admitted that *Aadhaar* linking with electoral roll would address the issue of bogus voting to a great extent.

**Table 3: Practice to Prepare Electoral Roll by SEC for Panchayat Elections in States / UTs**

Sl. No.	States	Follow ECI in toto	ECI as a base for revision	Fresh preparation by SEC
	(1)	(2)	(3)	(4)
<b>General Category States</b>				
1.	Andhra Pradesh		√	
2.	Bihar		√	
3.	Chhattisgarh	√		
4.	Goa		√	
5.	Gujarat		√	
6.	Haryana	√		
7.	Jharkhand	√		
8.	Karnataka		√	
9.	Kerala			√
10.	Madhya Pradesh	√		
11.	Maharashtra	√		
12.	Odisha		√	
13.	Punjab	√		
14.	Rajasthan		√	
15.	Tamil Nadu		√	
16.	Telangana	√		
17.	Uttar Pradesh			√
18.	West Bengal	√		
<b>North Eastern and Hilly States</b>				
19.	Arunachal Pradesh	√		
20.	Assam		√	
21.	Himachal Pradesh		√	
22.	Manipur	√		
23.	Meghalaya*	n.a.		
24.	Mizoram*	n.a.		
25.	Nagaland*	n.a.		
26.	Sikkim			√
27.	Tripura		√	
28.	Uttarakhand			√
<b>Union Territories</b>				
29.	Andaman and Nicobar Islands		√	
30.	Chandigarh	n.a.		
31.	Dadra & Nagar Haveli and Daman & Diu		√	
32.	Jammu & Kashmir			√
33.	Ladakh	n.a.		
34.	Lakshadweep		√	
35.	NCT of Delhi**	n.a.		
36.	Puducherry	√		

Source: Filled-in questionnaires received from States/UTs by the IIPA, 2022 and State Acts.

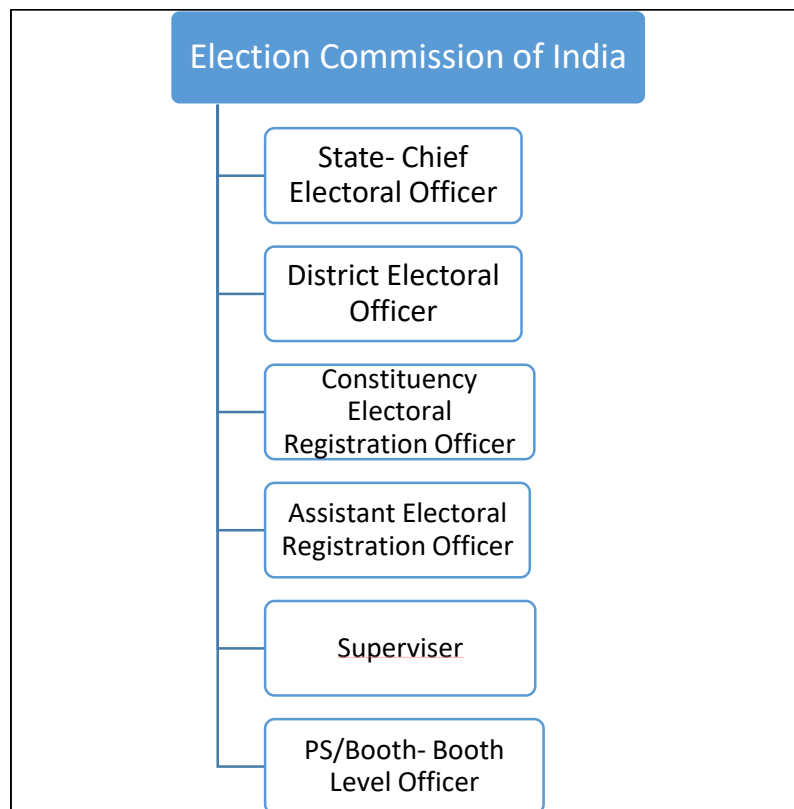
Notes: 1. (√) shows the type of electoral roll adopted by the SECs of different States for the purpose of *panchayat* elections

2. n.a.: data not available

3. \*The State is outside the purview of Part IX of the Constitution under Article 243 M.
4. \*\* *Panchayat* has yet to be revived
5. Electoral roll prepared by ECI is used as a common electoral roll for conducting parliamentary and assembly elections.

As it is evident from the table above that more than 80% of the States use electoral roll prepared by ECI, directly or indirectly. The figure given below shows the administrative hierarchy used by the ECI to prepare and revise the electoral roll.

**Fig. 2: Administrative Hierarchy for Revision of Electoral Roll by ECI for General Elections**



Source: Author

- While exploring a possibility of common SEC for all UTs, the study team notice that there is a common SEC for UTs (without the legislature except Chandigarh) *i.e.* there is a common SEC for UT of Andaman and Nicobar Island, Dadra and Nagar Haveli and Daman and Diu, and Lakshadweep. Whereas UTs with legislatures such as Jammu and Kashmir, Delhi, and Puducherry have their separate independent SECs. There is a common SEC for the UT of Delhi and Chandigarh and UT of Ladakh has autonomous hill development councils which is outside the scope of SEC. Given the geographical barriers, population variation, local peculiarities, legal provision, funding pattern and administrative challenges, it is still not viable in the recent times to have a common SEC for all UTs. However as discussed with the officials of common SEC for UTs, the integration of Regulation

documents for the elections to Andaman and Nicobar Island, Dadra and Nagar Haveli and Daman and Diu, and Lakshadweep would be the prerequisite in this direction.

- In the democratic exercise of electing representatives at the grass root level, *gram sabha*, constituted by all voters of a particular area, elects their representatives. The *Panchayati Raj* Act of 1993 gives power to State legislatures to determine the qualifications/disqualification of these representatives. Most State *Panchayati Raj* Acts have set similar disqualification criteria for contesting *panchayat* election, *i.e.* not a citizen of India, not being mentally stable, not being bankrupt, not attained the age of 21 years, etc. However, in recent times, some new experiments have been seen as some States are adding additional disqualification criteria for candidates including educational criteria, two child policy, having toilets, payment of electricity arrears etc. There are mixed views on the implementation of these additional criteria which have been explored further in the report.

**Table 4: Special Criteria by States as Disqualification for Candidature of *Panchayat* Elections**

SI. No.	Additional Disqualification Criteria	States/UTs
1.	Education Qualification	Haryana, Uttarakhand
2.	Toilet Facility	Gujarat, Haryana, Uttarakhand, Dadra & Nagar Haveli and Daman & Diu
3.	Two Child Policy	Andhra Pradesh, Gujarat, Maharashtra, Odisha, Rajasthan, Telangana, Assam, Uttarakhand, Dadra & Nagar Haveli and Daman & Diu.
4.	Bigamy / Polygamy	Odisha
5.	Able to read and write local language	Odisha

Source: Author

Note: There is no special disqualification criteria for candidates contesting parliamentary and assembly elections

- In view of these predicaments, the following key recommendations are proposed to streamline *panchayat* elections across states:
  - The funds to SECs should be ‘charged’ on the Consolidated Fund of States for the unhindered functioning of SECs.
  - The status, emoluments, and terms of service conditions for State Election Commissioners should be on par with those of High Court Judges. Further, to ensure

the conduct of at least one general election during their tenure, it is proposed that the State Election Commissioner serves for a minimum period of five years. Furthermore, it is recommended that the Commissioner holds a rank equivalent to that of a Principal Secretary, Additional Chief Secretary, or Chief Secretary, and their appointment should be carried out through a collegium system rather than solely by the state government. To ensure uniformity and consistency, it is advisable for all states to adopt such a system, thereby establishing a standardized process.

- The election related matters such as delimitation of ward constituencies, fixing election dates and reservation of seats for weaker sections shall be vested with the State Election Commissions for timely elections. As a short term measure, a set time frame should be provided in which State governments have to finalize the election dates, delimitation and reservation, so that SEC can conduct the elections on time.
- A common electoral roll shall be prepared for Parliamentary, Assembly and *Panchayat* elections, using the building block approach with the 'ward' constituency of the gram panchayat as the fundamental unit. As a short term measure, states can adopt the electoral roll prepared by ECI and modify it according to the panchayat constituencies. This will reduce public expenditure, time, and efforts involved.
- The harmonization of election rules and regulations of all UTs would be the prerequisite for the formation of common SEC for all UTs.
- Apart from the areas and aspects that have been covered under the study, there are areas that require further research to rationalise the *panchayat* elections. Though, Article 243K provides *the superintendence, direction and control of the preparation of electoral rolls for, and conduct of, all elections to the Panchayats shall be vested in a State Election Commission consisting of a State Election Commissioner to be appointed by the Governor*, however, during the field study, it was observed that SEC have very limited or no role in conducting the indirect elections to Chairperson of a *panchayat* at the intermediate level or district level as provided under Article 243C (5). Hence, it is an area to explore further and understand the reasons and implications of such practice.
- Further, this study is limited to Part IX of the Constitution of India. There must be a study

to understand the election process in ADCs (Autonomous District Councils), PESA areas and areas that are excluded from Part IX as mentioned in Article 243 M. It will give a holistic picture of local governments and how they are constituted. It would also be crucial to testify the principles of representative and direct democracy. Also, this will help to understand the various lacunae and silver linings to extend the provisions of Part IX to these areas.

- A special focus should be given to political parties and their role in *panchayat* elections. As most of the assembly elections are contested on party lines, *panchayats* are the breeding ground to mobilize the rural voters. Given the common eligibility criteria of voters, the voter remains the same for all levels of elections, thus it is pertinent to note that *panchayat* elections may be treated as the foundation for political parties. Further, the study team has observed that the participation of political parties in *panchayat* elections at different levels (district, intermediate and village) varies across the States. Therefore, an in-depth analysis is required to know the dynamics of political parties in *panchayat* elections.
- Further, the availability of ward-wise data of elected representatives of *panchayats* from all the States would help in knowing the vacant seats in *panchayats* on real time basis. In many States, administrators appointed by State government function for a long period of time in case of vacant seats or if elections are due, thus adversely affecting the democratic principles of the country. Moreover, the availability of ward-wise population data or the size of the electorate will help in testing the notion of ‘one person, one vote, one value’.
- The recent development of linking the *Aadhaar* with the electoral roll, steps towards a common electoral roll, and other consistent efforts to streamline the electoral process have augmented the possibility of a One Nation One Election. It has been debated several times that simultaneous elections should be conducted to minimize election-related expenditure and fatigue of election officers and it would allow the government to base decisions less on political considerations and more on sound policy analysis. Further the law commission released the draft report on simultaneous elections on August, 2018 and sought responses from political parties. Recently, the 22<sup>nd</sup> law commission has formulated the set of six questions for the national political parties, bureaucrats, academicians, experts etc. on the feasibility of conducting simultaneous elections in the country. Therefore, in order to explore the possibility of a ‘One Nation, One election’ further research is required to study the challenges and implications therein.