Mains Practice Question

Q. The role and institutional independence of the Election Commission of India (ECI) has been a subject of increasing debate in recent times. Discuss the key issues affecting its functioning and suggest reforms to enhance its autonomy. (250 words)

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Approach:

- Introduce the importance of the Election Commission of India (ECI) and its constitutional significance.
- Highlight the challenges to its institutional independence and functioning and recommend measures to enhance its autonomy and effectiveness.
- Conclude suitably.

Introduction:

The Election Commission of India, which has been mandated to conduct free and fair elections in the country (Article 324), has faced scrutiny on multiple fronts in recent years regarding its independence by various political leaders, civil society organizations, former bureaucrats, and citizen groups across the country.

Body:

Key Issues Affecting ECI's Functioning:

- **Political Interference**: The recent CEC and ECs Appointment Act mandates that **appointments be made based on recommendations from the selection committee**, which draws from a panel prepared by a search committee.
    - However, both the **search and selection committees are often criticised for being dominated by the Union** Government.
    - Furthermore, the **selection committee has the authority to bypass the search committee's recommendations,** granting greater power to the Union Government-dominated selection committee.
- **Insecurity of Tenure for ECs**: While **ECs enjoy equal powers to the CEC,** they do not have the same security of tenure. They can be removed based solely on the recommendations of the CEC, making them vulnerable to executive pressure.
- **Financial and Administrative Dependence:** Unlike judiciary, the ECI's expenditure is not charged directly to the CFI, making it dependent on the government for the finances.
    - Moreover, The ECI **relies on government staff** for conducting elections, which limits its financial autonomy.
- **Limited Powers:** The ECI's authority **in regulating political parties is restricted**, as it **lacks the power to de-register parties** for serious violations.
    - In the past few years ECI has been criticised for failing to curb hate speeches during election campaigns, but the ECI has argued that it is largely "powerless" in these matters.
- **Weak Enforcement Mechanism:** While the **ECI has the power to take action against**

violators of election laws, its enforcement mechanisms are often perceived as weak, especially when dealing with high-profile politicians or parties.
    - Moreover, it has been termed as "harmless spectator" to violations of MCC as it doesn't have the legal backing.
  - **Election Malpractices:** Despite technological advancements like **EVMs and VVPAT,** electoral malpractices such as **fake voting, booth capturing, and vote-buying coercion**, etc. remain persistent challenges that impact the credibility of elections.
  - **Emerging Challenges:** The rise of social media has created new challenges for the ECI, **with the spread of disinformation** and fake news impacting voters' decisions.
    - The use of deepfake technology and social media campaigns needs more stringent monitoring to maintain electoral integrity.

Reforms to Enhance ECI's Autonomy:

  - **Independent Appointment Process:** The SC's ruling in *Anoop Baranwal vs. Union of India* (2023) advocated for a **collegium system** to appoint the CEC and ECs, to be followed until Parliament enacts a new law governing such appointments.
    - The judgment, delivered post the **2023 Act**, proposed a **collegium of the PM, Lok Sabha Opposition Leader, and Chief Justice of India.**
  - **Security of Tenure:** The removal process for ECs should mirror that of Supreme Court judges, as recommended by the **255th Law Commission Report,** to ensure independence and protection from executive interference.
  - **Institutional Autonomy:** A dedicated, independent secretariat for the Election Commission of India should be established to strengthen its functional and administrative autonomy, in line with the **255th Law Commission Report.**
  - **Strengthening Legal and Enforcement Powers:** Provide the ECI with greater legal authority, including the power to de-register political parties for violations and enforce the MCC with legal backing. This will enhance the ECI's ability to take decisive actions against electoral malpractices.
  - **Contempt Power to ECI:** The ECI has time and again demanded contempt power to prevent criticism by political parties/leaders with malafide intentions that hold no water.
  - **Incorporating Technology:** Leverage AI and data analytics to detect **hate speech and fake news on social media.**
    - Additionally, using facial recognition and Aadhaar-linked voter IDs can **help prevent bogus voting** and improve voter verification processes.
  - **Inclusive Voting Mechanisms**: Introduce measures to improve voter turnout, especially in regions affected by internal migration.
    - **Remote Electronic Voting Machines (RVMs)** could be tested to allow migrant workers to vote in their home constituencies.

Conclusion:

Strengthening the autonomy of the ECI is essential to safeguarding democracy and ensuring that elections in India continue to be free, fair, and credible. To strengthen ECI's independence and functioning, it is crucial to implement reforms such as an **independent appointment process, enhancing its legal and enforcement powers**, and using technology to tackle emerging challenges.