



## Mains Practice Question

**Q.** Evaluate the adequacy of constitutional and legal provisions that ensure the independence of the Election Commission. What reforms would strengthen its autonomy? **(250 words)**

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### Approach

- Introduce the answer by briefing the constitutional position of Election Commission
- Give Key Constitutional and Legal Safeguards Ensuring ECI's Independence
- Highlight the Challenges Undermining the Independence of the Election Commission and suggest Reforms to Strengthen the Election Commission's Autonomy
- Conclude by addressing the demand of the question in brief.

### Introduction

The **Election Commission of India (ECI)** is a constitutional body responsible for conducting free and fair elections under **Article 324** of the Indian Constitution. While constitutional and legal provisions provide safeguards, concerns remain regarding **executive influence, financial dependence, and weak enforcement powers**.

### Body

#### Adequacy of Existing Provisions Ensuring the Independence of the Election Commission

- **Constitutional Authority under Article 324:** Article 324 grants the Election Commission (ECI) autonomy over the superintendence, direction, and control of elections to Parliament, state legislatures, and the offices of the President and Vice President.
  - However, it lacks institutional safeguards against executive influence. (*E.g., executive's greater role in appointments of Election Commissioners.*)
- **Security of Tenure for the Chief Election Commissioner (CEC):** The CEC cannot be removed except through impeachment, similar to a Supreme Court judge, ensuring stability.
  - However, Election Commissioners (ECs) do not enjoy the same protection, as they can be removed by the President on the recommendation of the CEC, making them more vulnerable to government pressure.
- **Financial Autonomy Provisions:** ECI's expenditures are charged to the Consolidated Fund of India, preventing abrupt financial cuts.
  - However, it still depends on the executive for budget approvals, limiting its operational independence. (*E.g., Unlike CAG, ECI lacks direct financial control.*)
- **Judicial Safeguards and Precedents:** Supreme Court rulings, such as *T.N. Seshan v. Union of India* (1995), upheld ECI's independent authority in conducting elections.
  - The Anoop Baranwal case (2023) led to a directive for a collegium-based appointment process, though later overridden by the 2023 Act, restoring executive control.
- **Powers to Conduct Free and Fair Elections:** The ECI can enforce the Model Code of Conduct

(MCC) and regulate political parties.

- However, MCC lacks statutory backing, making enforcement weak. (E.g., *In 2019, hate speech violations by political leaders led only to warnings.*)

▪ **Legal Protection Against Judicial Interference (Article 329):** Article 329 bars direct judicial intervention in electoral matters except through election petitions, preventing undue delays in the electoral process.

- However, ambiguities remain, leading to conflicting interpretations by courts, sometimes delaying election-related decisions. (E.g., *Delays in disqualification cases of legislators.*)

▪ **Institutional Structure and Bureaucratic Support:** The ECI has a permanent bureaucratic setup at the central and state levels to conduct elections.

- However, it relies on government personnel (IAS, IPS officers) during elections, raising concerns of administrative influence. (E.g., *Allegations of partisan behavior by state election officials.*)

### Reforms to Strengthen the Election Commission's Autonomy:

▪ **Institutional Reforms for Appointment and Removal:** Revise the 2023 Act to introduce a **collegium system** comprising the **Prime Minister, the Chief Justice of India, and the Leader of the Opposition** for the appointment of Election Commissioners.

- There is a need to ensure that **Election Commissioners (ECs) receive the same removal protections as the Chief Election Commissioner (CEC)** to uphold institutional independence and safeguard against arbitrary dismissals.

▪ **Ensuring Financial Autonomy:** Amend the financial provisions to **charge the Election Commission of India's (ECI) budget directly to the Consolidated Fund of India**, similar to the **Comptroller and Auditor General (CAG) and the Supreme Court**, thereby guaranteeing financial independence and insulating the ECI from executive influence.

▪ **Strengthening Legal Backing for the Model Code of Conduct (MCC):** **Model Code of Conduct (MCC) can be granted a statutory status**, making its provisions legally enforceable and allowing for **stricter penalties on violations**.

- Establish a **dedicated Election Tribunal** to facilitate **swift adjudication of electoral disputes**, ensuring timely and effective resolution of violations.

▪ **Empowered Penal Authority:** Amend the Representation of the People Act, 1951 to introduce specific provisions to penalize the deliberate spread of misinformation and deep fake content during elections.

- Impose strict liability on political parties and candidates for disseminating fake news.

### Conclusion

While the **safeguards for ECI are significant but not fully adequate**, further strengthening is needed to enhance its autonomy. Reforms like a collegium-based appointment process, financial independence, and legal backing for MCC can ensure greater transparency and fairness in elections and enhance institutional autonomy.