

# NLIU मंथन

## *Discuss, Debate and Deliberate*

### Summary of Discussion held on 31<sup>st</sup> July, 2013 in Academic Block- I

#### *“Autonomy of the CBI”*

The discussion began in light of the recent remark of the Supreme Court about the CBI being *"a caged parrot speaking in its master's voice"*. The topic was divided into the following 5 sub-heads for the sake of discussion: Need and extent of Autonomy, Jurisdiction of CBI, Appointment, term and removal of CBI Director, Control and Accountability

The forum felt that there is an urgent necessity to give autonomy to CBI due to the following reasons:

1. Financial autonomy will ensure its efficient functioning,
2. Will help investigate cases against the Government in an impartial manner,
3. To prevent it from being responsible just to the Central Government and being used against political rivals,
4. To make it responsible to the people of India by making it responsible to the Legislature as a whole,
5. To reduce the Union control so as to give a federal character,
6. Autonomous CBI will work in an impartial manner, ensuring that justice is not only done but also appears to be done,
7. Executive interference in its functioning has hampered and threatens to hamper justice in future,<sup>1</sup>

The discussion moved forward questioning the present sanction requirement where in for investigation and prosecution ,the CBI needs sanction from Central and State government in cases of Central and State officials respectively. The forum agreed that the basic autonomy to be secured should be functional autonomy of CBI which does not depend upon what cases are given to it, but depends upon the ability of CBI to investigate these cases without any interference. However, it was agreed that in order to ensure equality of justice, the Centre and State government should not be allowed to sanction the cases to be investigated by CBI, rather it was suggested that a Committee comprising of the CBI Director, a retired High Court judge and the DGP of the concerned State be given the responsibility to decide which case should be investigated by the CBI.

It was pointed out that the present system of appointment of CBI Director by Centre Cabinet headed by the Prime Minister from a panel of three officers recommended by committee is prime hindrance in ensuring autonomy of the CBI. The forum discussed over the possibility of bringing the administrative control of CBI under judiciary so as to ensure that the trial is not hindered due to undue influence of the executive. But the above suggestion was rejected as being detrimental to the separation of power within Indian polity. The forum agreed with the proposal made by the Government in its recent affidavit that the CBI Director be appointed by a *collegium* comprising of Prime Minister, Chief Justice of India and the Leader of Opposition.

In relation to removal of the CBI Director, the forum did not agree with the proposal of Government in its affidavit wherein it has suggested that the removal of CBI Director can only be done only by the President. The forum rejected the above proposal and suggested that the removal be done by the *collegium* that appointed the

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<sup>1</sup> Jagdish Tyler, Ottavio Quattrocchi and Shibu Soren ( [http://www.voi.org/index2.php?option=com\\_content&do\\_pdf=1&id=138](http://www.voi.org/index2.php?option=com_content&do_pdf=1&id=138)) (accessed on 31<sup>st</sup> July, 2013).

CBI Director based on an independent report submitted by a three judge committee of retired High Court judges.

While discussing the officers which should man the cadre of CBI it was suggested that the present system of having a mix of permanent cadre along with officers on deputation can be continued with modification that the CBI Director be allowed to induct officer till the rank of S.P. and not till inspectors. It will allow the officers from CBI cadre to man the top positions in the CBI and the involvement of officers on deputation from the states would ensure active participation of state police machinery in investigation in different states.

The forum supported the demand of CBI to have its own panel of lawyers thereby giving it greater autonomy, especially in politically-sensitive investigations. Also, the following proposal of Central Government made in the affidavit before the Supreme Court, were agreed upon:

1. CBI budget may be separately put up directly to Department of Expenditure through the minister.
2. The CBI Director be given a minimum 2 years term.

However, the forum failed to reach a consensus over the issue of ensuring accountability of CBI by way of an accountability commission to look into complain against CBI officers because it was partially felt that internal disciplinary mechanism would be more appropriate for organisation like CBI.

It was even felt by the forum that the autonomy of CBI would be furthered by making the CBI Director ineligible to hold any further government appointment for a period of 5 years after stepping down from the office.