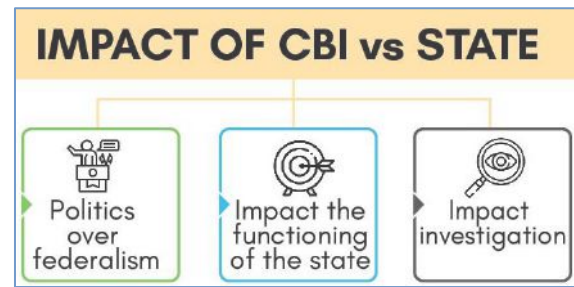


- **General consent for the CBI**
 - Under DPSE Act, CBI must **mandatorily obtain the consent of state government** concerned before beginning to investigate a crime in a state.
 - The consent of state government can be **either case-specific or general**.
 - A “general consent” is normally given by states to **help the CBI in seamless investigation of cases of corruption** against central government employees in their states.
 - In absence of general consent, **CBI would have to apply to the state government in every case**, and before taking even small actions.
- **Extra territorial operation:** Concept of CBI is more advanced involving specialized information, technical knowledge whilst incorporating extra territorial operation.



Why such issues emerge in a case of Cooperative Federalism in India?

Cooperative federalism is the horizontal relationship between union and states and shows neither is above the other. However, various issues have been emerging in ensuring Cooperative Federalism due to following reasons:

- **Concurrent jurisdictions:** Bodies like CBI, NCB etc requires in multi-jurisdictional crimes, yet its concurrence with the local police force and pre-emptions cause re-curent federal issues.
- **Power tilted to Centre:** It is injurious to the interests of the country to provide for a weak central authority which would be incapable of ensuring peace.
- **Complexity of Article 131:** Over the years, SC has taken heterogeneous decisions on whether a state can challenge the Centre under Article 131.
 - **Ex:** Under Article 131, Chhattisgarh government challenged National Investigation Act, 2008 passed by Centre in spite of police being a state subject.
- **No body to foster coordination & conflict resolution:** As Inter-State Council Secretariat was set up within Ministry of Home Affairs, it ceased to be an independent body to foster coordination, manage intergovernmental bargaining and conflict resolution.
 - Presently, there is no independent institution to resolve Centre-state and inter-state issues.
- **Centralization of power creating friction:** Trust deficit between Centre and States is widening.
- **Different political parties:** When different political parties form governments at Centre and State, often their interests don't align.

Way forward

- **Transparency and coordination among Centre and states:** There is need to be transparent about current macro-economic scenario and revisit revenue projections that offers strategic pathways for consultation with states.
- **Committee's Suggestions: Sarkaria and Punchhi Commission** recommended to cultivate cooperative federalism and suggested actionable steps such as:
 - **office of Governor should be apolitical**, and terms of his removal should be altered;
 - extending **the mandate of Inter-State Council** beyond advice and recommendations;
 - laying down guidelines to prevent misuse of **President's veto of legislation**;
 - **Include states** when Centre enters into any international agreements.
- **Giving Fiscal space:** Gradual widening of fiscal capacity of states has to be legally guaranteed without reducing Centre's share.
- **Electoral reforms:** Creating a level playing field for regional political parties to facilitate more competitive political contest between national and regional political forces.
- **Specific recommendations for bodies like CBI:**
 - **Following European principle of subsidiarity**, framing definite grounds on which state governments can restrict general consent or transfer cases to CBI for higher-level investigation can aid in reducing the friction between central and state governments.
 - Giving **statutory recognition to CBI** will provide it with constitutional recognition independent of its existence from DPSE Act.