

# CENTRE – STATE RELATIONS IN INDIA



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# Introduction:

- **Part XI & Part XII** of the constitution running from Article **245 – 293** deals with centre – state relations in India.
- An essential feature of federalism is **division of powers**.
- The constitution under **Part XI deals with legislative and administrative relations**.
- And Part XII deals with **Financial relations** between the two levels of governments.
- Thus, our constitution itself has clearly divided and distributed the legislative, executive & financial powers between the centre & states.

# I. Legislative Relations:

- The constitution of India has distributed the law making power between the two governments in two different ways –
  1. **With respect to Territory** (Territorial Jurisdiction) &
  2. **With respect to Subject-matter.**

The Union Parliament can make laws for the whole or any part of the Indian territory whereas the State legislature can make laws which are applicable within its territorial limits only.

## 2. Jurisdiction regarding the subject – matter:

- The Union Parliament has exclusive power of legislation on all matters enumerated in **the Union list**
- The State legislature can make laws on subjects mentioned in the **State List**.
- Regarding the subjects mentioned in the **Concurrent List** both have the jurisdiction to make laws.
- But in case of a conflict between the state law & central law, ultimately the central law will prevail over state law.
- In our Federalism, **Residuary Powers** are given to the union parliament to be legislated(Art. 248).
- In other federations residuary powers are vested with the states.
- From Article **245 to 255** of the constitution deals with the legislative relations b/w the centre and the states.



# Union Parliaments Power to Legislate on State subjects:

- Under the following exceptional circumstances the union parliament is authorized to make legislations on a State subject –
  1. Power to legislate **in the national interest(Art.249)**,
  2. Power to legislate **during the period of emergency (Art. 250)**,
  3. Power to legislate with **the consent of the States (Art. 252)**,
  4. Power to legislate **to give effect to International Treaties & Agreements(Art. 253) &**
  5. Power to legislate **in case of failure of constitutional machinery in a State(Art. 256)**.

# 1. Power to legislate in the national interest(Art. 249):

- In this direction the Rajya Saba has to pass a resolution by 2/3 majority and authorize the union parliament to make a legislation on a **subject in the state list if it assumes any national importance.**

## 2. Power to legislate during the period of emergency(Art. 250):

- **During National emergency** the Union Parliament can legislate on any subject in all the three lists.
- But such laws ceases to operate after six months of expiration of emergency.

### 3. Power to legislate with the consent of the states(Art. 252):

- If the legislature of two or more states passes a resolution authorizing the Union Parliament to pass a law on a subject in the state list.



## 4. Power to legislate to give effect to I.N. treaties and agreements(Art. 253):

- This provision authorize the Union Parliament to legislate even a subject in the state list if it is needed to give effect or implement international treaties or agreements effectively.

## 5. Power to legislate in case of failure of constitutional machinery in a

### State(Art. 256):

- The Union Parliament is authorized to pass legislation on any subject coming under the state list during the times of state emergency.

# Union Governments control over State Legislation:

- The consent of the centre is a must for certain bills to be passed by the state legislature on certain subjects like –
  - a. A state law providing for **compulsory acquisition of private property** shall have no effect unless it has received the consent of the President[Art. 31(b)].
  - b. Governor of a state can reserve a bill passed by the state legislature **for the consideration of the President**(if it goes against the independence of the High Court).[Art. 200]

# Centre's control over state legislations.....

- C. A state law is authorized **to tax in respect to water or electricity** but such a law shall be valid only if it is reserved for the consent of the president{Art. 288(2)}.
- d. Laws imposing reasonable restrictions on the freedom of trade, commerce cannot be introduced in the state legislature without the **previous sanction of the President**[Art. 304(b)]
- President can use **absolute veto power** over state legislations.
- Above various constitutional provisions clearly illustrates the fact that **the centre has overwhelming legislative powers than that of the state.**

# II. Administrative Relations (Art.256-263)

- The Indian constitution contains detailed provisions relating to the administrative relations between the centre and the states so as to prevent any clash between the two in this regard.
- **The central government is very powerful** even in the administrative sphere also.
- **Part XI chapter 2 of the constitution** deals with the administrative relationship between the centre and the states.
- Administrative relations between the union and the states of the federation may be examined under two respects –
- **1. Techniques of Union control over states &  
2. Inter – state comity.**

# I. Control of Union Over States:

- Even during normal times, Art, 256 to 263 provide for union control over the states in the following ways –
  - a. Directions to the state governments,**
  - b. Delegation of union functions to the states,**
  - c. All India Services &**
  - d. Grants-in-aid.**



# a. Direction by the Centre to the States:

- The union government can issue directions to the states for the following circumstances –
  1. The centre can issue directions to the **states for the proper execution of the laws passed by the parliament(Art. 256).**
  2. It can also give directions to the state **governments as to in which way the state should exercise its executive power** without in any way impeding the exercise of the executive power of the union(Ar. 257).
  3. It can also give directions to the **state as to the construction and maintenance of the means of communication** which are of national and military importance.
  4. The Union government can also give directions to the states regarding the measures to be taken **for the protection of railways within the boundaries of the state.** The expenses incurred by the state governments , on this account are paid by the union.
  5. If the state government fails to carry out any of the directions of the Union , the president has been empowered to impose Presidents rule over such state after dismissing the state government concerned.

## b. Delegation of Union Functions to the State:

- The Parliament may with the consent of the State government entrust either conditionally or unconditionally to that government or to its officers, functions relating to any matter falling within the executive powers of the union.
- **Thus, the states may be converted into agents of the union government.**
- However, any extra cost incurred by the state for carrying out such an obligation is to be paid by the Union.



## c. All India Services:

- The IAS, IPS and other officers appointed by the UPSC are expected to serve the state governments.
- They draw their salaries and allowances from the state governments but **their service matters are decided by the centre.**
- The presence of these services makes the authority of the central government dominant over the states.
- These services are instituted **to ensure greater interstate co-ordination and implementation of the policies of the central government .**
- This also enables the central government to exercise control over the state, in matters of execution of union laws.



## d. Grants-in-aid:

- Grants-in-aid given by the union government to the states serve two purposes.
- **Through it, the central government exercises a strict control over the states.**
- It generates centre-state co-ordination & co-operation.

## II. Inter-State Comity:

- To achieve coordination & cooperation between states the following bodies can be set up –
  1. **Inter-State Council,**
  2. **Inter-State Commerce Commission,**
  3. **Inter-State water Dispute Tribunal, etc.**

## a. Inter-State Council(Art.263):

- The President of India has the power to establish an **Inter-State Council, to bring about coordination between states and to serve public interest.**
- It inquire into and advice upon disputes which have arisen between states.
- **It investigates & discuss subjects in which some or all of the states or Union and one or more states have a common interest.**
- It can make recommendations on any subject for the better co-ordination of policy & action with respect the subject.

## b. Inter-State Commerce Commission(Art.307):

- The parliament can set up Inter-State Commerce Commission or any other such authority which it considers appropriate **for enforcing the provisions of the constitution with regard to inter-state trade and commerce.**
- It can assign such duties to such a commission as it deems fit.

## c. Inter-State Water Disputes(Art.262):

- The Parliament is authorized to make laws for adjudicating any dispute or any complaint with respect to the uses, distribution or control of waters of any inter-state rivers & river valleys.
- The Parliament enacted the **River Board Act1956** and the **Inter-State Water Disputes Act1956**.
- **The Water Disputes Act empowered the central government to set up a tribunal for adjudication of such disputes.**
- The decision of the tribunal shall be final and binding on the parties to the dispute.

## d. Full faith & Credit Clause(Art. 261):

- According to Art. 261, full faith and credit should be given throughout the territory of India to public acts, records and judicial proceedings of the union and every state.
- According to clause (3), final judgment or orders delivered or passed by civil courts in any part of the territory of India can be executed anywhere in the country according to law.

## e. Emergency:

- Under a **National Emergency(Art 352)** the union executive could give directions to any state as to the manner in which the executive power was to be exercised.
- Under a **Financial Emergency(Art. 360)**, the executive authority of the union extends “to the giving of directions to any state to observe such canons of financial propriety” as might be “deemed necessary and adequate for the purpose”.
- Article 356 of the constitution empowers the president to **impose emergency in a state** in the name of “breakdown of constitutional machinery”
- **It is expected that every state shall follow the directions and comply with the instructions sent to it by the union.**



# Conclusion:

- By virtue of Art. 358, the union government is expected to take necessary steps to protect every state against external aggression and internal disturbances, and to ensure that the government of every state is carried on in accordance with the provisions of the constitution.
- The Union government was to be responsible for maintaining peace and order in the country.
- Therefore co-operation and co-ordination between the centre and the states in administrative matters is very significant.

### III. Financial relations between the Centre & the States:

- The essence of federalism is not just the distribution of functions but also the distribution of resources necessary for the adequate & effective performance of these functions.
- No system of federation can be successful unless both **the union and the states have at their disposal adequate financial resources to enable them to discharge their respective responsibilities under the constitution**(D.D. Basu).
- In the Indian constitution, the union – state financial relations are given **in Chapter one of Part XII running from Art. 264 to 293.**

## a. Finance Commission:

- The constitution of India provided for the appointment of a Finance commission under Art. 280.
- The term of the commission was to be **5 years.**
- **It was to consist a chairman & 4 other members to be appointed by the president.**
- The commission was expected to make recommendations regarding -

# Finance Commission.....

1. **The distribution between the union & the states of the net proceeds of taxes** which are to be divided between them and the allocation between the states of the respective shares of such proceeds,
2. **The principles which should govern the grants-in-aid** of the revenues of the state out of the Consolidated Fund of India, and
3. **Any other matter referred to the commission by the President** in the interest of sound finance.

## b. Allocation of Resources:

- **The basic principle that guide the allocation of resources between the centre and the states are efficiency, adequacy & suitability.**
- **The states are absolutely entitled to the proceeds of taxes on the state list.**
- **The union takes the proceeds of taxes in the union list and of any tax not mentioned in any list.**
- **There are no taxes on the concurrent list.**
- **While the proceeds on the taxes within the state list are entirely retained by the states, the proceeds of some of the taxes in the union list are to be assigned wholly or partly to the states.**
- **The residuary taxing authority rests with the union.**
- **The constitution recognizes the following categories of taxes which are available, wholly or in part to the states.**

# 1. Taxes and Duties Levied exclusively by the Centre:

- **The taxes enumerated in the union list and any other tax not enumerated in the state list i.e. the *residuary tax* could be levied only by the union government.**
- For example, Income Tax, Corporation tax, Duties of Customs including export , duties of Excise, estate duties etc, taxes on sale or purchase of News papers and on advertisements and fees in respect of any of the matters in the union list, etc.

## 2. Taxes and Duties levied exclusively by States:

- **There are taxes which only the states could levy, collect and utilize.**
- These include land revenue, taxes on succession to agricultural land, estate duty in respect of agricultural land, taxes on land and buildings, taxes on mineral rights, excise duty on alcoholic liquor for human consumption and opium etc. Tax on electricity, vehicles, water, animals, entertainment, betting, gambling, etc.

## c. Distribution of Revenue between the Centre and the States:

- **While the taxes levied by the states were exclusively utilized by them, the taxes levied by the union were to be shared in various ways.**
- The founding fathers of the constitution were aware of the fact that the financial resources raised by the states may not be sufficient to meet their economic development.
- So they made provision for sharing the revenue of the union by the states in following 3 ways -



# Distribution of revenue between the centre and the states.....

- 1. Duties levied by the union but collected and appropriated by the states: (Art. 268)**
  - For example, stamp duties and duties of excise on medicinal and toilet preparations which were mentioned in the union list.

# Distribution of revenue between the union and the states.....

## **2. Taxes levied and collected by union but assigned to the states(Art. 269):**

- These were duties in respect of succession to property other than agricultural land, estate duty in respect of property other than agricultural land, terminal taxes on goods or passengers carried by railway, sea or air, taxes on railway fares and freights, taxes on the sale and purchase of newspapers and on advertisements published therein.
- The net proceeds from these taxes were assigned to the states.

# Distribution of revenue between the union and the states.....

## **3. Taxes levied and collected by the union but distributed between the union and the states(Art. 270):**

- Art. 270 provided for the compulsory sharing of the net proceeds of tax on income other than agricultural income.
- In this case the taxes were levied and collected by the union but the net proceeds were distributed between the union and the states.

## d. Grants-in-aid:

- **The constitution provides for 3 kinds of grants-in-aid to the states from the union resources –**
  1. Grant-in-aid will be given to the states of Assam, Bihar, Orissa and W. Bengal in lieu of export duty on the jute products(Art. 273). The sums of such grants are prescribed by the president in consultation with the Finance commission.
  2. The constitution also provides for **special grants given to the states which undertake schemes of development for the purpose of promoting the welfare of the STs** or raising the level of administration of the scheduled area(Art. 275).
  3. Under Art. 282, both the union and the states make grant for any public purpose e.g. **the central government can make grants to hospitals or to schools.**

## e. Borrowing Powers of Union and States:

- The framers of the Indian constitution realized that the union and state governments could not get sufficient funds through taxation.
- So the framers made proper provisions to **enable them to borrow on the security of the consolidated funds, subject to the limitations laid down by the Acts of the Parliament.**

## f. Exemption of union Property from State taxation:

- Art. 285 **exempted the property of the union from all taxes** imposed by a state or by any authority within a state unless a parliament by law provided otherwise.
- In the similar way, under Art. 289, property and income of a state from union taxation.
- But this did not prevent the union from imposing any tax in respect of a trade or business of any kind carried on behalf of the government of a state.

## g. The Comptroller and Auditor General:

- C &AG of India appointed by the president may entrust him duties and such power in relation to state accounts as it may deem proper.
- **He may prescribe the form in which state accounts are to be maintained.**

## h. Financial Emergency:

- During the period of a Financial emergency under Art. 360, the centre may destroy the fiscal autonomy of the states altogether.
- During this period, the president **shall have the power to give directions to the states to observe such canons of financial propriety as may be specified in his communication.**
- He may also instruct the state governments **that the salaries & allowances of all public servants be reduced.** He may also direct any state to reserve all money bills or financial bills for his consideration. These measures lead to the financial dictatorship of the centre.



# Conclusion:

- An examination of union-state **relationship in financial matters very clearly indicates the strong position of the centre.**
- The resources of the state governments are limited to such an extent that they **need to depend on the charitable assistance of the centre.**
- The planning commission has taken away much of the autonomy of the states in respect of finance.