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## Centre-State Relations in India: An Analysis

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**Abstract:** - In this research paper an effort has been made to study the administrative, legislative and financial relations of Indian Union with its federal units. In multi-level governance, operating essentially in a federal frame work, like that of India, harmonious relations between the Centre and the states are critical for the stability, security and economic development of the country. While delineating the sphere of governance for the two levels of government, our Founding Fathers had opted for a 'Union of States' with a strong Centre to make sure that the country did not have to suffer any challenge to its integrity again. Provisions such as, according primacy to laws passed by parliament over state laws, keeping residuary powers with the Centre and imposition of emergency rule by the Centre at extreme situations were considered as essential elements of the constitution, but these provisions are often misused by central government, which have lost the trust and faith of state governments. Indian constitution uses the term union not the centre. The constitution of India provides for a co-operative federation of states with the bias in favor of centre.

**Keywords:** Centre, State, Federal Government.

### Introduction:

The constitution of India is federal, because it is the government of States united in a political union, it is federal in form but it is more unitary in character. Strengthening the federal system is necessary for meeting the aspirations of the people who are governed through State Governments and for preserving the unity of India. Therefore, Centre- State relations, i.e. the arrangements between the Union Government and the State Government in regard to their powers, functions and responsibilities, have been a crucial issue. The basic structure remains to be one were legislative, administrative and financial are disproportionately concentrated in the Union Government with the State having a large number of responsibilities without sufficient autonomy. Although significant socio- economic and political changes occurring in the post-independence period, Centre- State relations have also undergone some changes. The period since 1991, which witnessed a paradigm shift in the economic strategy from planned development to a market-oriented one, has also thrown up new

issues and challenges for the federal set-up. These have an important bearing on the functioning of our democracy as well as the well-being of our people.

### **Objective:**

- ❖ To study the Administrative, Legislative and Financial relations of Indian union with its States

### **Methodology:**

For the purpose of the study, both published and unpublished secondary data has been utilized like books, magazines, journals, newspapers, internet, government publications and records to get more reliable information regarding Centre- State relations of India.

### **Administrative Relations:**

Federal polity involves the setting up of dual governments and division of powers. But the success and strength of the federal polity depends upon the maximum of co-operation and co-ordination between the Centre and the States. The executive power of the Union extends only through those matters which are mentioned in the Union List and over which the Parliament has legislative powers. In addition, the union can exercise administrative control over the state through the following methods:

- Article 255 and 256 seek to regulate administrative relations between the Union and the States. The Constitution of India seeks to achieve a smooth working relationship between the two levels. It provides that the executive power of the state Government are to be exercised in such a way as to ensure compliance with the laws made by parliament.
- Article 257 provides that the executive power of every state shall be so exercised as not to impede the exercise of the executive power of the Union and the Union may issue necessary directions in that regard and for protection of railways and maintenance of means of communication of national or military importance. Any expenditure incurred by the state for the purpose of fulfilling Central directives is to be reimbursed by the Centre to the States.
- Under Article 258, the President may with the consent of State Government entrust to the Government or its officers function in relation to any matter to which the executive power of the Union extends.
- Under Article 261, it directs that full faith and credit shall be given to public acts, records and judicial proceedings of the

Union and the states in all parts of the Indian Territory, which adds a lot to the smooth working of the Union-State Relations.

- v. Article 263, empowers the President to establish an inter-state council to inquire into and advice upon inter-State disputes between the Union and the State and make recommendations for better co-ordination of policy and action.

Major contentious issues having a bearing on administrative and political relations between the Centre and the States are Article 356, role of the Governor, and the Use of parliamentary forces.

### **Legislative Relations:**

In the legislative relation the overall scheme of distribution of powers is not only to provide a strong Centre but also to give parliamentary laws supremacy over state legislation. Shri N.G. Ayyangar said —We should make the Centre in this Country as strong a possible consistent with leaving a fairly wide range of subjects to provinces in which they would have linked. The legislative powers have been distributed between parliament and state Legislature was under article 245 and 246 read with the three legislative lists (union, state,

concurrent) apart from the list system there are various other Article in the Constitution empowering Parliament to make Laws. Besides these, there are provisions for reconciling conflict between the Centre and the States in the legislative sphere though the list of the seventh scheduled are fairly exhaustive and have been drawn with meticulous care, situations may be arise when Parliament may have to under take legislation on a matter not covered by any of the lists. Such cases have been rare so far and there are not many reported divisions where a union law has been attributed solely to residuary power. The powers of the State Legislature to legislate with respect to state list matters have been made subject to power of Parliament in list III. As originally enacted relating to education was made expressly subject to the provisions of entries 63,64,65 and 66 of list I and entry 25 of unity III and it has now seen transferred to the concurrent lists. Parliament has not only been given wide range of authority under the list system but it has also been empowered to make laws encroaching upon the jurisdiction of the States under article 2 to 4, 249, 252, 253 and 258.

The executive powers are divided between Union and the States on the basis of the legislative power, i.e. the executive power of the Union intendeds to all matters with respect to

which Parliament has power to make laws and the executive power of the states extend to the matters with respect to which the Legislatures of the States have power to make laws. Thus distribution of executive powers between the Union and the States is co-terminus with the distribution of legislative powers. The legislative powers clearly indicate that Constitution has adopted the principle of rigid separation in matters of distribution of financial resources between the Union and States. The two fiscal spheres are distinct from each other either Government can not encroach on any fiscal matter which forms the subject matters of the other Government. Under the union list the following matters fall exclusively within the competence of the Union :

- Taxes on income other than Agriculture income.
- Corporation tax
- Taxes on capital value of the assets exclusive of agricultural land of individual and companies, estate duty in respect of property other than agricultural land;
- Duties in respect of succession to property other than agricultural land.

- Terminal taxes on goods or passengers carried by railways, sea or air, taxes on railways fares and freights.
- Taxes other than the stamp duties on transaction in stock exchanges and future market rates of stamp duty in respect of bills of exchange, cheques, promissory note bill of lading, letters of credit policies of insurance, transfer of shares debentures, proxies and receipts .
- Taxes on sale or purchase of newspapers and on advertisement published therein.
- Taxes on sale or purchase of goods other than newspapers where such sale or purchase takes place in the course of inter state trade or commerce and any other tax not enumerated in list II or III. States enjoy exclusive powers<sup>56</sup> in respect of following items, land revenue, taxes on Agricultural income estate duty and succession duty in respect of agricultural land, taxes on lands and buildings taxes on mineral right subject to such limitations as may be imposed by the Union Parliament.

All the modern federations possess a concurrent jurisdiction where both the national and the State Governments are empowered to enact laws, the general principle behind the

provisions regarding the concurrent powers was very well pointed out by the joint committee on the Indian Constitutional Reform (1934) in these words — experience has shown, both in India and elsewhere, that there are Central or to a Provincial Legislature and for which, though it is often desirable that provincial legislation should make provision, it is equally necessary that the Central Legislature should also have a legislative jurisdiction, to enable it in some cases to secure uniformity in the main principles of law through the country, in others to guide and encourage provincial efforts and in others again to provide remedies for mischief's arising in the provincial sphere but extending or liable to extend beyond the boundaries of single province.

Division of legislative powers was propounded under the American federation. The Constitution of the USA was adopted in year 1787 and is respected the oldest and the most respected member of groups of modern federal Constitutions. The American Constitutional system is based upon a division of power between the Union and State Governments and such division is grounded on the principle that the federal government is a Government of enumerated powers limited to the authority delegated to it in the Constitution, while the States Governments of residual powers, retaining all of the authority not granted to the

Government in Washington. The Indian Constitution distributes the legislative powers between the federation and the component states by provision of four causes:

- Provisions enumerating the powers of the Union.
- Provisions prohibiting the union from doing certain things.
- Provisions prohibiting the States from doing certain things.
- Leaving the residue to the States or to the people.

The Constitution of India possesses a very elaborate and comprehensive scheme of the distribution of legislative power between the Union and States. In the following, no single pattern of division of powers prevalent in any traditional federation. It makes its own division of power as to the departure from American pattern, it has very well been pointed out by the full bench of the Madras High court that, —legislative powers in our country are not divided between the States and the Centre on the pattern of division of powers in the United States. We do not have a Centre with enumerated powers of legislation and the States with reserve power. All the subjects of legislation are set out in three lists of the 7th schedule of the Constitution. The scheme and principles of

distribution between the union list, the state list and the concurrent list observes, Alan Gledhill, —are the same as in the 1935 Act, except that whereas the Governor general could in his discretion assign either to the Centre or to the provinces legislative powers regarding subjects not mentioned on any list under the new Constitution subjects notion the lists including taxes, fall within the exclusive competence of the Union Legislature.

There are certain other provisions in which the prior sanction of the President for introduction of a bill in legislative assembly is needed or certain legislation through with in competence of the Legislature must be reserved for the assent of the President in order to obtain validity. The courts have allowed the state laws if it procured the subsequent Presidential assent. It was decided by Andhra Pradesh high court in N. Balaraju and others v/s the Hyderabad municipal cooperation that article 255.

### **Financial Relations:**

Financial relations are the most important aspect of Centre State relations. 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.

The distribution of the tax-revenue between the Union and the States stands as follows:

1. Taxes belonging to the Union exclusively:

Customs, Corporation Tax, Taxes on capital value of assets of individuals and companies, surcharge on Income tax, Fees in respects of matters in the Union List.

2. Taxes belonging to the State Exclusively:

Land Revenue, Stamp duty except in documents included in the Union List, Succession duty, Estate duty and Income tax on agricultural land, taxes on passengers and goods carried on inland waterways taxes on lands and buildings, mineral rights. Taxes on animals and boats, on road vehicles, on advertisement, on consumption of electricity, on luxuries and amusements etc.

3. Duties levied by the Union but collected and Appropriated by the State:

Stamp duties on bills of Exchange, etc and Excise duties on medical and toilet preparations containing alcohol. (Article 268)

4. Taxes Levied as well as Collected by the Union, but Assigned to the States within which they are Levi able:

Duties on succession to property other than agriculture land. Estate duty in respect of property other than agriculture land terminal taxes on goods or passengers carried by railway, air or sea taxes and freights and so on.

This is a unique feature of the Indian constitution. In fact, by providing for the establishment of the Finance Commission for the purpose of allocating and re-adjusting the receipts from certain sources, the constitution has made an original contribution in this extremely complicated aspect of federal relationship.

#### **Role of Governor as Executive Head:**

The Office of the Governor in Indian political system is not something new. Infact, it is as old as the East India company dates back to 1800. By the Government of India Act 1919, a new device known as —Dyarchy was introduced in the provinces. Under this system the provincial matters were divided into two parts – the transferred and reserved subjects. The transferred subjects were to be administrated by the Governor with the aid and advice of the ministers accountable to the legislative council on the other hand, the reserved subjects were to

be administered by the governor and his executive council without being responsible to the legislative council.

The British Government appointed statutory Commission in 1927 in order to examine the functioning of the system of government in India which submitted report in 1930. This resulted in the passing of Government of India Act 1935, which can be considered as the basis of the last phase in evolution of Governor's office in pre-independent India. The government of India Act 1935, went a step further in the sense that position of Governor became less than a real head, but remained more than a constitutional by any stretch of imagination. Governor is appointed by the Union Government and he continues his office during the pleasure of the appointing authority. He may become suspect of acting under the pressure of the ministers of central government in relation to his functions in the state. This is especially true if the same party does not sue the government at the Centre and in particular State. According to Article 155, of the Constitution of India —the Governor of the state is to be appointed by the President by warrant under his hand and seal 157 of Constitution provides no person is eligible for appointment as Governor unless he is a citizen of India and he has completed the age of thirty five years. Right from the commencement of the



Indian Constitution a hot debate is going on regarding the role of Governors. Normally, two extreme views are advanced in this context. First, which argues that a governor is only a constitutional head without any authority to interfere in state administration? His position is akin to the position of the president that is he is bound by the aid and advice of council of ministers headed by a chief minister except, that he enjoys some sort of discretionary powers in rare situations. Second view argues that a governor has significant and wide ranging discretionary powers under constitution with which under he can not only guide state administration, but interfere whenever he deems it necessary.

Thus the office of Governor, as conceived by Constitution makers, was endowed with potentialities to develop as an instrument for forging line and dynamic link between the centre and states and it plays an important role in Union State relations. Under our Constitution, the Centre has been given a dominant voice in affair of the states, in times of peace and overriding powers in times of Emergency. In order that the centre may discharge its constitutional obligations to the states it is necessary that the centre should have a representative in each state who has a duty to defend the constitution, promote national objectives and national

integration and also preserve national standards of public administration. At this time, in a parliamentary system, there must be someone at the head of as state who is not affected by the rise and fall of Governments in the State. Under the Constitution, the Governor is accepted to play a double role, as the head of the state and as the representative of the centre. Both the functions are equally important and there is sometimes conflict between them. The duality in the role of the Governor is perhaps the most unusual feature of our constitution and has made the Governor's task difficult and delicate.

The role of Governor in Administrative relations is a perennial interest in the Constitutional system and its working problems of far reaching importance relating to the office of the Governor have cropped up from time to time and lot of misunderstanding between the centre and the state has arisen on account of the role of the Governor. The Indian situation being what it is, it can be safely said that while the Governor in an opposition ruled state will always be important, the role of the Governor in a state ruled by a party which also wields power at the centre will always tend to be unimportant. As the special report of the study team of Administrative reforms commission has said that, —he (Governor) would be out-flanked and reduced to a non-entity. Today many questions





are raised over the issues of the role of the Governor in the Indian political system. Is the Governor only a nominee of the centre ? Is the Governor only a nominee of the centre ? Is he not the head of the constituent state ? Should he not therefore, act on the advice of the council of Ministers? Such questions are bound to recur again and again. But the most important question in this regard is whether the massive denigration of the office of the Governor is the handiwork of only one individual and only one political Party or should the blame be laid at more doors than one? The fact cannot be denied that Governors can certainly play an important role in improving union state relations if the widespread feeling that the Governors are agents of union, can be removed. But for this purpose conventions have to be evolved so that unnecessary pin pricks may be avoided and healthy relations between the Governors and their ministers can be established. This becomes easy once the ministers know that the Governors are their friends, that they are well wishers of the states, that they are influential with the central authorities, that through there adequate assistance can be secured, then their task becomes comparatively easy and there is continuous co-operation between them and the ministries.

Of course, all this, does not mean that no efforts were made in this regard in the past.

Intact, since the adoption of the constitution, we have been trying to build those healthy conventions which strengthen and smoothen the parliamentary set-up. But on the other hand, occasionally a resource to the written provisions have caused bitterness between a Governor and his chief minister, and has invited criticism of the conduct of the Governor not on the grounds of constitutional validity, but on propriety.

### **Role of All Indian Services:**

The All Indian Services are under the exclusive domain of the Centre. The role of IAS, therefore, does need to be reviewed. To make the service strong and effective links between the Centre and State, their legitimate service interests ought to be protected. Cases of injustice and individual harassments on political consideration at the State and Centre levels need to be speedily looked into and set right by the Central Government, which is their appointing authority. Central Government should similarly exercise greater disciplinary control over erring members of these services. The fact of the matter is that far too many senior members of the IAS have allegation of corruption against them. Many holding high offices appear to have amassed illegitimate wealth and yet are able to evade legal consequence due to political or other influence. As a result, many of them are viewed to be not

only corrupt but also callous and insensitive to their legitimate public duties. They have not proved themselves to be of superior character and caliber than others. In All Indian Services, there are still good outlook in the performance of their tasks. They, however, get often overshadowed by the 'smarter' and 'clever' individuals in the services who enjoy political support or belong to political families. They allow themselves to be used as tools by unscrupulous politicians.

It is time to objectively review the situation and restore the moral health, efficiency and effectiveness of the AIS if these are to be continued. Their continuance undoubtedly is still very vital for the administrative unity of our vast country and for maintaining closer administrative links between the centre and the states. It will indeed be very unfortunate if this valuable administrative inheritance from the British period is slowly allowed to decay, degenerate and finally collapse.

### **Working of Inter- State Council:**

The Inter State Council was finally setup by a presidential order noticed on 28May 1990. It said that there shall be an Inter – State council consisting of the all states, chief ministers of union territories having a legislative Assembly

and Administrators of union territories not having legislative Assembly and. Six minister of cabinet rank in the union council of ministers to be nominated by the Prime Minister other ministers and minister of state having independent charge may also be invited when any item is to be discussed. The prime minister shall preside over its meetings. In his absence, he may nominate any Union – Minister over the meetings the council shall be a recommendatory body in that capacity, shall perform the following duties-

- Investigating and discussing subjects in which some or all of the states or the union and one or more of the states have a common interest, as may be brought up before it.
- Making recommendations upon any such subject and in particular recommendations for the better coordination of policy and action with respect to that subject.
- Deliberating upon such other matters of general interest to the states as may be referred by the chairman of the council. The procedure to be followed in the conduct of its business shall be as follows:

- The council shall adopt guidelines for identifying and selecting issues to be brought up before it.
- It shall be meet least thrice in every year and at such time and place as the Chairman may appoint in this behalf.
- The meeting shall be held in camera.
- The members and chairman shall form the quorum for a meeting of the council.
- All questions shall be decided by consensus and the decision of the chairman as to consensus shall be final.
- In the conduct of its business, the council shall observe such other procedure as it may with the approval of the Central Government lay down from time to time.

Second Meeting of ISC was held on 15 October 1996. The second meeting of ISC recommended that there should be a standing committee of the council for continuous consultation and processing of matter for consideration of council. Matter of Home affair in a notification said that the standing committee would comprise minister of Home; Finance Industry, Defense, Human resources and Development beside the chief ministers of Orissa Rajasthan West Bengal, Andhra Pradesh, standing committee would be to-

- Have continuous consultation and process matter for consideration of council.
- Review and update the recommendations of Sarkaria commission specially the vital question of devolution of financial powers from central government to state governments.
- Examine the changes required in Article 356 of the constitution.
- Considered the current views of the state governments on 179 recommendations on which there was consensus in the sub – committee and also the 12 time on which there was no consensus;
- Process all matters pertaining to Center – State relations before they are taken up for consideration in the Inter – State council.
- Monitor the implementation of decisions taken on the recommendations of the council.
- Consider any other matter referred to it by the Chairman of council.

The standing committee would submit its report on items (2) and (3) mentioned above within three months. It may also invite, if necessary experts and persons eminent in specific field to have the benefit of their views while deliberating upon the related subjects.<sup>242</sup> According to the

recommendations of the Sarkaria commission set up an ad-hoc committees to investigate special matters, the Inter – State council’s standing committee in its meeting held on 9 December 1998 approved a Sub – Committee to be set – up under the convener ship of the union Defense Minister to disuse and reach a consensus regarding amendment in Article 356 of the held in the earlier meetings of the standing committee, the Inter Sate council and the judgment of the Apex corset in *Bommaicase*.<sup>243</sup> In its 22 January 1999 Meeting, the ISC approved a set of amendments to the guidelines of 28 May 1990 with regard to identifying issues to be brought before the council this amendment provides relatively a more open procedure for identification of issues to be brought before the council, previously, it was the chairman which means the Prime Minister who was authorized to refer any issue to be disused by the council. Now any member or Chief Minister may aside any issue of concern to them in the council, but the chairman has to authority to decide we thee a matter falls within the purview of the duties of the council. The chairman decision in this regard is final.

### **Conclusion:**

The ‘Centre-State Relation’ model of Indian federalism, following are the events of the

eighties and early nineties, had starting showing signs of both resilient and variable. Although the Centre Government continues to be strong and continues to maintain its pre-eminence, attempts are in progress to strengthen the State through various federal mechanisms. It was visualized that the system of coalition- government at the centre level by giving direct representation to powerful regional parties and ensuring their involvement in the decision making on National issues was a sound step to easing of tension between the federal Government and the States. Through the process of economic reforms, the federal Government started the dispensation of national power and resources to the regions. In order to meet the imperatives of the good governance, fiscal discipline on the part of the Union and the States is also increasingly underlined.

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