Unit-IV Relation Between Federal and Provincial Units.

Union-State relations occupy a significant place in the efficient functioning of a federal polity. As Indian Constitution prescribed federal system in normal conditions for India, it demarcated the distinct powers and functions of the Union and State Governments .The constitution makers felt that the progress of Indian nation is possible only when there is amity, cohesion and co-ordination between the Union and States. Accordingly they have listed out the Union and State relations under three aspects, namely, legislative, administrative and financial. These may be explained in detail as follows.

Legislative Relations.

Our Constitution prescribed the legislative relations between the Union and the States in part IX from Articles 245 to 255. Both the Union and the State Governments formulate laws for the peace, pleasure and progress of Indian citizens. While the Union Parliament can make law over the matters included in the Union and State List, the State Legislatures were empowered to make law over the State List and Concurrent List.

Union List:

The Union Government has exclusive powers to make laws with respect to any matter enumerated in the Union List. Earlier there were 97 subjects but at present there are 99-100 items in this list. Some of them are Defence, Citizenship, Foreign Affairs, Railways, Post and Telegraphs, telephones, currency, coinage, banking, insurance, atomic energy and mineral resources, income tax, customs, taxes on stock exchange transactions etc.

State List:
There are 61 subjects in the State List. Of them, the more important are: police, local governments, public health, sanitation, hospitals and dispensaries, land revenue, agriculture, state public services etc.

Concurrent List:
Parliament as well as the State Legislatures have power to make legislation on the subjects listed in the Concurrent List. The main subjects included in this List are criminal law, marriage and divorce, transfer of property other than agricultural land, contracts, bankruptcy and insolvency, forests, education, labour welfare, trade union, stamp duties, etc. At present there are 52 items in this List.

The peculiarity of this list is that both the Union and the State Legislatures can make legislation over the items of this list. Whenever there is a conflict between the Union Parliament and State Legislature on a particular item of this list, the law enacted by the Union Parliament over that of the State Legislature.

Parliament's precedence over State List.
Even though our constitution demarcated legislative subjects between the union and the state

governments clearly, it has assigned precedence to the Union Parliament under the following circumstances.
1. If the Rajya Sabha declares by a resolution, supported by not less than 2/3rd of its members present and voting that it is necessary in the national interest to make law over State List, Parliament make law with respect to any matter enumerated in the State List specified in the resolution. Such a law will be valid for a period of six months. It can be extended to a period of another six months (Article 249).

2. The Parliament can legislate on the subjects of State List when an emergency proclamation of the President is in operation. Such a law is valid during the period of emergency. It ceases to operate after six months from the date of expiry of such proclamation.

3. Whenever national emergency is declared under Article 352, the Parliament gets the power to make laws over the subjects of the State List (Article 250).

4. The Parliament can make laws on a subject of State List on the request of two or more state legislatures. For example, Estate Duty Act 1953, Water (prevention and control of pollution) Act,1974, etc.
5. The Parliament has power to make law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country. Geneva Convention Act,1960 , Anti-hijacking Act, 1982 etc are a few examples in this regard.
6. During emergency on account of failure of constitutional machinery in a state, the parliament can legislate on the subjects in the State List (Article 356).

Administrative Relations:

Part II of our constitution lays down the administrative relations between the Union and the States. The Union government exercises control over the states through its executive and legislative authority.
1. The President has the power to appoint, transfer or dismiss the Governor of the State. The appointment of Governors is totally in the hands of the Union Government.
2. The President can exercise veto power on certain State bills referred by the Governor (Article 200).
3. The Directives of the President are required for the Governor of a state for proclaiming ordinance on certain specific matters.
4. The Union has the power to give directions to a state for the construction and maintenance of means of communications which are of national and military importance.
5. The Parliament can by a law provide for the adjudication of any dispute over the use, distribution or control of the waters of any inter-state or river valley projects (Article 262).
6. The President is empowered to establish an Inter State Council (Article 263).
7. It is the responsibility of the State Governments to protect Central Government properties in their territories. The Centre can deploy paramilitary forces like CRPF in any state.
8. The constitution assigns the Rajya Sabha the power to create a new All India Service or to abolish an existing All India Service (Article 312).
9. It is the constitutional duty of the Union Government to protect every state against external

aggression and internal disturbances. It has the responsibility to ensure that the government of every State shall be carried out in accordance with the provisions of the constitution.

10. Full faith and credit shall be given to public acts, records and judicial proceedings of the Union and the states throughout the territory of India.

11. President's rule can be introduced in a State whenever it fails to comply with directions of the Union Government. (Article 365)

Financial Relations:

Adequate finances are necessary to carry out the legislative and administrative programmes of the Union and State Governments. Our constitution has clearly provided for the ways to impose, collect and distribute tax proceeds between the states in order to avoid disputes between them in financial matters. Article 264 to 300A of Part XII of our constitution indicate financial relations.

1. Taxes and Duties levied by the Centre.

Certain revenue items are exclusively assigned to the Central Government. These include customs and export duties, income tax, excise duty on tobacco, jute etc., corporation tax, taxes on the capital value of the assets, estates duty in respect of property other than agricultural land, railways, post and telegraphs, telephone, wireless sets, foreign exchange, coinage etc.

2. Taxes and Duties levied and used by the States.

Certain items of revenue fall under the exclusive jurisdiction of the States. These are: land revenue, stamp duty except on documents included in the Union List; succession duty, estate duty, income tax on agricultural land; taxes on transport vehicles; taxes on advertisement; taxes on consumption of electricity etc.

3. Taxes levied by the Union but collected and appropriated by the States.

Revenue from certain items is collected & appropriated by the States. These include stamp duties, excise duty on medicinal and toilet materials, opium, stamp duties on bills of exchange, cheques, promissory notes, bills of lending, transfer of shares etc.

4. Taxes levied and collected by the Union but assigned to the States.

These include taxes on railway freight and fares, terminal taxes on goods or passengers carried by rail, sea or air, estate duty in respect of property other than agricultural land.

5. Taxes levied and collected by the Union and distributed among the Union and the States.

There are certain items on which taxes are levied and collected by the Union. But they are given to the states. Such items are tax on income other than agriculture, medicinal and toilet preparations.

6. Union Grants-in-aid to the States.

The constitution makes special provisions for giving grants-in-aid to schemes for promoting the welfare of scheduled tribes and backward classes. The states of Assam, Bihar, Odissa and West Bengal receive grants in aid in lieu of export duty on jute and jute products.

7. Union's power to borrow and raise loans.

The Union Government can borrow money on the security of the Consolidated Fund of India. States can borrow finances within the territory of India upon the security of their funds.

Sarkaria Commission:

The Union Government has set up a high level commission headed by Justice Ranjit Singh Sarkaria on

June 9, 1983. The commission was asked to examine and review the working of the existing arrangements between the Union and the States in regards to powers, functions and responsibility in all spheres and recommend necessary changes.

The Commission prepared a report and submitted it to the Union Government on October 27, 1987. The Union Government, after a decade, took decisions on 230 recommendations. It implemented 170 recommendations.

Recommendations made by the Commission.

1. Strong center: The Commission has favoured the retention of a strong centre. It has firmly rejected the demand for curtailing the powers of the Centre in the larger interests of national unity and integrity.

2. Consultations: The Commission rejected the demand for the transfer of certain state subjects to the Concurrent List. On the other hand, it held that the Centre should consult the states on subjects included in the concurrent list.

3. Co-operative Federalism: The Commission favoured greater co-operation between the Centre and the States in the matter of formulation and implementation of plans.

4. Appointment of Governors: The Commission rejected the demand for the abolition of the office of the Governor. It opposed the idea of appointing active politicians as Governors. Instead it suggested for appointment of non-political, non-controversial and eminent persons as Governors, preferably from minorities. Further, it suggested that the Governor on retirement should not be permitted to hold any office of profit.

5. Appointment of Chief Minister: The Commission suggested that the leader of the minority party in the State Legislative Assembly should be appointed as the Chief Minister. If no single party enjoys a clear-cut majority in the Assembly, the person who can command majority in the Assembly should be appointed as Chief Minister by the Governor.

6. President's Rule: The Commission suggested that President's Rule should be introduced on rare occasions.

7. Three-Language Formula: The Commission favoured the implementation of three-language formula throughout the country.

8. Allocation of Finances: The Commission did not agree with the demand for major changes in the scheme of distribution of financial resources as provided by the Commission.

9. Retention of All India Services: The Commission rejected the demand for disbanding of All India Services on the ground that they would greatly undermine the unity and integrity of the country.

10. Autonomy of Mass Media: The Commission favoured relaxation of Union's control over Radio & T.V. It favoured greater decentralization of authority in routine matters. It suggested broadcast and telecast of national programmes in regional languages for preserving India's composite culture.

Finance Commission:

Articles 280 and 281 of Indian Constitution deal with the composition, powers and functions of the Finance Commission. The President of India constitutes a Finance Commission for every five years. It makes recommendations to the President on the distribution of financial resources between Union and States.

As per the Act and Article 280, the Finance Commission consists of a chairman and four other members.

The Chairman as well as the members are appointed by the President. The Chairman must have the experience in public affairs. The other members of the commission shall be appointed from amongst the following.

1. A High Court Judge or one qualified to be appointed so.
2. A person having thorough knowledge on the finances and accounts of the Government.
3. A Person having wide range of experience in the matters of finance and administration.
4. A person having perfect knowledge of economics.

Functions of the Finance Commission.

The Finance Commission reviews from time to time the financial relations between the Union and the States It makes recommendations to the President in the following matters. .

a) Distribution of the net tax proceeds between the union and the states.

b) Principles governing the grant-in-aid of the revenues of the State out of the Consolidated Fund of India.

c) Any other matter referred to the Commission by the President in the interests of sound finance.

d) The Finance Commission makes recommendations to the President for continuation or modification of agreements between the Union and the States.

Finance Commission submits a report to the President with its recommendations. The President in turn, ensures that the report is presented before each House of Parliament with an explanatory memorandum indicating the action taken by the Union Government on the report. The President may or may not accept all or few of the recommendations of the Commission.

Inter – State Council.

Article 263 provides for the establishment of an Inter-State Council to secure co-ordination between states. The Inter State Council was constituted by the President on May 28, 1990. It consisted of the following members:

a) The Prime Minister.

b) The Chief Ministers of all the States.

c) The Chief Ministers of Union Territories having Legislative Assembly & the Administrators of Union Territories not having Legislative Assembly.

d) Six Ministers of Union Cabinet nominated by the Prime Minister.

The Prime Minister acts as the Chairman of the Inter-State Council. He presides over its meetings. In his absence he may nominate a Union Cabinet Minister to preside over the meeting.

NITI Ayog:

The NITI Ayog (The National Institution of Transforming India Ayog) came into force on January 1,2015. It has strengthened the Centre-State relations by ensuring partnership of States in the vision of National

Development priorities and fostering Co-operative federalism, so that the state could become stronger and build a nation.

The main objectives of NITI Ayog are:

i) Elimination of poverty.

ii) Redressal of inequality.

iii) Integrate villages, institutionally development process and

iv) Safeguarding environmental and ecological assets.

The Prime Minister of India is the Chairperson of the NITI Ayog. It has a governing Council comprising the Chief Ministers of all the states and Lt. Governor of Union Territories. It has some Regional Councils too. The earlier Planning Commission was abolished with the establishment of the NITI Ayog.