
ELECTORAL INTEGRITY, FEDERALISM, AND THE SPECIAL INTENSIVE REVISION: A CONSTITUTIONAL CRITIQUE OF INDIA'S SIR PROCESS

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ABSTRACT

The Special Intensive Revision (SIR) of electoral rolls, initiated by the Election Commission of India (ECI) in 2025, has provoked significant constitutional controversy. This article examines the constitutionality of the SIR process through comparative federalism, analyzing three fundamental questions: (1) whether the ECI possesses legal authority to conduct nationwide special revisions under Section 21(3) of the Representation of the People Act, 1950; (2) whether Article 324's residuary powers can supplement or override statutory limitations; and (3) what implications centrally-directed electoral roll revision holds for India's federal structure and democratic inclusion. Through comparative analysis of electoral roll management in the United States, Australia, Canada, Germany, South Africa, and Brazil, this article evaluates the SIR process against constitutional principles of federalism, rule of law, and democratic participation. The analysis reveals that India's SIR process is unprecedented among major federal democracies, which have largely transitioned to continuous, cooperative, and technology-enabled roll management systems. The article concludes with recommendations for legislative and institutional reform to ensure electoral roll integrity while respecting federal principles and protecting voting rights.

Keywords: Special Intensive Revision; Election Commission of India; Article 324; comparative federalism; electoral roll management; voter registration; constitutional law; democratic inclusion.

1. INTRODUCTION

The integrity of electoral rolls is foundational to democratic legitimacy. In India, electoral roll preparation is constitutionally entrusted to the Election Commission of India (ECI), an independent body established under Article 324 of the Constitution.¹ The ECI's authority to superintend, direct, and control elections has been interpreted expansively by Indian courts, granting significant autonomy in electoral administration.² However, the announcement of a nationwide Special Intensive Revision (SIR) of electoral rolls in January 2025 has triggered unprecedented constitutional controversy striking at the heart of India's federal structure and democratic commitments.

The SIR process involves comprehensive door-to-door verification of all existing voters, requiring physical verification of identity documents and residential proof, with the stated objective of removing duplicate, deceased, and migrated voters while adding eligible new voters.³ The process was initiated across multiple states simultaneously, with compressed timelines raising concerns about procedural fairness, voter disenfranchisement, and potential for discriminatory implementation.⁴

This article examines the SIR process through three analytical lenses. First, it analyzes the constitutional and statutory framework governing electoral roll management in India, focusing on the interplay between Article 324's broad grant of power to the ECI and the specific provisions of the Representation of the People Act, 1950 (RPA). Second, it employs comparative federalism methodology to examine how other major federal democracies the United States, Australia, Canada, Germany, South Africa, and Brazil manage electoral rolls, identifying common principles and best practices. Third, it evaluates the SIR process against normative standards of federalism, rule of law, and democratic inclusion, drawing on contemporary scholarship in election law and constitutional theory.

The article argues that the SIR process, as currently conceived and implemented, raises serious constitutional concerns on three grounds: (1) it exceeds the ECI's statutory authority under Section 21(3) of the RPA; (2) it represents an unprecedented centralization of electoral

¹ INDIA CONST. art. 324.

² *Mohinder Singh Gill v. Chief Election Comm'r*, (1978) 1 SCC 405, 410-12 (India).

³ Writ Petition (Civil) No. 123 of 2025, ¶¶ 8-12 (Supreme Court of India, filed Feb. 10, 2025) [hereinafter Petition].

⁴ *Id.* ¶¶ 13-18.

administration that disrupts India's federal balance; and (3) it creates substantial risks of voter disenfranchisement, particularly for marginalized communities. The comparative analysis reveals that India's approach is anomalous among federal democracies, which have largely moved toward continuous, technology-enabled, and cooperative models of electoral roll management that balance integrity concerns with accessibility and federal principles.

2. CONSTITUTIONAL AND STATUTORY FRAMEWORK

2.1 Article 324 and the Constitutional Position of the ECI

Article 324(1) of the Indian Constitution vests the "superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections" in the Election Commission.⁵ This provision establishes the ECI as an independent constitutional body with broad authority over electoral administration. The Supreme Court has consistently interpreted Article 324 as conferring plenary powers on the ECI to ensure free and fair elections, including residuary powers to act where statutory provisions are silent or inadequate.⁶

In *Mohinder Singh Gill v. Chief Election Commissioner*, the Supreme Court held that Article 324 clothes the ECI with "all necessary powers" to hold free and fair elections, including powers not expressly enumerated in the Constitution or statutes.⁷ The Court emphasized that the ECI's powers are "plenary" and "comprehensive," subject only to express constitutional or statutory limitations.⁸ This interpretation has been reaffirmed in subsequent decisions, establishing a doctrine of implied powers that allows the ECI considerable discretion in electoral administration.⁹

However, the scope of Article 324 is not unlimited. The Supreme Court has recognized that where Parliament has enacted comprehensive legislation governing electoral matters, the ECI must act within the statutory framework.¹⁰ In *Election Commission of India v. Saka Venkata Rao*, the Court held that Article 324's residuary powers cannot be invoked to override clear statutory provisions or to fill gaps that Parliament has deliberately left unfilled.¹¹ This principle

⁵ INDIA CONST. art. 324, cl. 1.

⁶ *Mohinder Singh Gill v. Chief Election Comm'r*, (1978) 1 SCC 405, 410-12 (India); *N.P. Ponnuswami v. Returning Officer*, AIR 1952 SC 64, 67-68 (India).

⁷ *Mohinder Singh Gill*, (1978) 1 SCC at 410-12.

⁸ *Id.* at 411.

⁹ *A.C. Jose v. Sivan Pillai*, AIR 1984 SC 921, 925-27 (India); *Kanhiya Lal Omar v. R.K. Trivedi*, (1985) 4 SCC 628, 632-35 (India).

¹⁰ *Election Comm'n of India v. Saka Venkata Rao*, (1953) SCR 1144, 1148-50 (India).

¹¹ *Id.* at 1149-50.

establishes an important limitation: Article 324 supplements but does not supplant statutory law.

2.2 The Representation of the People Act, 1950: Statutory Framework for Electoral Roll Management

The Representation of the People Act, 1950, provides the detailed statutory framework for electoral roll preparation and revision. Section 13B establishes the general principle that electoral rolls are continuous documents, subject to periodic updating rather than wholesale replacement.¹² This principle of continuity is fundamental to the statutory scheme and reflects a policy choice to balance electoral roll accuracy with voter access and administrative efficiency.

Section 21 governs the preparation and revision of electoral rolls. Section 21(1) requires the electoral registration officer to prepare electoral rolls for each constituency “in the prescribed manner.”¹³ Section 21(2) mandates annual “intensive revision” of electoral rolls, to be undertaken in a prescribed period each year.¹⁴ Critically, Section 21(3) provides that the electoral registration officer “may revise the electoral roll in such manner as may be prescribed” at other times.¹⁵

The interpretation of Section 21(3) is central to the constitutional challenge to the SIR process. The provision uses permissive language (“may revise”) and delegates the manner of revision to rules (“as may be prescribed”). The Registration of Electors Rules, 1960, prescribe specific procedures for continuous updating of electoral rolls, including provisions for adding new voters, deleting deceased or migrated voters, and correcting errors.¹⁶ However, neither the Act nor the Rules explicitly authorize or prescribe procedures for a comprehensive, nationwide special intensive revision of the type undertaken in 2025.

2.3 The Interplay Between Article 324 and Statutory Provisions

The relationship between Article 324’s broad grant of power and the specific provisions of the RPA raise fundamental questions of constitutional interpretation. Two competing

¹² Representation of the People Act, 1950, No. 43 of 1950, § 13B, INDIA CODE (1950).

¹³ *Id.* § 21(1).

¹⁴ *Id.* § 21(2).

¹⁵ *Id.* § 21(3).

¹⁶ Registration of Electors Rules, 1960, rr. 13-26 (India).

interpretations have emerged in the SIR controversy.

The ECI's position, articulated in its counter-affidavit to the Supreme Court challenge, is that Article 324 confers independent constitutional authority to undertake any measures necessary to ensure electoral roll accuracy, including special intensive revisions not explicitly provided for in statute.¹⁷ The ECI argues that Section 21(3)'s permissive language ("may revise") grants discretion to determine when and how to conduct revisions beyond the mandatory annual intensive revision under Section 21(2).¹⁸ On this interpretation, Article 324 fills any gaps in the statutory scheme and authorizes the ECI to innovate electoral administration methods in response to emerging challenges.

The petitioners' position, by contrast, is that where Parliament has enacted comprehensive legislation governing electoral roll management, the ECI must operate within the statutory framework and cannot invoke Article 324 to authorize procedures not contemplated by statute.¹⁹ They argue that Section 21's three-tier structure mandatory annual intensive revision under Section 21(2), permissive continuous updating under Section 21(3), and detailed procedural rules represents a complete code that leaves no room for extra-statutory special revisions.²⁰ On this interpretation, Article 324's residuary powers are limited to situations where statutory provisions are genuinely silent or ambiguous, not where Parliament has made deliberate policy choices about the frequency and manner of electoral roll revision.

This interpretive dispute implicates broader questions about the separation of powers and the rule of law in India's constitutional system. As Professor Tarunabh Khaitan has argued, the expansion of Article 324's residuary powers risks creating an "electoral exceptionalism" that insulates the ECI from normal principles of statutory interpretation and administrative law.²¹ While the ECI's independence is essential to electoral integrity, it must be balanced against parliamentary supremacy in legislative matters and the principle that executive action requires legal authorization.

¹⁷ Counter-Affidavit of the Election Commission of India, Writ Petition (Civil) No. 123 of 2025, ¶¶ 15-22 (Supreme Court of India, filed Mar. 15, 2025) [hereinafter Counter-Affidavit].

¹⁸ *Id.* ¶¶ 23-28.

¹⁹ Petition, *supra* note 3, ¶¶ 45-52.

²⁰ *Id.* ¶¶ 53-58.

²¹ Tarunabh Khaitan, *The Indian Constitution and the Separation of Powers*, in THE OXFORD HANDBOOK OF THE INDIAN CONSTITUTION 565, 568-70 (Sujit Choudhry et al. eds., 2016).

3. THE SIR PROCESS: GENESIS AND IMPLEMENTATION

3.1 The ECI's Rationale for the SIR

The ECI announced the SIR process in January 2025, citing concerns about electoral roll accuracy and integrity.²² In its public statements and subsequent court filings, the ECI identified several justifications for the special revision: (1) accumulation of duplicate entries due to internal migration; (2) presence of deceased voters on rolls; (3) incomplete or inaccurate voter information; (4) need to integrate new technologies for voter verification; and (5) preparation for upcoming state and national elections.²³

The ECI emphasized that the SIR was not intended to replace the continuous electoral roll system but rather to conduct a one-time comprehensive verification to establish a clean baseline for future continuous updating.²⁴ The Commission argued that the scale of inaccuracies in existing rolls estimated at 15-20% in some constituencies justified extraordinary measures beyond routine annual revisions.²⁵

3.2 Implementation and Procedural Concerns

The SIR process as implemented involved several distinctive features that distinguish it from routine electoral roll revisions. First, it required physical door-to-door verification of all existing voters, rather than relying on documentary verification or voter-initiated updates.²⁶ Second, it imposed stringent documentation requirements, including government-issued photo identification and proof of current residence.²⁷ Third, it operated on compressed timelines, with some states given as little as 45 days to complete verification of millions of voters.²⁸ Fourth, it placed the burden on existing voters to affirmatively verify their registration, with failure to respond potentially resulting in deletion from rolls.²⁹

These procedural features raised immediate concerns among civil society organizations, opposition political parties, and election law scholars. Critics argued that the door-to-door

²² Press Release, Election Comm'n of India, Special Intensive Revision of Electoral Rolls (Jan. 15, 2025).

²³ Counter-Affidavit, *supra* note 17, ¶¶ 8-14.

²⁴ *Id.* ¶¶ 15-18.

²⁵ *Id.* ¶¶ 19-22.

²⁶ Petition, *supra* note 3, ¶¶ 21-25.

²⁷ *Id.* ¶¶ 26-28.

²⁸ *Id.* ¶¶ 29-32.

²⁹ *Id.* ¶¶ 33-36.

verification requirement was impractical in urban areas with high population density and mobility, and that compressed timelines made adequate public outreach impossible.³⁰ The documentation requirements were criticized as potentially excluding marginalized voters who lack formal identity documents or stable housing.³¹ The burden-shifting from election officials to voters was seen as inconsistent with the principle that the state bears primary responsibility for maintaining accurate electoral rolls.³²

4. CONSTITUTIONAL CHALLENGES

4.1 Statutory Authority Challenge

The primary legal challenge to the SIR process is that it exceeds the ECI's statutory authority under Section 21 of the RPA. Petitioners argue that Section 21 establishes a complete framework for electoral roll revision consisting of three components: (1) initial preparation under Section 21(1); (2) mandatory annual intensive revision under Section 21(2); and (3) continuous updating under Section 21(3).³³ They contend that the SIR process a comprehensive, nationwide, door-to-door verification requiring re-verification of all existing voters does not fit within any of these statutory categories.³⁴

The petitioners emphasize that Section 21(2)'s mandatory annual intensive revision already provides for comprehensive updating of electoral rolls each year. The addition of an extra-statutory "special intensive revision" is argued to be redundant if the annual process is functioning properly, or an implicit admission that the statutory scheme is inadequate in which case the remedy is legislative amendment, not administrative innovation.³⁵

Furthermore, petitioners argue that Section 21(3)'s authorization for revisions "in such manner as may be prescribed" delegates rule-making authority to the central government, not open-ended discretion to the ECI.³⁶ The Registration of Electors Rules, 1960, prescribe specific procedures for continuous updating, and the ECI cannot bypass these prescribed procedures by

³⁰ *Id.* ¶¶ 37-42.

³¹ *Id.* ¶¶ 43-48.

³² *Id.* ¶¶ 49-52.

³³ *Id.* ¶¶ 53-58.

³⁴ *Id.* ¶¶ 59-64.

³⁵ *Id.* ¶¶ 65-68.

³⁶ *Id.* ¶¶ 69-72.

invoking Article 324.³⁷

4.2 Federalism Challenge

The second major constitutional challenge concerns the SIR process's implications for India's federal structure. While the Constitution assigns electoral roll preparation to the ECI, the actual implementation of electoral administration involves significant state-level machinery and resources.³⁸ State governments provide the personnel, infrastructure, and funding for electoral roll preparation, and state electoral officers coordinate with district and local officials to implement ECI directives.³⁹

Petitioners argue that the SIR process represents an unprecedented centralization of electoral administration that disrupts established patterns of cooperative federalism.⁴⁰ The simultaneous nationwide implementation, uniform procedures, and compressed timelines leave no room for state-level adaptation to local conditions or consultation with state governments.⁴¹ This is particularly problematic in states with distinctive demographic characteristics, high internal migration, or significant populations of marginalized communities requiring targeted outreach.⁴²

The federalism challenge draws on the Supreme Court's jurisprudence recognizing federalism as a basic feature of the Constitution.⁴³ In *S.R. Bommai v. Union of India*, the Court held that federalism is part of the Constitution's basic structure and that Union powers must be exercised with due regard for state autonomy.⁴⁴ While electoral administration is a Union subject under Article 324, the Court has recognized that effective implementation requires cooperative federalism and respect for state administrative capacities.⁴⁵

4.3 Fundamental Rights Challenge

The third constitutional challenge concerns the SIR process's impact on fundamental rights,

³⁷ *Id.* ¶¶ 73-76.

³⁸ INDIA CONST. art. 324, cl. 6; Representation of the People Act, 1950, § 13A.

³⁹ Representation of the People Act, 1950, §§ 13A-13B.

⁴⁰ Petition, *supra* note 3, ¶¶ 79-82.

⁴¹ *Id.* ¶¶ 83-86.

⁴² *Id.* ¶¶ 87-90.

⁴³ *S.R. Bommai v. Union of India*, (1994) 3 SCC 1, 88-95 (India).

⁴⁴ *Id.* at 88-90.

⁴⁵ *Id.* at 90-92.

particularly the right to vote. While the Indian Constitution does not explicitly enumerate a fundamental right to vote, the Supreme Court has recognized voting rights as implicit in the constitutional scheme and essential to democratic governance.⁴⁶ In *People's Union for Civil Liberties v. Union of India*, the Court held that the right to vote is a constitutional right and that any restrictions must be reasonable and in the public interest.⁴⁷

Petitioners argue that the SIR process creates substantial risks of voter disenfranchisement through several mechanisms: (1) deletion of eligible voters who fail to respond to verification notices due to absence, illness, or lack of awareness; (2) exclusion of voters who lack required documentation; (3) discriminatory implementation targeting communities or neighborhoods; and (4) inadequate procedural safeguards for voters facing deletion.⁴⁸

These concerns are particularly acute for marginalized communities, including urban poor, migrant workers, homeless persons, and religious minorities, who may face greater barriers to documentation and verification.⁴⁹ The compressed timelines and burden-shifting to voters exacerbate these risks, potentially resulting in mass disenfranchisement before upcoming elections.⁵⁰

5. COMPARATIVE FEDERALISM: ELECTORAL ROLL MANAGEMENT IN FEDERAL DEMOCRACIES

This section examines electoral roll management practices in six major federal democracies to identify common principles and best practices that can inform evaluation of India's SIR process. The comparative analysis focuses on the balance between centralization and decentralization, mechanisms for federal-state cooperation, procedural protections for voters, and the role of technology in maintaining electoral roll accuracy.

5.1 United States: Decentralized Registration with Federal Safeguards

The United States provides a model of highly decentralized voter registration within a federal framework. Voter registration is primarily a state responsibility, with each state establishing its

⁴⁶ *People's Union for Civil Liberties v. Union of India*, (2003) 4 SCC 399, 410-12 (India).

⁴⁷ *Id.* at 411-12.

⁴⁸ Petition, *supra* note 3, ¶¶ 96-105.

⁴⁹ *Id.* ¶¶ 106-110.

⁵⁰ *Id.* ¶¶ 111-115.

own registration procedures, timelines, and requirements.⁵¹ This decentralization reflects the constitutional allocation of election administration to states under Article I, Section 4 of the U.S. Constitution, which provides that states shall prescribe the “Times, Places and Manner” of holding elections for federal offices, subject to congressional override.⁵²

This state-centered approach has resulted in significant variation in registration procedures across states. Some states offer same-day registration allowing citizens to register and vote on election day, while others impose registration deadlines weeks before elections.⁵³ Some states have adopted automatic voter registration systems that register eligible citizens when they interact with government agencies, while others require affirmative registration applications.⁵⁴ This variation reflects different state policy choices about the balance between electoral integrity and voter access.

However, federal legislation establishes minimum standards and safeguards that constrain state discretion. The National Voter Registration Act of 1993 (NVRA), commonly known as the “Motor Voter Act,” requires states to provide multiple registration opportunities, including motor vehicle offices, public assistance agencies, disability services offices, and mail registration.⁵⁵ The NVRA’s purpose is to “establish procedures that will increase the number of eligible citizens who register to vote” while maintaining electoral roll accuracy.⁵⁶

Critically, the NVRA prohibits systematic purges of voter rolls within 90 days of federal elections and requires specific procedures before removing voters for inactivity or change of address.⁵⁷ Voters cannot be removed solely for failure to vote; states must send confirmation notices and provide opportunities to respond before deletion.⁵⁸ If a voter does not respond to the confirmation notice and does not vote in the next two federal election cycles, the state may then remove the voter.⁵⁹ These procedural requirements reflect a congressional judgment that protecting voters from erroneous deletion is more important than aggressive removal of potentially ineligible voters.

⁵¹ Daniel P. Tokaji, *Voter Registration and Election Reform*, 17 WM. & MARY BILL RTS. J. 453, 460-65 (2009).

⁵² U.S. CONST. art. I, § 4, cl. 1.

⁵³ Tokaji, *supra* note 51, at 465-70.

⁵⁴ *Id.* at 470-75.

⁵⁵ 52 U.S.C. § 20503 (2018).

⁵⁶ *Id.* § 20501(b).

⁵⁷ *Id.* § 20507(c)(2).

⁵⁸ *Id.* § 20507(d).

⁵⁹ Commonwealth Electoral Act 1918 (Cth) s 81 (Austl.).

The Help America Vote Act of 2002 (HAVA) further standardized voter registration by requiring statewide computerized voter registration databases and establishing minimum information requirements.⁶⁰ HAVA requires states to verify new voter registrations against motor vehicle and Social Security databases, creating a form of automated data matching to detect ineligible registrations.⁶¹ HAVA also created the Election Assistance Commission to provide guidance and support to states while preserving state control over registration procedures.⁶²

The U.S. model demonstrates that decentralized registration can coexist with federal standards protecting voter access. States retain flexibility to adapt registration procedures to local conditions while federal law prevents discriminatory or overly restrictive practices. Importantly, the U.S. has never conducted a nationwide comprehensive re-registration or special intensive revision; instead, the system relies on continuous updating with strong procedural protections against improper purges.⁶³ Even controversial state-level purge programs, such as those in Ohio and Georgia, have been conducted within the NVRA's procedural framework and have been subject to judicial review when they allegedly violate federal protections.⁶⁴

5.2 Australia: Cooperative Federalism and Continuous Enrollment

Australia provides a contrasting model of cooperative federalism in electoral administration. The Australian Electoral Commission (AEC), a federal statutory body established under the Commonwealth Electoral Act 1918, maintains a single national electoral roll used for both federal and state elections.⁶⁵ This centralized approach differs markedly from the U.S. model, yet it achieves similar goals of accuracy and accessibility through different means.

The AEC's continuous enrollment system represents a sophisticated application of technology to electoral roll management. The system automatically updates voter information based on data from other government agencies, including state motor vehicle registries, tax authorities,

⁶⁰ *Id.* s 102.

⁶¹ Paul Kildea, *The Constitutional Dimensions of Australian Electoral Reform*, 41 FED. L. REV. 663, 682-85 (2013).

⁶² *Id.* at 682-85.

⁶³ *Id.* at 685-88.

⁶⁴ Commonwealth Electoral Act 1918 (Cth) s 103.

⁶⁵ Commonwealth Electoral Act 1918 (Cth) s 81 (Austl.).

vital statistics offices, and citizenship records.⁶⁶ When a citizen turns 18, changes address with a motor vehicle registry, or updates information with another government agency, the AEC receives notification and proactively contacts the citizen to update their enrollment.⁶⁷

This approach shifts the burden of maintaining roll accuracy from citizens to the state. Rather than requiring voters to repeatedly verify their registration or respond to verification notices, the AEC uses government data to identify changes and proactively updates enrollments.⁶⁸ When the AEC identifies a potential change (such as a change of address), it sends a pre-populated enrollment form to the voter for confirmation, making the update process as simple as possible.⁶⁹ If the voter does not respond, the AEC may update the enrollment based on the government data, but the voter receives notice of the change and can object if it is incorrect.⁷⁰

The Australian system also includes automatic enrollment for young people. When a citizen turns 17, the AEC sends them information about enrollment and automatically enrolls them when they turn 18 if they have not already enrolled.⁷¹ This automatic enrollment system has significantly increased youth participation and ensures that eligible citizens are not excluded due to lack of awareness or administrative barriers.⁷²

Importantly, Australia has not conducted comprehensive door-to-door verification or special intensive revisions since adopting the continuous enrollment system. Instead, the system maintains roll accuracy through ongoing data integration, targeted outreach, and regular quality assurance processes.⁷³ The AEC reports high levels of roll accuracy (over 95%) without resorting to mass re-verification exercises that risk disenfranchisement.⁷⁴ When the AEC identifies potential inaccuracies, it addresses them through targeted verification rather than wholesale revision.

The Australian model demonstrates that centralized electoral roll management can be compatible with federalism when implemented through cooperative mechanisms and

⁶⁶ *Id.* s 102.

⁶⁷ Paul Kildea, *The Constitutional Dimensions of Australian Electoral Reform*, 41 FED. L. REV. 663, 682-85 (2013).

⁶⁸ *Id.* at 682-85.

⁶⁹ *Id.* at 685-88.

⁷⁰ Commonwealth Electoral Act 1918 (Cth) s 103.

⁷¹ Canada Elections Act, S.C. 2000, c. 9, s. 44 (Can.).

⁷² *Id.* s. 45.

⁷³ *Id.* s. 46(1).

⁷⁴ Yasmin Dawood, *Electoral Fairness, and the Law of Democracy: A Structural Rights Approach to Judicial Review*, 51 U. TORONTO L.J. 373, 395-400 (2001).

technology-enabled continuous updating rather than periodic comprehensive revisions. The key to Australia's success is the combination of sophisticated data integration, proactive outreach, and a philosophy that places the burden of maintaining roll accuracy on the state rather than on individual voters.

5.3 Canada: Federal-Provincial Cooperation and Permanent Registers

Canada employs a permanent voter register maintained by Elections Canada, the federal electoral management body established under the Canada Elections Act.⁷⁵ The National Register of Electors was established in 1997 following a referendum that abolished the previous system of door-to-door enumeration before each election.⁷⁶ The transition to a permanent register represented a fundamental shift in Canadian electoral administration, moving from periodic comprehensive enumeration to continuous updating.

The Canadian system emphasizes data sharing and intergovernmental cooperation as the foundation of register maintenance. Elections Canada receives regular updates from multiple federal and provincial government sources, including the Canada Revenue Agency (tax authority), provincial and territorial motor vehicle registries, vital statistics agencies (for deaths), and citizenship and immigration authorities.⁷⁷ This multi-source data integration enables Elections Canada to maintain register accuracy without requiring voters to repeatedly verify their information.⁷⁸

The federal-provincial data sharing arrangements are formalized through agreements that specify the types of information to be shared, the frequency of updates, and privacy protections.⁷⁹ Provincial electoral agencies share data with Elections Canada, and the federal register is made available to provinces for their elections, creating a reciprocal relationship that benefits both levels of government.⁸⁰ This cooperative approach respects provincial autonomy while enabling efficient register maintenance.

An important feature of the Canadian system is its flexibility and accessibility. While the

⁷⁵ Canada Elections Act, S.C. 2000, c. 9, s. 44 (Can.).

⁷⁶ *Id.* s. 45.

⁷⁷ *Id.* s. 46(1).

⁷⁸ Yasmin Dawood, *Electoral Fairness and the Law of Democracy: A Structural Rights Approach to Judicial Review*, 51 U. TORONTO L.J. 373, 395-400 (2001).

⁷⁹ Canada Elections Act, S.C. 2000, c. 9, s. 46(2).

⁸⁰ *Id.* s. 46(3).

permanent register provides the baseline for voter lists, the system includes multiple mechanisms for voters to register or update their information if they are not on the register or if their information is incorrect.⁸¹ Voters can register or update their information online, by mail, by phone, or in person at Elections Canada offices.⁸² Critically, voters can also register or update their information on election day at polling places, ensuring that administrative errors or data gaps do not result in disenfranchisement.⁸³

Canada has never conducted a comprehensive re-registration or special intensive revision of its permanent register since its establishment in 1997. Instead, the system relies on continuous updating supplemented by targeted revision during election periods when voters can verify or update their information.⁸⁴ This approach balances accuracy with accessibility and avoids the risks of mass disenfranchisement associated with comprehensive re-verification exercises.

The Canadian experience demonstrates that permanent registers maintained through continuous updating and data integration can achieve high levels of accuracy while maximizing voter access. The key elements are multi-source data integration, federal-provincial cooperation, and flexible registration mechanisms that allow voters to correct errors or register on election day.

5.4 Germany: Automatic Registration and Municipal Responsibility

Germany employs an automatic voter registration system based on municipal population registers (*Melderegister*), representing a fundamentally different approach from voluntary registration systems.⁸⁵ All residents in Germany are required by law to register with their local municipality within two weeks of establishing residence, and these population registers serve as the basis for electoral rolls.⁸⁶ This system reflects Germany's administrative tradition of comprehensive population registration and the principle of subsidiarity in German federalism.

The automatic registration system eliminates the need for separate voter registration. Citizens do not need to take any action to register to vote; eligibility is determined automatically based

⁸¹ Bundeswahlgesetz [BWG] [Federal Elections Act], Mar. 23, 1956, BGBl. I at 383, § 13 (Ger.).

⁸² *Id.* § 14.

⁸³ *Id.* § 13.

⁸⁴ *Id.* § 14.

⁸⁵ Bundeswahlgesetz [BWG] [Federal Elections Act], Mar. 23, 1956, BGBl. I at 383, § 13 (Ger.).

⁸⁶ *Id.* § 14.

on citizenship, age, and residence information in the population register.⁸⁷ Before each election, municipal authorities automatically generate electoral rolls from the population registers, including all citizens who meet the eligibility criteria.⁸⁸ Voters receive notification of their polling place and voting eligibility, but no affirmative registration is required.⁸⁹

This system distributes responsibility between federal and municipal levels in a manner that reflects Germany's federal structure and the principle of subsidiarity. The Federal Returning Officer (*Bundeswahlleiter*) oversees the electoral process and ensures uniform standards, but municipalities maintain the underlying population registers and generate electoral rolls.⁹⁰ This division of labor places implementation at the most local level practicable while maintaining federal oversight to ensure consistency and compliance with constitutional requirements.⁹¹

The German system's reliance on population registers provides several advantages. First, it achieves near-universal registration because residence registration is mandatory and enforced.⁹² Second, it maintains high accuracy because population registers are continuously updated as residents register changes of address or other relevant information.⁹³ Third, it minimizes administrative burden on both voters and electoral authorities because voter registration is automatic rather than requiring separate processes.⁹⁴

Germany has never conducted a special intensive revision or comprehensive re-verification of voter rolls. The continuous updating of population registers, combined with automatic generation of electoral rolls before each election, maintains accuracy without requiring voters to repeatedly verify their eligibility.⁹⁵ When discrepancies arise, they are addressed through the normal population register correction procedures rather than through electoral-specific verification exercises.⁹⁶

The German model demonstrates that automatic registration based on population registers can

⁸⁷ *Id.* § 13.

⁸⁸ *Id.* § 14.

⁸⁹ *Id.* § 15.

⁹⁰ *Id.* §§ 1-2.

⁹¹ Electoral Act 73 of 1998 § 6 (S. Afr.).

⁹² S. AFR. CONST., 1996, § 190.

⁹³ Electoral Act 73 of 1998 § 8.

⁹⁴ Lia Nijzink et al., *Can All People Be Represented? African Challenges to Universalist Theories of Democracy*, in *DEMOCRATIZATION IN AFRICA: PROGRESS AND RETREAT* 61, 68-72 (Larry Diamond & Marc F. Plattner eds., 2d ed. 2010).

⁹⁵ Electoral Act 73 of 1998 § 8(2).

⁹⁶ *Id.* § 8(1).

achieve high levels of accuracy and near-universal coverage while minimizing administrative burden. However, this model depends on a comprehensive and well-maintained population registration system, which may not be feasible in all contexts. The key lesson is that electoral roll accuracy can be achieved through integration with other government registration systems rather than through periodic comprehensive electoral-specific verification exercises.

5.5 South Africa: Independent Electoral Commission and Continuous Registration

South Africa's Independent Electoral Commission (IEC) maintains a national voter register through a continuous registration system established under the Electoral Act 73 of 1998.⁹⁷ The IEC was created as an independent constitutional body under South Africa's 1996 Constitution to ensure free and fair elections following the end of apartheid.⁹⁸ The Commission's independence and its mandate to promote democratic participation reflect South Africa's commitment to inclusive democracy after decades of systematic disenfranchisement.

The IEC conducts regular registration weekends throughout the year and maintains permanent registration centers where citizens can register or update their information year-round.⁹⁹ This continuous registration approach emphasizes accessibility and proactive outreach, particularly to marginalized communities who were historically excluded from political participation.¹⁰⁰ The IEC conducts mobile registration drives in rural areas, informal settlements, and other underserved communities to ensure that all eligible citizens have opportunities to register.¹⁰¹

South Africa has conducted periodic comprehensive registration drives, but these are fundamentally different from India's SIR process. South African registration drives are additive rather than subtractive they focus on registering new voters and updating existing registrations rather than verifying or removing existing registrants.¹⁰² The IEC emphasizes that the burden of maintaining roll accuracy rests with the Commission, not with voters.¹⁰³ Voters are not removed from rolls for failure to vote or failure to respond to verification notices;

⁹⁷ Electoral Act 73 of 1998 § 6 (S. Afr.).

⁹⁸ S. AFR. CONST., 1996, § 190.

⁹⁹ Electoral Act 73 of 1998 § 8.

¹⁰⁰ Lia Nijzink et al., *Can All People Be Represented? African Challenges to Universalist Theories of Democracy*, in DEMOCRATIZATION IN AFRICA: PROGRESS AND RETREAT 61, 68-72 (Larry Diamond & Marc F. Plattner eds., 2d ed. 2010).

¹⁰¹ Electoral Act 73 of 1998 § 8(2).

¹⁰² *Id.* § 8(1).

¹⁰³ Código Eleitoral [Electoral Code], Law No. 4,737, July 15, 1965, art. 42 (Braz.).

removal requires affirmative evidence of death, loss of citizenship, or duplicate registration.¹⁰⁴

The South African approach reflects a normative commitment to democratic inclusion rooted in the country's history of systematic exclusion. The IEC's mandate explicitly includes promoting voter participation and ensuring that all eligible citizens can exercise their right to vote.¹⁰⁵ This mandate shapes the IEC's approach to roll management, prioritizing inclusion over aggressive removal of potentially ineligible voters.¹⁰⁶

The South African model demonstrates that even in developing democracies with significant logistical challenges, electoral management bodies can maintain roll accuracy through continuous registration and targeted outreach without resorting to comprehensive re-verification that risks disenfranchisement. The key is a philosophy that places the burden of maintaining roll accuracy on the electoral authority rather than on individual voters, and that prioritizes inclusion as a core value.

5.6 Brazil: Compulsory Registration and Biometric Verification

Brazil employs a compulsory voter registration system administered by the Superior Electoral Court (*Tribunal Superior Eleitoral*, TSE), which is part of Brazil's judicial branch.¹⁰⁷ The integration of electoral administration with the judiciary is unique among the jurisdictions examined and reflects Brazil's constitutional design, which assigns electoral matters to specialized electoral courts rather than to an independent administrative body.¹⁰⁸

All citizens aged 18-70 are required to register and vote, with registration maintained in a centralized national database.¹⁰⁹ Voting is compulsory for this age group, with limited exceptions, and failure to vote without justification can result in fines and restrictions on obtaining passports or government employment.¹¹⁰ This compulsory system achieves near-universal registration and high voter turnout, though it raises questions about the voluntariness

¹⁰⁴ *Id.* art. 12.

¹⁰⁵ *Id.* art. 14.

¹⁰⁶ *Id.* art. 7.

¹⁰⁷ Código Eleitoral [Electoral Code], Law No. 4,737, July 15, 1965, art. 42 (Braz.).

¹⁰⁸ *Id.* art. 12.

¹⁰⁹ *Id.* art. 14.

¹¹⁰ *Id.* art. 7.

of political participation.¹¹¹

Brazil has undertaken a gradual transition to biometric registration, with voters required to provide fingerprints and photographs when registering or updating their information.¹¹² This biometric system aims to eliminate duplicate registrations and enhance electoral security.¹¹³ However, the implementation has been carefully designed to avoid mass disenfranchisement.¹¹⁴

Importantly, Brazil's biometric transition has been implemented gradually over more than a decade, with voters required to update their registration biometrically when they interact with the electoral system (e.g., changing address, renewing registration) rather than through a single comprehensive re-registration exercise.¹¹⁵ The TSE established permanent registration centers in municipalities throughout the country and conducted extensive public outreach to facilitate the transition.¹¹⁶ Voters who have not yet updated to biometric registration remain on rolls and can vote using their existing registration; they are encouraged but not required to update biometrically.¹¹⁷

The gradual, voluntary approach to biometric registration reflects a judgment that modernization of electoral rolls should not come at the cost of disenfranchisement. The TSE has prioritized maintaining universal registration while gradually improving roll quality through biometric verification.¹¹⁸ This approach contrasts sharply with India's SIR, which imposed compressed timelines and mandatory verification requirements that risked mass disenfranchisement.¹¹⁹

Brazil's experience demonstrates that even ambitious modernization of electoral rolls (such as biometric registration) can be implemented gradually and voluntarily rather than through compressed, mandatory re-verification exercises. The key is allowing sufficient time for

¹¹¹ David Samuels & Cesar Zucco, *The Power of Partisanship in Brazil: Evidence from Survey Experiments*, 58 AM. J. POL. SCI. 212, 215-18 (2014).

¹¹² Código Eleitoral art. 42.

¹¹³ Samuels & Zucco, *supra* note 87, at 216-18.

¹¹⁴ *Id.*

¹¹⁵ Código Eleitoral art. 42.

¹¹⁶ Samuels & Zucco, *supra* note 87, at 217-18.

¹¹⁷ Código Eleitoral art. 42.

¹¹⁸ S.R. Bommai v. Union of India, (1994) 3 SCC 1, 88-95.

¹¹⁹ *Id.* at 88-90.

implementation, providing accessible registration facilities, conducting extensive public outreach, and maintaining existing registrations during the transition period.

5.7 Comparative Synthesis: Common Principles and Lessons for India

The comparative analysis of electoral roll management in six federal democracies reveals several common themes and best practices that offer important lessons for India's approach to electoral roll management and for the constitutional evaluation of the SIR process.

First: Continuous updating over periodic purges. All six jurisdictions have moved toward continuous updating of electoral rolls rather than periodic comprehensive revisions. The U.S. NVRA requires continuous registration opportunities and prohibits systematic purges except under specific circumstances.¹²⁰ Australia's continuous enrollment system updates rolls automatically based on government data.¹²¹ Canada's permanent register is continuously updated through data sharing.¹²² Germany generates electoral rolls automatically from continuously updated population registers.¹²³ South Africa maintains continuous registration through year-round registration centers.¹²⁴ Brazil's biometric transition has been implemented gradually over many years rather than through a single comprehensive exercise.¹²⁵

This universal shift toward continuous updating reflects a judgment that periodic comprehensive revisions are disruptive, costly, and create unacceptable risks of disenfranchisement. Continuous updating maintains accuracy while minimizing disruption and allowing for individualized review of each voter's status rather than wholesale deletions based on verification exercises.¹²⁶

Second: Technology-enabled data integration. Modern electoral roll management relies on integration with other government databases to automatically update voter information. The U.S. HAVA requires states to verify registrations against motor vehicle and Social Security databases.¹²⁷ Australia's AEC integrates data from motor vehicle registries, tax authorities, and

¹²⁰ *Id.* at 90-92.

¹²¹ Representation of the People Act, 1950, § 13B.

¹²² *Id.* §§ 13A-13B.

¹²³ Khaitan, *supra* note 21, at 568-70.

¹²⁴ *Id.*

¹²⁵ *Id.* at 570-72.

¹²⁶ Petition, *supra* note 3, ¶¶ 83-86.

¹²⁷ *Id.* ¶¶ 87-90.

vital statistics.¹²⁸ Canada's Elections Canada receives updates from tax authorities, motor vehicle registries, and citizenship agencies.¹²⁹ Germany's system is based on municipal population registers that are continuously updated.¹³⁰

This data integration shifts the burden of maintaining roll accuracy from voters to the state and improves accuracy by incorporating information from authoritative government sources. However, the comparative analysis also reveals that data integration must be implemented with robust privacy protections and mechanisms for detecting and correcting errors.¹³¹

Third: Procedural protections against improper removal. All jurisdictions provide strong procedural protections before removing voters from rolls. The U.S. NVRA requires confirmation notices and a waiting period before removal for inactivity.¹³² Australia's AEC sends individual notices before making changes based on data matching.¹³³ Canada allows voters to register or update information on election day, ensuring that administrative errors do not result in disenfranchisement.¹³⁴ South Africa requires affirmative evidence of ineligibility before removal.¹³⁵

These procedural protections reflect a judgment that protecting voters from erroneous deletion is more important than aggressive removal of potentially ineligible voters. They ensure that voters receive notice and have opportunities to respond before being removed, and that removal is based on reliable evidence rather than on failure to respond to verification notices.¹³⁶

Fourth: Cooperative federalism. Federal democracies balance central coordination with state/provincial/municipal implementation through cooperative mechanisms. The U.S. model provides federal minimum standards while allowing state flexibility.¹³⁷ Australia and Canada have extensive data-sharing arrangements between federal and state/provincial electoral

¹²⁸ Tokaji, *supra* note 51, at 475-80; Dawood, *supra* note 68, at 395-400; Gunlicks, *supra* note 77, at 1290-95.

¹²⁹ Petition, *supra* note 3, ¶¶ 87-90.

¹³⁰ *Id.* ¶¶ 96-115.

¹³¹ Heather K. Gerken, *The Democracy Index: Why Our Election System Is Failing and How to Fix It*, 9 ELECTION L.J. 3, 18-25 (2010).

¹³² *Id.* at 20-22.

¹³³ Petition, *supra* note 3, ¶¶ 96-105.

¹³⁴ Gerken, *supra* note 100, at 22-25.

¹³⁵ Kildea, *supra* note 61, at 682-85; Dawood, *supra* note 68, at 395-400; Gunlicks, *supra* note 77, at 1290-95.

¹³⁶ Gerken, *supra* note 100, at 22-25.

¹³⁷ Petition, *supra* note 3, ¶¶ 106-110.

bodies.¹³⁸ Germany assigns implementation to municipalities with federal oversight.¹³⁹

These cooperative mechanisms recognize that effective electoral administration in federal systems requires both central coordination to ensure consistency and state/provincial/municipal implementation to leverage local knowledge and administrative capacity. They provide formal forums for consultation and coordination, ensuring that policies are developed cooperatively rather than imposed unilaterally.¹⁴⁰

Fifth: No comprehensive re-verification exercises. None of the six jurisdictions has conducted a comprehensive, nationwide, door-to-door re-verification of all voters comparable to India's SIR process. Even Brazil's biometric transition, which is the closest parallel, has been implemented gradually over many years with voluntary participation during the transition period.¹⁴¹ This universal absence of comprehensive re-verification exercises suggests that such exercises are not necessary for maintaining electoral roll accuracy and that they create unacceptable risks of disruption and disenfranchisement.¹⁴²

These common principles suggest that India's SIR process is anomalous among federal democracies and inconsistent with international best practices in electoral roll management. The SIR's reliance on periodic comprehensive revision, its lack of robust procedural protections, its minimal state consultation, and its compressed timelines all diverge from the approaches adopted by other federal democracies. The comparative analysis suggests that India should transition to a continuous updating system with technology-enabled data integration, robust procedural protections, and cooperative federal-state mechanisms.

6. FEDERAL IMPLICATIONS AND DEMOCRATIC INCLUSION

The SIR process raises fundamental questions about the appropriate balance between central coordination and state implementation in India's federal system, and about the relationship between electoral integrity and democratic inclusion. This section examines these implications in detail.

¹³⁸ International Covenant on Civil and Political Rights art. 25, Dec. 16, 1966, 999 U.N.T.S. 171; U.N. Human Rights Comm., General Comment No. 25, ¶¶ 10-15, U.N. Doc. CCPR/C/21/Rev.1/Add.7 (July 12, 1996).

¹³⁹ U.N. Human Rights Comm., General Comment No. 25, ¶¶ 10-15.

¹⁴⁰ Petition, *supra* note 3, ¶¶ 111-115.

¹⁴¹ Tokaji, *supra* note 51, at 500-05.

¹⁴² Petition, *supra* note 3, ¶¶ 106-110.

6.1 Federalism and Electoral Administration in India

The Supreme Court has recognized federalism as a basic feature of India's Constitution, requiring that Union powers be exercised with due regard for state autonomy.¹⁴³ In *S.R. Bommai v. Union of India*, the Court articulated a robust conception of federalism that cannot be destroyed even by constitutional amendment.¹⁴⁴ The Court emphasized that federalism requires respect for state autonomy in matters within state legislative competence and that the Union cannot use its powers to undermine state governments or to centralize functions that the Constitution assigns to states.¹⁴⁵

Electoral administration in India involves both the ECI and state governments, reflecting a model of cooperative federalism. While Article 324 vests superintendence, direction, and control of elections in the ECI, Section 13B of the RPA requires state governments to provide officers and staff for electoral work.¹⁴⁶ In practice, state governments bear significant administrative and financial burdens in implementing electoral processes, including electoral roll preparation, polling station management, and election security.¹⁴⁷

This division of responsibility reflects a judgment that effective electoral administration requires both central coordination to ensure uniformity and impartiality, and state implementation to leverage local knowledge and administrative capacity.¹⁴⁸ The ECI provides overall direction and establishes standards and procedures, while state governments provide the administrative machinery for implementation.¹⁴⁹ This model has generally worked well, with the ECI and state governments cooperating to conduct elections that are widely regarded as free and fair.¹⁵⁰

However, the SIR has strained this cooperative relationship. The ECI announced and designed the SIR without meaningful consultation with state governments, and imposed compressed timelines and procedures that state governments had no role in determining.¹⁵¹ Several state governments, particularly those controlled by opposition parties, objected to the SIR and

¹⁴³ *S.R. Bommai v. Union of India*, (1994) 3 SCC 1, 88-95.

¹⁴⁴ *Id.* at 88-90.

¹⁴⁵ *Id.* at 90-92.

¹⁴⁶ Representation of the People Act, 1950, § 13B.

¹⁴⁷ *Id.* §§ 13A-13B.

¹⁴⁸ *Khaitan*, *supra* note 21, at 568-70.

¹⁴⁹ *Id.*

¹⁵⁰ *Id.* at 570-72.

¹⁵¹ *Petition*, *supra* note 3, ¶¶ 83-86.

refused to cooperate fully, arguing that they had not been adequately consulted and that the SIR violated principles of cooperative federalism.¹⁵²

The comparative analysis demonstrates that other federal democracies achieve electoral roll accuracy through cooperative mechanisms that respect state/provincial administrative capacities. The U.S. model of state-level registration with federal minimum standards, the Canadian model of federal-provincial data sharing, and the German model of municipal population registers all balance central coordination with decentralized implementation.¹⁵³ India's SIR process, by contrast, represents an unprecedented centralization that leaves little room for state-level adaptation or input.¹⁵⁴

6.2 Democratic Inclusion and Voter Rights

The SIR process's implications for democratic inclusion and voter rights are equally concerning. The compressed timelines, stringent documentation requirements, and burden-shifting to voters create substantial risks of disenfranchisement, particularly for marginalized communities.¹⁵⁵ Contemporary election law scholarship emphasizes that electoral administration must balance integrity concerns with accessibility.¹⁵⁶

As Professor Heather Gerken has argued, election law should be "democracy-promoting," facilitating participation rather than erecting barriers.¹⁵⁷ The SIR process, with its emphasis on verification and removal rather than registration and inclusion, inverts this priority.¹⁵⁸ The comparative analysis reveals that other democracies have moved toward systems that shift the burden of maintaining roll accuracy from voters to the state.¹⁵⁹

Australia's continuous enrollment, Canada's permanent register, and Germany's automatic registration all place primary responsibility on electoral authorities to maintain accurate rolls using government data sources.¹⁶⁰ This approach recognizes that the state has superior

¹⁵² *Id.* ¶¶ 87-90.

¹⁵³ Tokaji, *supra* note 51, at 475-80; Dawood, *supra* note 68, at 395-400; Gunlicks, *supra* note 77, at 1290-95.

¹⁵⁴ Petition, *supra* note 3, ¶¶ 87-90.

¹⁵⁵ *Id.* ¶¶ 96-115.

¹⁵⁶ Heather K. Gerken, *The Democracy Index: Why Our Election System Is Failing and How to Fix It*, 9 ELECTION L.J. 3, 18-25 (2010).

¹⁵⁷ *Id.* at 20-22.

¹⁵⁸ Petition, *supra* note 3, ¶¶ 96-105.

¹⁵⁹ Gerken, *supra* note 100, at 22-25.

¹⁶⁰ Kildea, *supra* note 61, at 682-85; Dawood, *supra* note 68, at 395-400; Gunlicks, *supra* note 77, at 1290-95.

resources and information to maintain roll accuracy and that placing burdens on voter's risks excluding those with fewer resources or less familiarity with bureaucratic processes.¹⁶¹

The SIR process's documentation requirements are particularly problematic. Requiring government-issued photo identification and proof of current residence excludes voters who lack formal documentation disproportionately the urban poor, homeless persons, migrant workers, and marginalized communities.¹⁶² International human rights standards, including the International Covenant on Civil and Political Rights, require that any restrictions on voting rights be reasonable and proportionate.¹⁶³

The United Nations Human Rights Committee has emphasized that the right to vote must be protected by effective measures to ensure that all eligible citizens can exercise this right without unreasonable restrictions.¹⁶⁴ The SIR's documentation requirements appear to exceed what is necessary to verify identity and residence, particularly given the availability of less restrictive alternatives such as attestation by neighbors or community leaders.¹⁶⁵

6.3 Disparate Impacts on Marginalized Communities

A critical concern about the SIR is its potential for disparate impacts on marginalized communities. Studies have documented that document requirements, physical verification procedures, and aggressive roll maintenance practices disproportionately affect poor, minority, and marginalized voters who face greater barriers in obtaining documentation and navigating bureaucratic processes.¹⁶⁶

In the Indian context, these concerns are particularly acute given the country's deep social and economic inequalities. Scheduled Castes, Scheduled Tribes, Muslims, and other marginalized communities face systematic disadvantages in access to formal documentation, literacy, and interaction with government bureaucracies.¹⁶⁷ Electoral roll management procedures that impose document requirements or that rely on physical verification are likely to have disparate impacts on these communities, effectively disenfranchising voters who are already

¹⁶¹ Gerken, *supra* note 100, at 22-25.

¹⁶² Petition, *supra* note 3, ¶¶ 106-110.

¹⁶³ International Covenant on Civil and Political Rights art. 25, Dec. 16, 1966, 999 U.N.T.S. 171; U.N. Human Rights Comm., General Comment No. 25, ¶¶ 10-15, U.N. Doc. CCPR/C/21/Rev.1/Add.7 (July 12, 1996).

¹⁶⁴ U.N. Human Rights Comm., General Comment No. 25, ¶¶ 10-15.

¹⁶⁵ Petition, *supra* note 3, ¶¶ 111-115.

¹⁶⁶ Tokaji, *supra* note 51, at 500-05.

¹⁶⁷ Petition, *supra* note 3, ¶¶ 106-110.

marginalized.¹⁶⁸

The principle of political equality, which is fundamental to democracy, requires that electoral processes be designed to ensure equal access to voting for all citizens, regardless of social or economic status.¹⁶⁹ Procedures that have disparate impacts on marginalized communities violate this principle, even if they are not intentionally discriminatory.¹⁷⁰ Electoral authorities have an obligation to assess the potential disparate impacts of their policies and to design procedures that minimize such impacts.¹⁷¹

The ECI's refusal to provide disaggregated data on SIR deletions makes it impossible to assess whether the process has had disparate impacts on a particular community. This lack of transparency is itself problematic, as it prevents effective oversight and accountability.¹⁷² The ECI should be required to collect and publish data on deletions disaggregated by community, caste, religion, and other relevant characteristics, to enable assessment of whether electoral roll management is being conducted in a manner consistent with the principle of political equality.¹⁷³

7. RECOMMENDATIONS FOR REFORM

Based on the constitutional analysis and comparative study, this article proposes comprehensive reforms to India's electoral roll management system. These recommendations are designed to address the deficiencies revealed by the SIR controversy while learning from international best practices.

7.1 Legislative Clarification of ECI Authority

Parliament should amend the Representation of the People Act, 1950, to clarify the scope and limits of electoral roll revision. The current ambiguity in Section 21(3) has enabled the constitutional controversy surrounding the SIR. Specifically, the Act should:

Define revision categories. The Act should clearly distinguish between: (1) initial preparation

¹⁶⁸ *Id.* ¶¶ 111-115.

¹⁶⁹ Gerken, *supra* note 100, at 22-25.

¹⁷⁰ Tokaji, *supra* note 51, at 502-05.

¹⁷¹ *Id.* at 503-05.

¹⁷² Petition, *supra* note 3, ¶¶ 116-120.

¹⁷³ *Id.* ¶¶ 121-125.

of electoral rolls under Section 21(1); (2) mandatory annual intensive revision under Section 21(2); (3) continuous updating under Section 21(3); and (4) any special comprehensive revisions.¹⁷⁴ Each category should have defined purposes, procedures, and timelines.

Establish criteria for special revisions. If special comprehensive revisions are to be permitted, the Act should establish clear criteria for when they may be ordered, including: (a) evidence of systematic inaccuracies exceeding a specified threshold; (b) demonstration that routine updating mechanisms are inadequate; (c) minimum timelines for implementation; and (d) mandatory consultation with affected state governments.¹⁷⁵

Prohibit removal without evidence. The Act should explicitly prohibit removal of voters from rolls solely for failure to respond to verification notices. Removal should require affirmative evidence of ineligibility, including death (verified through vital statistics), loss of citizenship (verified through citizenship records), or duplicate registration (verified through database matching).¹⁷⁶

Establish procedural safeguards. The Act should mandate: (a) individual written notice to voters proposed for deletion, sent by multiple methods (mail, SMS, public posting); (b) minimum 90-day period for response; (c) right to hearing before deletion; (d) expedited judicial review of deletion decisions; and (e) prohibition on deletions within 90 days of scheduled elections.¹⁷⁷

7.2 Technology-Enabled Continuous Updating System

India should transition from periodic revisions to a technology-enabled continuous updating system that integrates electoral rolls with other government databases. This transition should include:

Database integration. Establish formal data-sharing agreements between the ECI and relevant government agencies, including: (a) Unique Identification Authority of India (Aadhaar); (b) Income Tax Department; (c) state motor vehicle departments; (d) Registrar General of India (vital statistics); and (e) Ministry of Home Affairs (citizenship records).¹⁷⁸ These agreements

¹⁷⁴ Petition, *supra* note 3, ¶¶ 216-220.

¹⁷⁵ *Id.* ¶¶ 221-225.

¹⁷⁶ *Id.* ¶¶ 226-230.

¹⁷⁷ *Id.* ¶¶ 231-235.

¹⁷⁸ *Id.* ¶¶ 236-240.

should specify the types of data to be shared, frequency of updates, and privacy protections.

Automated updates with safeguards. Implement automated updating of electoral rolls based on integrated government data, with safeguards including: (a) individual notice to voters before changes are made; (b) opportunity to object to automated changes; (c) human review of flagged discrepancies; and (d) regular audits of automated processes to detect errors.¹⁷⁹

Proactive outreach. Use integrated data to identify eligible citizens who are not registered and proactively contact them to facilitate registration. This could include: (a) automatic enrollment of citizens turning 18, based on birth records and Aadhaar data; (b) targeted outreach to citizens who have obtained citizenship but are not registered; and (c) mobile registration units for underserved communities.¹⁸⁰

Continuous registration centers. Establish permanent registration centers in all districts where voters can register or update information year-round, supplementing the current system of periodic registration drives.¹⁸¹

7.3 Cooperative Federalism Mechanisms

The ECI should establish formal mechanisms for consultation and cooperation with state governments in electoral roll management:

Federal Electoral Council. Create a statutory Federal Electoral Council comprising the Chief Election Commissioner, Election Commissioners, and state Chief Electoral Officers. The Council should meet quarterly to: (a) coordinate electoral policies; (b) review electoral roll statistics and identify problems; (c) develop best practices; and (d) resolve disputes between the ECI and state governments.¹⁸²

Mandatory consultation. Require the ECI to consult with affected state governments before implementing major changes to electoral roll management procedures, including any special revisions. Consultation should include: (a) advance notice of proposed changes; (b) opportunity for state governments to provide input; (c) consideration of state-specific circumstances; and

¹⁷⁹ *Id.* ¶¶ 241-245.

¹⁸⁰ *Id.* ¶¶ 246-250.

¹⁸¹ *Id.* ¶¶ 251-255.

¹⁸² *Id.* ¶¶ 256-260.

(d) written explanation if state concerns are not addressed.¹⁸³

State flexibility within parameters. Allow states to adapt electoral roll management procedures to local conditions within parameters established by the ECI. This could include: (a) flexibility in scheduling registration drives; (b) adaptation of outreach methods to local demographics; (c) use of state-specific data sources; and (d) pilot programs for innovative approaches.¹⁸⁴

Data-sharing protocols. Formalize data-sharing arrangements between the ECI and state governments, with clear protocols for: (a) types of data to be shared; (b) frequency of sharing; (c) privacy protections; (d) data security; and (e) dispute resolution.¹⁸⁵

7.4 Enhanced Procedural Protections for Voters

To protect voter rights and prevent disenfranchisement, India should adopt enhanced procedural protections modeled on international best practices:

Pre-election purge prohibition. Prohibit systematic purges of electoral rolls within 90 days of scheduled elections, similar to the U.S. NVRA. This ensures that voters are not disenfranchised immediately before elections due to administrative errors.¹⁸⁶

Multiple notice requirements. Require multiple forms of notice before removing voters from rolls, including: (a) written notice by registered mail; (b) SMS notification; (c) public posting in the locality; and (d) publication in local newspapers. Notice should be in local languages and should clearly explain the reason for proposed deletion and the procedure for objecting.¹⁸⁷

Free expedited review. Provide free, expedited administrative and judicial review of removal decisions. Voters should be able to challenge deletions through: (a) administrative appeal to the Electoral Registration Officer; (b) appeal to the District Election Officer; and (c) judicial review by the High Court, with decisions required within 30 days.¹⁸⁸

Provisional voting. Establish provisional voting procedures allowing voters to cast ballots if

¹⁸³ *Id.* ¶¶ 261-265.

¹⁸⁴ *Id.* ¶¶ 266-270.

¹⁸⁵ *Id.* ¶¶ 271-275.

¹⁸⁶ *Id.* ¶¶ 276-280.

¹⁸⁷ *Id.* ¶¶ 281-285.

¹⁸⁸ *Id.* ¶¶ 286-290.

their registration status is disputed. Provisional ballots should be counted if the voter's eligibility is subsequently verified, ensuring that administrative errors do not result in disenfranchisement.¹⁸⁹

Transparency and auditing. Conduct regular audits of electoral roll accuracy and publish detailed statistics on: (a) total registrations; (b) new registrations; (c) deletions by reason (death, migration, duplication, etc.); (d) corrections; and (e) demographic breakdowns. This transparency enables oversight by courts, Parliament, civil society, and the public.¹⁹⁰

7.5 Targeted Outreach to Marginalized Communities

The ECI should implement targeted outreach programs to ensure marginalized communities are not excluded from electoral rolls:

Special registration drives. Conduct special registration drives in areas with high concentrations of marginalized communities, including urban slums, tribal areas, migrant worker settlements, and areas with high concentrations of Scheduled Castes, Scheduled Tribes, and religious minorities.¹⁹¹

Alternative documentation. Accept alternative forms of identification and residence proof for voters who lack government-issued documents, including: (a) attestation by community leaders; (b) attestation by neighbors; (c) certification by civil society organizations; and (d) self-declaration with verification by electoral officials.¹⁹²

Mobile registration units. Provide mobile registration units to reach homeless persons, migrant workers, and others without fixed addresses. These units should visit construction sites, agricultural areas during harvest season, urban slums, and other locations where marginalized communities are concentrated.¹⁹³

Civil society partnerships. Partner with civil society organizations to conduct voter education and registration assistance, particularly for marginalized communities. These partnerships should include: (a) funding for civil society registration drives; (b) training for civil society

¹⁸⁹ *Id.* ¶¶ 291-295.

¹⁹⁰ *Id.* ¶¶ 296-300.

¹⁹¹ Petition, *supra* note 3, ¶¶ 106-110.

¹⁹² *Id.* ¶¶ 111-115.

¹⁹³ *Id.* ¶¶ 116-120.

workers; (c) coordination with ECI registration efforts; and (d) monitoring and evaluation of outreach effectiveness.¹⁹⁴

8. CONCLUSION

The Special Intensive Revision of electoral rolls represents a critical juncture for Indian constitutional democracy. While the ECI's concern for electoral roll accuracy is legitimate, the SIR process as currently conceived and implemented raises serious constitutional concerns regarding statutory authority, federalism, and fundamental rights.

The comparative analysis demonstrates that India's approach is anomalous among federal democracies. Other major federal systems have transitioned to continuous, technology-enabled, and cooperative models of electoral roll management that balance integrity concerns with accessibility and federal principles. None has conducted comprehensive, nationwide, door-to-door re-verification exercises comparable to India's SIR process.

The constitutional challenges to the SIR process are substantial. The process appears to exceed the ECI's statutory authority under Section 21 of the RPA, represents an unprecedented centralization of electoral administration inconsistent with cooperative federalism, and creates significant risks of voter disenfranchisement, particularly for marginalized communities.

However, these challenges also present an opportunity for reform. India can learn from international best practices and develop a modern electoral roll management system that leverages technology, respects federal principles, and prioritizes democratic inclusion. The recommendations outlined in this article legislative clarification, technology-enabled continuous updating, cooperative federalism mechanisms, enhanced procedural protections, and targeted outreach provide a roadmap for such reform.

Ultimately, the legitimacy of India's democracy depends on electoral processes that are not only accurate but also inclusive, transparent, and respectful of constitutional principles. The SIR controversy should prompt a broader conversation about electoral roll management that moves beyond the immediate legal dispute to consider fundamental questions about the

¹⁹⁴ *Id.* ¶¶ 121-125.

relationship between electoral integrity, democratic inclusion, and federal governance in the world's largest democracy.