

# Centre –State Relationship in India: A Comprehensive Analysis of the Indian Constitution

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## ABSTRACT

The paper focuses the Indian federal setup; the Centre and States divides the legislative, executive, and financial functions between the Centre and the states. The paper enhances the Article 256 to 263 of the constitution deals with the administrative relation between the Centre and States. The paper highlights the distribution of Executive Powers. The Indian constitution divides all legislative, executive, and financial authority between the centre and the states. Centre–State Relations in India is a multifaceted relationship of power and authority between the central government and the state governments. Centre State relations compose the central part of federalism in India and play a very important role in the political sphere of India.

**Key words:** Centre, States, federal, legislative, executive, distribution, powers, relationship, residuary and administrative

## INTRODUCTION

The Indian Constitution ensures a strong Centre to maintain the unity and integrity of the nation. The constitution of India provides a federal system of government in the country, based on division of powers between the Centre and the states. The powers have been specified in the three lists of subjects given in the seventh Schedule. These lists are Union list containing 96 subjects; the state list containing 66 subjects; and the concurrent list containing 47 items. The union Parliament enjoys exclusive power to legislate on the subjects mentioned in the Union list. It contains subjects like Defense, Foreign Affairs, Currency, Union duties etc. the states enjoy exclusive power to legislate on the subjects enumerated in the state list. This lists contains subjects like public order and police, local government, public health and sanitation, agriculture , education etc. both the centre and the state governments can legislate on the subjects mentioned in the concurrent list, which contains subject like criminal law and procedure, marriage, contracts, social insurance, economic and social planning etc. however, if a law of the union Government and that of a state government in respect of any subject in the concurrent list comes into conflict, the union law prevails over the state law. The residuary power, that is the powers which are not covered by any of the three lists, vest in the Union government. In typical federation like India, only specified powers are vested in the states.

The above distribution of powers shows that the centre has been made stronger by the constitution than the states. This fact has been criticized by political reformers in the states. Both the union and the states derive their authority from the constitution which divides the powers between them the centre state relations can be studied under three heads legislative administrative and financial. “The division of powers are defined by the constitution and the legislative powers are divided into three lists”( Robert L, 2008: 146 )

**Legislative relations:** the legislative relations between the centre and the states are spelt out in articles 245-254 of part XI chapter I of the constitution article 245 spells out the territorial jurisdiction of the union and the states the parliament can make laws for the whole or any part of the territory of India while the state legislation a three fold distribution of legislative powers between union and states is envisaged and listed in schedule VII List I or the union list includes 97 subjects over which the union has exclusive power of legislation the subjects include defense reign affairs baking currency and coinage communication atomic energy etc

List II or the state lest comprises 66 Items over which the state legislature has exclusive power of legislation subjects include public order and police local government prison public health and sanitation agriculture fisheries state taxes and duties betting and market capitation taxes tolls treasure trove gas and gasworks inns etc. In case of a matter overlapping between the three lists predominance has been given to the union legislature in case of conflict between a union and a state law relating to the same subject on the concurrent list the former prevails however if a law passed by parliament the state law prevails but it would still the parliaments power to override such state law by subsequent legislation.

The residual powers under the constitution (i.e. subjects not included in any of the lists are vested in the union legislature (Article 248) whether a particular matter falls under the residuary powers or not is finally determined by the courts. There are certain circumstances under which the above system of distributions either suspended or parliament has the power to legislate on a state subject if the Rajya Sabha passes a resolution by two third majority that It is in the national interest to do so the resolution remains in force for a period not extended by one year the law thus passed by parliament ceases to have force (Articles 249) (II) during times of emergency parliament can make laws on subjects in the state list however such a law ceases to have effect on the expiration of a period of six months after the proclamation has ceased to operate (Article 250) (III) parliament can also make laws with respect to any subject on the states resolve that it shall be lawful for parliament to do so (article 252) (IV) parliament has the power to legislate on a state subject for the implementation of treaties or international agreements and conventions (Article 253) on the whole the constitution has assigned a dominant role to the centre in the centre in the sphere of legislation.

In certain circumstances, the Union Government can exercise control even over the subject in the state list. For example, under Article 154(2) (B) of the constitution, the parliament is authorized to entrust any work to officials subordinate to the state governor. No sanction of the state legislature or executive is essential for assignment of such functions. Under articles 169 (1) the parliament has been authorized to establish or abolish state legislature of the state concerned passed a resolution to this fact effect. In other federations like Switzerland, Australia and America, the states are fully independent regarding the constitution of their state legislatures.

Under article 249 of the constitution if the Rajya Sabha passes a resolution by a two- third majority that a particular subject in the state. List is of national importance, the Parliament can legislate on such a subject. Such a resolution of the Rajya Sabha remains in force for a period of one year and can be extended by one year by means of the subsequent resolution. During the Proclamation of Emergency made by President of India, on account of internal disturbance or external aggression, the parliament acquires the authority to make laws on the entire subject mentioned in the state list. However, all such laws made by the Parliament become ineffective six months after the Proclamation of Emergency cease to operate. For the implementation of treatise, international agreements and conventions, the Parliament has the power to legislate on any subject, and the normal distribution does not stand in it's be invalidated on the ground that it relates to the subject mentioned in the state List.

Administrative relations: chapter II of part XI of the constitution is concerned with these aspect in the administrative field also the union has been given a dominant position the executive authority of the union extends over a large number of subjects the states are moreover expected to comply with laws made by parliament and are not to impede the exercise of the executive power of the union. The union can issue directions to the states regarding the construction and maintenance of communications of national or military importance it can also give instructions to state governments for the protection of railways the union reimburses the incurred by the states in this regard. The president may entrust to officers of the states certain executive functions of the union relating to any matter extra costs will be met by the union government.

(Article 257) the all India services are common to the union and the states however recruited by the centre over the states. Article 257(I) lays down "The executive power of every state shall be exercised as not to impede or prejudice the exercise of the executive power of the union, and the executive power of the Union shall extend to the giving of such directions to a state as may appear to the Government of India to be necessary for that purpose" thus within the sphere covered by the state list the Union Government can give direction to the state government.

The Supreme Court and high court judges are appointed by the president so is the governor the removal of these officials also rests with the union. As for administrative Relations the executive power of the Union extends only to 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 the state through the methods articles 265 of the constitution specify the respective obligations of the Union and the state Government and lays down " The executive power of every state shall be so exercised as to ensure compliance with the laws made by the parliament and any existing laws which apply in the state and executive power of the Union shall extend to the giving of such direction to the state as may appear to the government of India to be necessary for the purpose" ( Basu, 561 ) . Thus this Articles clearly provides that the laws made by parliament and the existing laws of the states are properly enforced. If the state government fails to enforce the laws passed by the parliament within its jurisdiction, the unions Government can issues directions to the state Government to do so under Article 246 of the constitution.

The Governor of the state has also been empowered under article 200 of the constitution to reserve any bill for the approval of the president. The President has been authorized to reject any such bill and return the same to the state government. The President is not bound to sign such bill even if the state legislature re-passes the same bill and transmits it to the President.

Another point which deserves attention is that no time limit is prescribed for approval of a bill referred to the President. This simply means that the President can kill a bill referred to him by not taking any action on it. Even if the President rejects a bill referred to him by the state legislature, he is not bound to assign the reasons for his decision. Thus, "in theory as well as in practice, the operation of the state legislature process is subordinate to the supremacy of the Union Executive" Such interferences by Governor in State Government affairs and abuse of their powers for partisan reason has been giving rise to a feeling of insecurity among state and demand for settling the issues of appointment and dismissal of Governors themselves, their compulsion to act on the advice of Council Ministers, and definite code for the exercise of discretionary powers. Governor's role in the Government particular state often based on ruling party of the centre, this is reason the ruling party reshuffle the post whatever it forms new government.

Under the Indian Constitution, the Governor of a state is authorized to issues ordinance, when the state legislature is not in session. Though it is expected that the governor will issue such ordinances only with the approval of the state council of Ministers, but under certain circumstances, he can issues these ordinances only with the prior approval of the president of India. At least in the following three conditions he can issues such ordinance but with the prior approval of the president of India. 1) If the ordinance deals with a subject regarding which laws can be introduced in the state legislature only with the prior approval of the President. 2) If a bill has been reserved for the opinion of the president, an ordinance on the same subject can be issued only with the prior approval of the president; 3) Ordinance on a subject on which a law passed by the state legislature is not valid without the approval of the president. It is thus clear that through the centre and the state have been assigned independent legislative sphere, the Centre reserves the right to interfere in the subjects reserved for the states. "states have exclusive powers to legislate with regards to items on the State List, articles 249, 250, 252, and 253 mention situations in which the Parliament can legislate" (Fadia, Babulal 1984:92)

The article 200 and 201, the power of the Governor to reserve all bill, passed by the legislature for the president's assent is another cause of tension between the centre and the state. This has especially been so in case where the governor has reserved a bill against the advice of the state ministry, presumably under the direction of the Central Government. The main purpose of this provision is that the Centre wants to keep a watch on the activities of the states.

There is little doubt that constitution, for whatever reasons, makes the centre stronger than the states. Besides the legislative, administrative and financial weightage given to the centre, the constitution empowers the centre with the power to dismiss a state Ministry to impose President's rule. Both the components of development and regulatory administration are directly in the states field of action. But the resource –yielding powers are mostly deposited with the former for financial support. This was part of the larger scheme of keeping the states under the center's bidding, discipline and even control. The imbalance between the functions and the resources has been persistently aggravated by the operational realities of the polity. The dependence has become stronger with the adoption of planning in India since 1950 and the long continued single- party dominance system in the country. "According to Kumarasingham, there are three distinctive features of India's federalism. First, its origins in Partition and the Princely States. Second, its constitutional power over the borders. Third, its early compromise of different cultural elements in the first decade" (Kumarasingham, Harshan 2013:91)

Centralization received a powerful reinforcement from the single party dominance system in India. The fact of the congress party being in power both the levels of government for a long time nearly made the centre –state relations correspond to those between the Pradesh congress committees and the „High Command“ When the same party is in power at the Centre and in the States, the problems between them begin to be examined along the party network, and to that extent the constitution remains in disuse.

Furthermore, the resource base of the states, never very satisfactory, has suffered abridgement by certain action of the centre like merging of income tax paid by companies with corporate tax and pre-empting tom itself a large percentage of the draft on private savings and resources. Though the state Government is presently getting more than fifty percentages of total tax revenues, their resources are actually inadequate in term of their development needs. This shortage of funds does not provide relief to tax payer, the larger share of revenues remain with the centre, enabling it to indulge in conspicuous extravagance. There are other anomalies, too. A state government is entitled to limited overdrafts. But for the centre – government, there is such limit, and the rate of interest is also much lower, which is plainly a discriminatory arrangement with no apparent justification. In 1996, the Commerce & Industry Minister of West Bengal complained that "the removal of the freight equalisation and licensing policies cannot compensate for the ill that has already been done"( Sinha, Aseema 2005: 114)

The union Government can also give directions to the states regarding the construction and maintenance of means of communication declared to be of national or military importance. 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. However, the

excess expenses incurred by the State Government on this account are paid by the government of the Union. In case there are any disputes about the quantum of the payment, it is decided by the arbitrator appointed by the chief Justice of India. In case the State government fails to carry of the directions of the union Government, the president has been empowered by Article 365 of the Constitution to hold that a situation has arisen in which the Government of the state cannot be carried on in accordance with the provisions of the Constitution. In other words, if the state fails to carry out the orders or directions of the union, the president's rule may be imposed on the state. In such eventuality, the President shall assume to himself all or any of the functions of the state Government.

The President with the consent of the state government can entrust to the officers of the State Government any function in respect of any subject over which the executive power of the Union extends. Thus the states Government any function in respect of any subject over which the executive power of the Union extends. Thus the states may be converted into agents of the union government. However, any extra cost incurred by the states for carrying out such an obligation is too paid by the Union. "Sarkaria Commission was set up in June 1983 by the central government of India. Its charter was to examine the relationship and balance of power between state and central governments in the country and suggest changes within the framework of Constitution of India. The Commission was so named as it was headed by Ranjit Singh Sarkaria, a retired judge of the Supreme Court of India" Ramachandran, Ramesh 2005)

The Constitution vests the president with the power to establish an inter-state council, to bring about co-ordination between states. Article 263 which deals with the Inter-state council says The Inter-state council is appointed by the president if it appears to the president that the public interests would be served by the establishment of a council charged with the duty of.....

- a) Inquiring into and advising upon disputes which have arisen between states;
- b) Investigating and discussing subjects in which some or all of the states, or the Union and one or more states, have a common interest; or
- c) Making recommendations upon any such subject and, in particular, recommendations, for the better co-ordination of policy and action with respect to that subject, it shall be lawful for the president by order to establish such a council, and to define the nature of duties to be performed by it and its organization and procedure" ( Basu)

## CONCLUSION

Part XI of the Indian Constitution highlights on center-state relations, covering legislative and administrative connections. In other words the inter-state council can be set up by the president to inquire into the disputes among states and to make recommendations thereon. To conclude arising out of the nature of Centre – state relations as well as difference in political ideology of the ruling parties at the centre and states following major areas of tensions have emerged in Indian Federalism. Role of Governor is a representative of the central Government with regards to appointing and dismissing State ministers and dissolution of the State Assemblies. The Reservation of Bill for the consideration of President under article 201. India is a coalition with governments at the Centre and the States

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