



## CBI's Shrinking Jurisdiction

This editorial is based on [“What CBI's shrinking jurisdiction implies”](#) which was published in Hindustan Times on 21/09/2022. It talks about the issues related to the Central Bureau of Investigation and solutions.

**For Prelims:** Central Bureau of Investigation, Delhi Special Police Establishment Act, 1946, National Investigation Agency (NIA), Cooperative Federalism, Prevention of Corruption Act, Supreme Court of India, 7th schedule of the Indian Constitution.

**For Mains:** Background of Establishment of CBI in India, Major Functions of the CBI, Challenges Related to the CBI

The [Central Bureau of Investigation](#) is an **extra constitutional, multidisciplinary investigation agency** of the Government of India, officially designated single point of contact for liaison with the [Interpol](#).

CBI is empowered to investigate cases of **corruption, bribery and misconduct** of Central government employees and take up any case of public importance on the request of a state government.

But currently, the CBI is in the eye of the storm as the opposition parties allege that the federal agency is targeting them. **As of now, 9 Indian states have withdrawn consent to the CBI** for prosecution in their respective jurisdictions. Distrust in CBI by a **third of India's states** underlines the **weakening spirit of cooperative federalism**.

### What is the Background of Establishment of CBI in India?

- In **1941, Government of India** established the **Special Police Establishment (SPE)**, which is the **forerunner** of the Central Bureau of Investigation
  - During [World War II](#), the SPE's role was to examine accusations of bribery and corruption in dealings with the **Indian War & Supply Department**.
- After **World War II**, the necessity for a Central Government body to examine accusations of bribery and corruption by Central Government workers was realised.
  - As a result, the **Delhi Special Police Establishment Act** was enacted in **1946**.
  - The SPE's supervision was shifted to the Home Department, and its **powers were expanded to include all departments of the Indian government**.
- In **1963**, the [Ministry of Home Affairs](#) altered the name of the Special Police Establishment to the **Central Bureau of Investigation (CBI)**.
  - CBI was established on the recommendations of [Santhanam Committee on Prevention of Corruption \(1962-1964\)](#).
- Currently, CBI functions under the Department of Personnel, [Ministry of Personnel, Pension &](#)

## What are the Major Functions of the Central Bureau of Investigation(CBI)?

- Investigating cases of **corruption, bribery and misconduct** of Central government employees under the [Prevention of Corruption Act](#) against Indian public officials, **public sector undertakings**, corporations, and bodies that are owned or controlled by the Indian government.
- Investigating cases relating to infringement of **fiscal and economic laws**, that is, breach of laws concerning export and import control, customs and central excise, income tax foreign exchange regulations.
  - **Example:** [Fake Indian Currency Notes](#), [Bank Frauds](#), [Import Export & Foreign Exchange violations](#) etc.
- Taking up, **on the request of a state government**, any case of public importance for investigation. Whereas, it can **suo-moto** take up investigation of offences in the **Union Territories**.
- Maintaining **crime statistics** and disseminating criminal information.

## What are the Current Issues Related to the Central Bureau of Investigation (CBI) ?

- **CBI v/s State Police:** Along with state police forces, the **Special Police Establishment (a division of CBI)** enjoys the concurrent powers of investigation and prosecution for offences that sometimes **leads to duplication and overlapping of cases**.
- **Narrow Investigation Arena:** CBI investigation in a particular state is subjected to approval by the State Government.
  - The ruling party in a state, sometimes genuinely and many times on flimsy grounds, has **denied permission** to the CBI to investigate matters, thereby **limiting the extent of investigations**.
- **Face-off with Other Law Enforcement Agencies:** There have been instances when the CBI faced-off with other law enforcement agencies like the [Intelligence Bureau \(IB\)](#), [Income Tax Authorities \(ITA\)](#), [Directorate of Enforcement](#).
  - These were also due to the **CBI lacking legal powers to operate on an all-India basis**.
- **Political Interference:** The [Supreme Court of India](#) has criticised the CBI for excessive political interference in its functioning, calling it a "**caged parrot speaking in its master's voice**".
  - Governments have often used it to hide wrongdoing, keep coalition partners in line, and deter political opponents.
  - In 2019, the **then CJI** questioned the CBI's role in "politically sensitive" cases, suggesting there was a "**deep mismatch between institutional aspirations and governing politics**".

## What Should be the Way Forward?

- **Incorporation of Statutory Provisions:** CBI first needs a **dedicated and separate law** that can provide it with unequivocal statutory backing and resolve concerns regarding the CBI's legal status.
  - A new CBI Act should be promulgated in a manner that it ensures the **autonomy of CBI** while at the same time **improving the quality of supervision**.
- **Insulation from Political Current:** The SC had observed that there is a need to "**provide permanent insulation**" to agencies like **CBI against extraneous political influences** to enable them to discharge their duties in the manner required for proper implementation of the rule of law.
- **Internal Revitalisation of CBI:** In order for CBI to function effectively, not only the extrinsic factors, but also the intrinsic ones such as the **code of conduct**, **fixed tenure** of officers, and the **consensus building between different departments** will have to be taken into account so that the **sanctity, credibility, sustainability and durability of the agency is maintained**.
- **Recommendations of Parliamentary Standing Committee:** The 24<sup>th</sup> report of Department related [parliamentary standing committee](#) on personnel, public grievances, law and justice on working of CBI recommended the following:

- Infrastructure investments should be improved
- Enhancing CBI's strength to strengthen human resources
- To give the CBI more powers (related to the **Union, State and Concurrent lists**).

### ***Drishti Mains Question***

“Recent distrust in a CBI due to mismatch between institutional aspirations and governing politics underlines the weakening spirit of cooperative federalism.” Comment.

### **UPSC Civil Services Examination, Previous Year Question (PYQ)**

**Q.** The jurisdiction of the Central Bureau of Investigation (CBI) regarding lodging an FIR and conducting a probe within a particular state is being questioned by various States. However, the power of the States to withhold consent to the CBI is not absolute. Explain with special reference to the federal character of India. **(2021)**

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