

UNIT – IV

UNION/CENTRE – STATE RELATIONS

The Constitution of India, being federal in structure, divides all powers (legislative, executive and financial) between the Centre and the states. However, there is no division of judicial power as the Constitution has established an integrated judicial system to enforce both the Central laws as well as state laws.

Though the Centre and the states are supreme in their respective fields, the maximum harmony and coordination between them is essential for the effective operation of the federal system. Hence, the Constitution contains elaborate provisions to regulate the various dimensions of the relations between the Centre and the states.

The Centre-state relations can be studied under three heads:

- Legislative relations.
- Administrative relations.
- Financial relations.

LEGISLATIVE RELATIONS

Articles 245 to 255 in Part XI of the Constitution deal with the legislative relations between the Centre and the states. Besides these, there are some other articles dealing with the same subject.

Like any other Federal Constitution, the Indian Constitution also divides the legislative powers between the Centre and the states with respect to both the territory and the subjects of legislation. Further, the Constitution provides for the parliamentary legislation in the state field under five extraordinary situations as well as the centre's control over state legislation in certain cases. Thus, there are four aspects in the Centre–state legislative relations, viz.,

- Territorial extent of Central and state legislation;
- Distribution of legislative subjects;
- Parliamentary legislation in the state field; and
- Centre's control over state legislation.

1. Territorial Extent of Central and State Legislation

The Constitution defines the territorial limits of the legislative powers vested in the Centre and the states in the following way:

- (i) The Parliament can make laws for the whole or any part of the territory of India. The territory of India includes the states, the union territories, and any other area for the time being included in the territory of India.
- (ii) A state legislature can make laws for the whole or any part of the state. The laws made by a state legislature are not applicable outside the state, except when there is a sufficient nexus between the state and the object.
- (iii) The Parliament alone can make 'extra-territorial legislation'. Thus, the laws of the Parliament are also applicable to the Indian citizens and their property in any part of the world.

However, the Constitution places certain restrictions on the plenary territorial jurisdiction of the Parliament. In other words, the laws of Parliament are not applicable in the following areas:

- (i) The President can make regulations for the peace, progress and good government of all the Union Territories. A regulation so made has the same force and effect as an act of Parliament. It may also repeal or amend any act of Parliament in relation to these union territories.
- (ii) The governor is empowered to direct that an act of Parliament does not apply to a scheduled area in the state or apply with specified modifications and exceptions.

2. Distribution of Legislative Subjects

The Constitution provides for a three-fold distribution of legislative subjects between the Centre and the states, viz., List-I (the Union List), List-II (the State List) and List-III (the Concurrent List) in the Seventh Schedule:

- (i) The Parliament has exclusive powers to make laws with respect to any of the matters enumerated in the Union List. This list has at present 100 subjects (originally 97 subjects) like defence, banking, foreign affairs, currency, atomic energy, insurance, communication, inter-state trade and commerce, census, audit and so on.
- (ii) The state legislature has “in normal circumstances” exclusive powers to make laws with respect to any of the matters enumerated in the State List. This has at present 61 subjects (originally 66 subjects) like public order, police, public health and sanitation, agriculture, prisons, local government, fisheries, markets, theaters, gambling and so on.
- (iii) Both, the Parliament and state legislature can make laws with respect to any of the matters enumerated in the Concurrent List. This list has at present 52 subjects (originally 47 subjects) like criminal law and procedure, civil procedure, marriage and divorce, population control and family planning, electricity, labour welfare, economic and social planning, drugs, newspapers, books and printing press, and others.

The power to make laws with respect to residuary subjects (i.e., the matters which are not enumerated in any of the three lists) is vested in the Parliament. This residuary power of legislation includes the power to levy residuary taxes.

From the above scheme, it is clear that the matters of national importance and the matters which require uniformity of legislation nationwide are included in the Union List. The matters of regional and local importance and the matters which permit diversity of interest are specified in the State List. The matters on which uniformity of legislation throughout the country is desirable but not essential are enumerated in the concurrent list. Thus, it permits diversity along with uniformity.

The Constitution expressly secures the predominance of the Union List over the State List and the Concurrent List and that of the Concurrent List over the State List. Thus, in case of overlapping between the Union List and the State List, the former should prevail. In case of overlapping between the Union List and the Concurrent List, it is again the former which should prevail. Where there is a conflict between the Concurrent List and the State List, it is the former that should prevail. In case of a conflict between the Central law and the state law on a subject enumerated in the Concurrent List, the central law prevails over the state law.

3. Parliamentary Legislation in the State Field

The above scheme of distribution of legislative powers between the Centre and the states is to be maintained in normal times. But, in abnormal times, the scheme of distribution is either modified or suspended. In other words, the Constitution empowers the Parliament to make laws on any matter enumerated in the State List under the following five extraordinary circumstances:

When Rajya Sabha Passes a Resolution If the Rajya Sabha declares that it is necessary in the national interest that Parliament should make laws on a matter in the State List, then the Parliament becomes competent to make laws on that matter. Such a resolution must be supported by two-thirds of the members present and voting. The resolution remains in force for one year; it can be renewed any number of times but not exceeding one year at a time. The laws cease to have effect on the expiration of six months after the resolution has ceased to be in force.

During a National Emergency The Parliament acquires the power to legislate with respect to matters in the State List, while a proclamation of national emergency is in operation. The laws become inoperative on the expiration of six months after the emergency has ceased to operate. Here also, the power of a state legislature to make laws on the same matter is not restricted. But, in case of repugnancy between a state law and a parliamentary law, the latter is to prevail.

When States Make a Request When the legislatures of two or more states pass resolutions requesting the Parliament to enact laws on a matter in the State List, then the Parliament can make laws for regulating that matter. A law so enacted applies only to those states which have passed the resolutions. However, any other state may adopt it afterwards by passing a resolution to that effect in its legislature. Such a law can be amended or repealed only by the Parliament and not by the legislatures of the concerned states.

The effect of passing a resolution under the above provision is that the Parliament becomes entitled to legislate with respect to a matter for which it has no power to make a law. On the other hand, the state legislature ceases to have the power to make a law with respect to that matter. The resolution operates as abdication or surrender of the power of the state legislature with respect to that matter and it is placed entirely in the hands of Parliament which alone can then legislate with respect to it.

Some examples of laws passed under the above provision are Prize Competition Act, 1955; Wild Life (Protection) Act, 1972; Water (Prevention and Control of Pollution) Act, 1974; Urban Land (Ceiling and Regulation) Act, 1976; and Transplantation of Human Organs Act, 1994.

To Implement International Agreements The Parliament can make laws on any matter in the State List for implementing the international treaties, agreements or conventions. This provision enables the Central government to fulfil its international obligations and commitments.

Some examples of laws enacted under the above provision are United Nations (Privileges and Immunities) Act, 1947; Geneva Convention Act, 1960; Anti-Hijacking Act, 1982 and legislations relating to environment and TRIPS.

During President's Rule When the President's rule is imposed in a state, the Parliament becomes empowered to make laws with respect to any matter in the State List in relation to that state. A law made so by the Parliament continues to be operative even after the president's rule. This means that the period for which such a law remains in force is not co-terminus with the duration of the President's rule. But, such a law can be repealed or altered or re-enacted by the state legislature.

4. Centre's Control Over State Legislation

Besides the Parliament's power to legislate directly on the state subjects under the exceptional situations, the Constitution empowers the Centre to exercise control over the state's legislative matters in the following ways:

- (i) The governor can reserve certain types of bills passed by the state legislature for the consideration of the President. The president enjoys absolute veto over them.
- (ii) Bills on certain matters enumerated in the State List can be introduced in the state legislature only with the previous sanction of the president. (For example, the bills imposing restrictions on the freedom of trade and commerce).
- (iii) The President can direct the states to reserve money bills and other financial bills passed by the state legislature for his consideration during a financial emergency.

ADMINISTRATIVE RELATIONS

Articles 256 to 263 in Part XI of the Constitution deal with the administrative relations between the Centre and the states. In addition, there are various other articles pertaining to the same matter.

Distribution of Executive Powers

The executive power has been divided between the Centre and the states on the lines of the distribution of legislative powers, except in few cases. Thus, the executive power of the Centre extends to the whole of India: (i) to the matters on which the Parliament has exclusive power of legislation (i.e., the subjects enumerated in the Union List); and (ii) to the exercise of rights, authority and jurisdiction conferred on it by any treaty or agreement. Similarly, the executive power of a state extends to its territory in respect of matters on which the state legislature has exclusive power of legislation (i.e., the subjects enumerated in the State List).

In respect of matters on which both the Parliament and the state legislatures have power of legislation (i.e., the subjects enumerated in the Concurrent List), the executive power rests with the states except when a Constitutional provision or a parliamentary law specifically confers it on the Centre.

Therefore, a law on a concurrent subject, though enacted by the Parliament, is to be executed by the states except when the Constitution or the Parliament has directed otherwise.

Obligation of States and the Centre

The Constitution has placed two restrictions on the executive power of the states in order to give ample scope to the Centre for exercising its executive power in an unrestricted manner. Thus, the executive power of every state is to be exercised in such a way (a) as to ensure compliance with the laws made by the Parliament and any existing law which apply in the state; and (b) as not to impede or prejudice the exercise of executive power of the Centre in the state. While the former lays down a general obligation upon the state, the latter imposes a specific obligation on the state not to hamper the executive power of the Centre.

In both the cases, the executive power of the Centre extends to giving of such directions to the state as are necessary for the purpose. The sanction behind these directions of the Centre is coercive in nature. Thus, Article 365 says that where any state has failed to comply with (or to give effect to) any directions given by the Centre, it will be lawful for the President 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. It means that, in such a situation, the President's rule can be imposed in the state under Article 356.

Centre's Directions to the States

In addition to the above two cases, the Centre is empowered to give directions to the states with regard to the exercise of their executive power in the following matters:

- (i) the construction and maintenance of means of communication (declared to be of national or military importance) by the state;
- (ii) the measures to be taken for the protection of the railways within the state;
- (iii) the provision of adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups in the state; and
- (iv) the drawing up and execution of the specified schemes for the welfare of the Scheduled Tribes in the state.

Mutual Delegation of Functions

The distribution of legislative powers between the Centre and the states is rigid. Consequently, the Centre cannot delegate its legislative powers to the states and a single state cannot request the Parliament to make a law on a state subject. The distribution of executive power in general follows the distribution of legislative powers. But, such a rigid division in the executive sphere may lead to occasional conflicts between the two. Hence, the Constitution provides for inter-government delegation of executive functions in order to mitigate rigidity and avoid a situation of deadlock.

Accordingly, the President may, with the consent of the state government, entrust to that government any of the executive functions of the Centre. Conversely, the governor of a state may, with the consent of the Central government, entrust to that government any of the executive functions of the state. This mutual delegation of administrative functions may be conditional or unconditional.

From the above, it is clear that the mutual delegation of functions between the Centre and the state can take place either under an agreement or by a legislation. While the Centre can use both the methods, a state can use only the first method.

Cooperation Between the Centre and States

The Constitution contains the provisions to secure cooperation between the Centre and the states:

- (i) The Parliament can provide for the adjudication of any dispute or complaint with respect to the use, distribution and control of waters of any inter-state river and river valley.
- (ii) The President can establish (under Article 263) an Inter-State Council to investigate and discuss subject of common interest between the Centre and the states. Such a council was set up in 1990.
- (iii) Full faith and credit is to be given throughout the territory of India to public acts, records and judicial proceedings of the Centre and every state.

All-India Services

Like in any other federation, the Centre and the states also have their separate public services called as the Central Services and the State Services respectively. In addition, there are all-India services—IAS, IPS and IFS. The members of these services occupy top positions (or key posts) under both the Centre and the states and serve them by turns. But, they are recruited and trained by the Centre.

These services are controlled jointly by the Centre and the states. The ultimate control lies with the Central government while the immediate control vests with the state governments. Article 312 of the Constitution authorises the Parliament to create new All-India Services on the basis of a Rajya Sabha resolution to that effect. Each of these three all-India services, irrespective of their division among different states, form a single service with common rights and status and uniform scales of pay throughout the country.

Though the all-India services violate the principle of federalism under the Constitution by restricting the autonomy and patronage of the states, they are supported on the ground that (i) they help in maintaining high standard of administration in the Centre as well as in the states; (ii) they help to ensure uniformity of the administrative system throughout the country; and (iii) they facilitate liaison, cooperation, coordination and joint action on the issues of common interest between the Centre and the states.

Public Service Commissions

In the field of public service commissions, the Centre–state relations are as follows:

- (i) The Chairman and members of a state public service commission, though appointed by the governor of the state, can be removed only by the President.
- (ii) The Parliament can establish a Joint State Public Service Commission (JSPSC) for two or more states on the request of the state legislatures concerned. The chairman and members of the JSPSC are appointed by the president.
- (iii) The Union Public Service Commission (UPSC) can serve the needs of a state on the request of the state governor and with the approval of the President.
- (iv) The UPSC assists the states (when requested by two or more states) in framing and operating schemes of joint recruitment for any services for which candidates possessing special qualifications are required.

Integrated Judicial System

Though India has a dual polity, there is no dual system of administration of justice. The Constitution, on the other hand, established an integrated judicial system with the Supreme Court at the top and the state high courts below it. This single system of courts enforces both the Central laws as well as the state laws. This is done to eliminate diversities in the remedial procedure.

The judges of a state high court are appointed by the president in consultation with the Chief Justice of India and the governor of the state. They can also be transferred and removed by the president. The Parliament can establish a common high court for two or more states. For example, Maharashtra and Goa or Punjab and Haryana have a common high court.

FINANCIAL RELATIONS

Articles 268 to 293 in Part XII of the Constitution deal with Centre–state financial relations. They can be studied under following heads:

Allocation of Taxing Powers

The Constitution divides the taxing powers between the Centre and the states in the following way:

- The Parliament has exclusive power to levy taxes on subjects enumerated in the Union List (which are 15 in number).
- The state legislature has exclusive power to levy taxes on subjects enumerated in the State List (which are 20 in number).
- Both the Parliament and the state legislature can levy taxes on subjects enumerated in the Concurrent List (which are 3 in number).
- The residuary power of taxation (that is, the power to impose taxes not enumerated in any of the three lists) is vested in the Parliament. Under this provision, the Parliament has imposed gift tax, wealth tax and expenditure tax.

The Constitution also draws a distinction between the power to levy and collect a tax and the power to appropriate the proceeds of the tax so levied and collected. For example, the income-tax is levied and collected by the Centre but its proceeds are distributed between the Centre and the states.

Distribution of Tax Revenues

The 80th Amendment was enacted to give effect to the recommendations of the 10th Finance Commission which recommended that out of the total income obtained from certain central taxes and duties, 29% should go to the states. This is known as the ‘Alternative Scheme of Devolution’ and came into effect retrospectively from April 1, 1996. This amendment has brought several central taxes and duties like Corporation Tax and Customs Duties at par with Income Tax (taxes on income other than agricultural income) as far as their constitutionally mandated sharing with the states is concerned.

A. Taxes Levied by the Centre but Collected and Appropriated by the States (Article 268):

This category includes the following taxes and duties:

- (i) Stamp duties on bills of exchange, cheques, promissory notes, policies of insurance, transfer of shares and others.
- (ii) Excise duties on medicinal and toilet preparations containing alcohol and narcotics. The proceeds of these duties levied within any state do not form a part of the Consolidated Fund of India, but are assigned to that state.

B. Service Tax Levied by the Centre but Collected and Appropriated by the Centre and the States (Article 268-A):

Taxes on services are levied by the Centre. But, their proceeds are collected as well as appropriated by both the Centre and the states. The principles of their collection and appropriation are formulated by the Parliament.

C. Taxes Levied and Collected by the Centre but Assigned to the States (Article 269):

The following taxes fall under this category:

- (i) Taxes on the sale or purchase of goods (other than newspapers) in the course of inter-state trade or commerce.
- (ii) Taxes on the consignment of goods in the course of inter-state trade or commerce.

The net proceeds of these taxes do not form a part of the Consolidated Fund of India. They are assigned to the concerned states in accordance with the principles laid down by the Parliament.

A. Taxes Levied and Collected by the Centre but Distributed between the Centre and the States (Article 270): This category includes all taxes and duties referred to in the Union List except the following:

- (i) Duties and taxes referred to in Articles 268, 268-A and 269 (mentioned above);
- (ii) Surcharge on taxes and duties referred to in Article 271 (mentioned below); and
- (iii) Any cess levied for specific purposes.

The manner of distribution of the net proceeds of these taxes and duties is prescribed by the President on the recommendation of the Finance Commission.

B. Surcharge on Certain Taxes and Duties for Purposes of the Centre (Article 271): The Parliament can at any time levy the surcharges on taxes and duties referred to in Articles 269 and 270 (mentioned above). The proceeds of such surcharges go to the Centre exclusively. In other words, the states have no share in these surcharges.

Taxes Levied and Collected and Retained by the States These are the taxes belonging to the states exclusively. They are enumerated in the state list and are 20 in number. These are: (i) land revenue; (ii) taxes on agricultural income, succession and estate duties in respect of agricultural land; (iii) taxes on lands and buildings, on mineral rights, on animals and boats, on road vehicles, on luxuries, on entertainments, and on gambling; (iv) excise duties on alcoholic liquors for human consumption and narcotics; (v) taxes on the entry of goods into a local area, on advertisements (except newspapers), on consumption or sale of electricity, and on goods and passengers carried by road or on inland waterways; (vi) taxes on professions, trades, callings and employments not exceeding Rs. 2,500 per annum; (vii) capitation taxes; (viii) tolls; (ix) stamp duty on documents (except those specified in the Union List); (x) sales tax (other than newspaper); and (xi) fees on the matters enumerated in the State List (except court fees).

Distribution of Non-tax Revenues

A. The Centre The receipts from the following form the major sources of non-tax revenues of the Centre: (i) posts and telegraphs; (ii) railways; (iii) banking; (iv) broadcasting (v) coinage and currency; (vi) central public sector enterprises; and (vii) escheat and lapse.

B. The States The receipts from the following form the major sources of non-tax revenues of the states: (i) irrigation; (ii) forests; (iii) fisheries; (iv) state public sector enterprise; and (v) escheat and lapse.

Grants-in-Aid to the States

Besides sharing of taxes between the Centre and the states, the Constitution provides for grants-in-aid to the states from the Central resources. There are two types of grants-in-aid, viz, statutory grants and discretionary grants:

Statutory Grants Article 275 empowers the Parliament to make grants to the states which are in need of financial assistance and not to every state. Also, different sums may be fixed for different states. These sums are charged on the Consolidated Fund of India every year.

Apart from this general provision, the Constitution also provides for specific grants for promoting

the welfare of the scheduled tribes in a state or for raising the level of administration of the scheduled areas in a state including the State of Assam.

The statutory grants under Article 275 (both general and specific) are given to the states on the recommendation of the Finance Commission.

Discretionary Grants Article 282 empowers both the Centre and the states to make any grants for any public purpose. Under this provision, the Centre makes grants to the states at its own discretion.

RECENT TRENDS IN CENTER-STATE RELATIONS:

Till 1967, the centre-state relations by and large were smooth due to one-party rule at the Centre and in most of the states. In 1967 elections, the Congress party was defeated in nine states and its position at the Centre became weak. This changed political scenario heralded a new era in the Centre-state relations. The non-Congress Governments in the states opposed the increasing centralisation and intervention of the Central government. They raised the issue of state autonomy and demanded more powers and financial resources to the states. This caused tensions and conflicts in Centre-state relations.

Tension Areas in Centre-State Relations

The issues which created tensions and conflicts between the Centre and states are: (1) Mode of appointment and dismissal of governor; (2) Discriminatory and partisan role of governors; (3) Imposition of President's Rule for partisan interests; (4) Deployment of Central forces in the states to maintain law and order; (5) Reservation of state bills for the consideration of the President; (6) Discrimination in financial allocations to the states; (7) Role of Planning Commission in approving state projects; (8) Management of All-India Services (IAS, IPS, and IFS); (9) Use of electronic media for political purposes; (10) Appointment of enquiry commissions against the chief ministers; (11) Sharing of finances (between Centre and states); and (12) Encroachment by the Centre on the State List. The issues in Centre-State relations have been under consideration since the mid 1960s. In this direction, the following developments have taken place:

Administrative Reforms Commission

The Central government appointed a six-member Administrative Reforms Commission (ARC) in 1966 under the chairmanship of Morarji Desai (followed by K Hanumanthayya). Its terms of references included, among others, the examination of Centre-State relations. In order to examine thoroughly the various issues in Centre-state relations, the ARC constituted a study team under M.C. Setalvad. On the basis of the report of this study team, the ARC finalised its own report and submitted it to the Central government in 1969. It made 22 recommendations for improving the Centre-state relations. The important recommendations are:

- Establishment of an Inter-State Council under Article 263 of the Constitution.
- Appointment of persons having long experience in public life and administration and non-partisan attitude as governors.
- Delegation of powers to the maximum extent to the states.
- Transferring of more financial resources to the states to reduce their dependency upon the Centre.
- Deployment of Central armed forces in the states either on their request or otherwise.

No action was taken by the Central government on the recommendations of the ARC.

Anandpur Sahib Resolution

In 1973, the Akali Dal adopted a resolution containing both political and religious demands in a meeting held at Anandpur Sahib in Punjab. The resolution, generally known as Anandpur Sahib Resolution, demanded that the Centre's jurisdiction should be restricted only to defence, foreign affairs, communications, and currency and the entire residuary powers should be vested in the states. It stated that the Constitution should be made federal in the real sense and should ensure equal authority and representation to all the states at the Centre.

West Bengal Memorandum

In 1977, the West Bengal Government (led by the Communists) published a memorandum on Centre-state relations and sent to the Central government. The memorandum *inter alia* suggested the following: (i) The word 'union' in the Constitution should be replaced by the word 'federal'; (ii) The jurisdiction of the Centre should be confined to defence, foreign affairs, currency, communications and economic co-ordination; (iii) All other subjects including the residuary should be vested in the states; (iv) Articles 356 and 357 (President's Rule) and 360 (financial emergency) should be repealed; (v) State's consent should be made obligatory for formation of new states or reorganisation of existing states; (vi) Of the total revenue raised by the Centre from all sources, 75 per cent should be allocated to the states; (vii) Rajya Sabha should have equal powers with that of the Lok Sabha; and (viii) There should be only Central and state services and the all India services should be abolished.

The Central government did not accept the demands made in the memorandum.

Sarkaria Commission

In 1983, the Central government appointed a three-member Commission on Centre-state relations under the chairmanship of R.S. Sarkaria, a retired judge of the Supreme Court. The commission was asked to examine and review the working of existing arrangements between the Centre and states in all spheres and recommend appropriate changes and measures. It was initially given one year to complete its work, but its term was extended four times. It submitted its report in 1988.

The Commission did not favour structural changes and regarded the existing constitutional arrangements and principles relating to the institutions basically sound. But, it emphasised on the need for changes in the functional or operational aspects. It observed that federalism is more a functional arrangement for co-operative action than a static institutional concept. It outrightly rejected the demand for curtailing the powers of the Centre and stated that a strong Centre is essential to safeguard the national unity and integrity which is being threatened by the fissiparous tendencies in the body politic. However, it did not equate strong Centre with centralisation of powers. It observed that over-centralisation leads to blood pressure at the centre and anaemia at the periphery.

The Commission made 247 recommendations to improve Centre-state relations. The important recommendations are mentioned below:

1. A permanent Inter-State Council called the Inter-Governmental Council should be set up under Article 263.
2. Article 356 (President's Rule) should be used very sparingly, in extreme cases as a last resort when all the available alternatives fail.
3. The institution of All-India Services should be further strengthened and some more such services should be created.
4. The residuary powers of taxation should continue to remain with the Parliament, while the other residuary powers should be placed in the Concurrent List.
5. When the president withholds his assent to the state bills, the reasons should be communicated to the state government.
6. The National Development Council (NDC) should be renamed and reconstituted as the

National Economic and Development Council (NEDC).

7. The zonal councils should be constituted afresh and reactivated to promote the spirit of federalism.
8. The Centre should have powers to deploy its armed forces, even without the consent of states. However, it is desirable that the states should be consulted.
9. The Centre should consult the states before making a law on a subject of the Concurrent List.
10. The procedure of consulting the chief minister in the appointment of the state governor should be prescribed in the Constitution itself.
11. The net proceeds of the corporation tax may be made permissibly shareable with the states.
12. The governor cannot dismiss the council of ministers so long as it commands a majority in the assembly.
13. The governor's term of five years in a state should not be disturbed except for some extremely compelling reasons.
14. No commission of enquiry should be set up against a state minister unless a demand is made by the Parliament.
15. The surcharge on income tax should not be levied by the Centre except for a specific purpose and for a strictly limited period.
16. The present division of functions between the Finance Commission and the Planning Commission is reasonable and should continue.
17. Steps should be taken to uniformly implement the three language formula in its true spirit.
18. No autonomy for radio and television but decentralisation in their operations.
19. No change in the role of Rajya Sabha and Centre's power to reorganise the states.
20. The commissioner for linguistic minorities should be activated.

The Central government has implemented 180 (out of 247) recommendations of the Sarkaria Commission. The most important is the establishment of the Inter-State Council in 1990.

INTER-STATE COUNCIL

Article 263 contemplates the establishment of an Inter-State Council to effect coordination between the states and between Centre and states. Thus, the President can establish such a council if at any time it appears to him that the public interest would be served by its establishment. He can define the nature of duties to be performed by such a council and its organisation and procedure.

Even though the president is empowered to define the duties of an inter-state council, Article 263 specifies the duties that can be assigned to it in the following manner:

- (a) enquiring into and advising upon disputes which may arise between states;
- (b) investigating and discussing subjects in which the states or the Centre and the states have a common interest; and
- (c) making recommendations upon any such subject, and particularly for the better co-ordination of policy and action on it.

“The council's function to enquire and advice upon inter-state disputes is complementary to the Supreme Court's jurisdiction under Article 131 to decide a legal controversy between the governments. The Council can deal with any controversy whether legal or non-legal, but its function is advisory unlike that of the court which gives a binding decision.”

Under the above provisions of Article 263, the president has established the following councils to make recommendations for the better coordination of policy and action in the

related subjects:

- Central Council of Health.
- Central Council of Local Government and Urban Development.
- Four Regional Councils for Sales Tax for the Northern, Eastern, Western and Southern Zones.

The Central Council of Indian Medicine and the Central Council of Homoeopathy were set up under the Acts of Parliament.

Establishment of Inter-State Council

The Sarkaria Commission on Centre-State Relations (1983–87) made a strong case for the establishment of a permanent Inter-State Council under Article 263 of the Constitution. It recommended that in order to differentiate the Inter-State Council from other bodies established under the same Article 263, it must be called as the Inter-Governmental Council. The Commission recommended that the Council should be charged with the duties laid down in clauses (b) and (c) of Article 263 (see above).

In pursuance of the above recommendations of the Sarkaria Commission, **the Janata Dal Government headed by V. P. Singh established the Inter- State Council in 1990.**⁵ It consists of the following members:

- (i) Prime minister as the Chairman
- (ii) Chief ministers of all the states
- (iii) Chief ministers of union territories having legislative assemblies
- (iv) Administrators of union territories not having legislative assemblies
- (v) Governors of States under President's rule
- (vi) Six Central cabinet ministers, including the home minister, to be nominated by the Prime Minister.
- (vii) Five Ministers of Cabinet rank / Minister of State (independent charge) nominated by the Chairman of the Council (i.e., Prime Minister) are permanent invitees to the Council.

The council is a recommendatory body on issues relating to inter- state, Centre–state and Centre–union territories relations. It aims at promoting coordination between them by examining, discussing and deliberating on such issues. Its duties, in detail, are as follows:

- investigating and discussing such subjects in which the states or the centre have a common interest;
- making recommendations upon any such subject for the better coordination of policy and action on it; and
- deliberating upon such other matters of general interest to the states as maybe referred to it by the chairman.

The Council may meet at least thrice in a year. Its meetings are held in camera and all questions are decided by consensus.

There is also a Standing Committee of the Council. It was set up in 1996 for continuous consultation and processing of matters for the consideration of the Council. It consists of the following members:

- (i) Union Home Minister as the Chairman
- (ii) Five Union Cabinet Ministers
- (iii) Nine Chief Ministers

The Council is assisted by a secretariat called the Inter-State Council Secretariat. This secretariat was set-up in 1991 and is headed by a secretary to the Government of India. Since 2011, it is also functioning as the secretariat of the Zonal Councils.

Erstwhile Planning Commission

The erstwhile Planning Commission was established in March 1950 by an executive resolution of the Government of India, (i.e., the Union Cabinet) on the recommendation of the Advisory Planning Board constituted in 1946, under the chairmanship of K.C. Neogi. Thus, the erstwhile Planning Commission was neither a constitutional body nor a statutory body. In India, it was the supreme organ of planning for social and economic development.

Functions

The functions of the erstwhile Planning Commission included the following:

1. To make an assessment of material, capital and human resources of the country, and investigate the possibilities of augmenting them.
2. To formulate a plan for the most effective and balanced utilisation of the country's resources.
3. To determine priorities and to define the stages in which the plans should be carried out.
4. To indicate the factors that retard economic development.
5. To determine the nature of the machinery required for successful implementation of the plan in each stage.
6. To appraise, from time to time, the progress achieved in execution of the plan and to recommend necessary adjustments.
7. To make appropriate recommendations for facilitating the discharge of its duties, or on a matter referred to it for advice by Central or state governments.

It should be noted that the erstwhile Planning Commission was only a staff agency—an advisory body and had no executive responsibility. It was not responsible for taking and implementing decisions. This responsibility rested with the Central and State Governments.

Composition

The following points can be noted in context of the composition (membership) of the erstwhile Planning Commission:

1. The Prime Minister of India was the chairman of the commission. He presided over the meetings of the commission.
2. The commission had a deputy chairman. He was the de facto executive head (i.e., full-time functional head) of the commission. He was responsible for the formulation and submission of the draft of Five-Year Plan to the Central cabinet. He was appointed by the Central cabinet for a fixed tenure and enjoyed the rank of a Cabinet Minister. Though he was not a member of cabinet, he was invited to attend all its meetings (without a right to vote).
3. Some Central Ministers were appointed as part-time members of the commission. In any case, the finance minister and planning minister were the ex officio (by virtue of) members of the commission.
4. The commission had four to seven fulltime expert members. They enjoyed the rank of a minister of state.
5. The commission had a member-secretary. He was usually a senior member of IAS. The state governments were not represented in the commission in any way. Thus, the erstwhile Planning Commission was wholly a Centre-constituted body.

NITI AAYOG

ESTABLISHMENT

On the 13th of August, 2014, the Modi Government scrapped the 65-year-old Planning Commission and announced that it would be replaced by a new body. Accordingly, on January 1, 2015, the NITI Aayog (National Institution for Transforming India) was established as the successor to the planning commission.

However, it must be noted here that the NITI Aayog, like that of the Planning Commission, was also created by an executive resolution¹ of the Government of India (i.e., Union Cabinet). Hence, it is also neither a constitutional body nor a statutory body. In other words, it is a non-constitutional or extra-constitutional body (i.e., not created by the Constitution) and a non-statutory body (not created by an Act of the Parliament).

NITI Aayog is the premier policy 'Think Tank' of the Government of India, providing both directional and policy inputs. While designing strategic and long-term policies and programmes for the Government of India, NITI Aayog also provides relevant technical advice to the Centre and States.

The centre-to-state one-way flow of policy, that was the hallmark of the Planning Commission era, is now sought to be replaced by a genuine and continuing partnership of states.

In a paradigmatic shift from the command and control approach of the past, NITI Aayog accommodates diverse points of view in a collaborative, rather than confrontational, setting. In the spirit of federalism, NITI's own policy thinking too is shaped by a 'bottom-up' approach rather than a 'top-down' model.

RATIONALE

While explaining the reason for replacing the Planning Commission with the NITI Aayog, the Union Government made the following observation: "India has undergone a paradigm shift over the past six decades—politically, economically, socially, technologically as well as demographically. The role of Government in national development has seen a parallel evolution.

Keeping with these changing times, the Government of India has decided to set up NITI Aayog (National Institution for Transforming India), in place of the erstwhile Planning Commission, as a means to better serve the needs and aspirations of the people of India."

The new institution will be a catalyst to the developmental process; nurturing an overall enabling environment, through a holistic approach to development going beyond the limited sphere of the Public Sector and Government of India. This will be built on the foundations of:

1. An empowered role of States as equal partners in national development; operationalising the principle of Cooperative Federalism.
2. A knowledge hub of internal as well as external resources; serving as a repository of good governance best practices, and a Think Tank offering domain knowledge as well as strategic expertise to all levels of government.
3. A collaborative platform facilitating implementation; by monitoring progress, plugging gaps and bringing together the various ministries at the Centre and in States, in the joint pursuit of developmental goals.

COMPOSITION

The composition of the NITI Aayog is as follows:

- (a) Chairperson: The Prime Minister of India
- (b) Governing Council: It comprises the Chief Ministers of all the States, Chief Ministers of Union Territories with Legislatures (i.e., Delhi and Puducherry) and Lt. Governors of other Union Territories.
- (c) Regional Councils: These are formed to address specific issues and contingencies impacting more than one state or a region. These are formed for a specified tenure. These are convened by the Prime Minister and comprises of the Chief Ministers of States and Lt. Governors of Union Territories in the region. These are chaired by the Chairperson of the NITI Aayog or his nominee.
- (d) Special Invitees: Experts, specialists and practitioners with relevant domain knowledge as special invitees nominated by the Prime Minister.
- (e) Full-time Organisational Framework: It comprises, in addition to the Prime Minister as the Chairperson:
 - (i) Vice-Chairperson: He is appointed by the Prime Minister. He enjoys the rank of a Cabinet Minister.
 - (ii) Members: Full-time. They enjoy the rank of a Minister of State.
 - (iii) Part-time Members: Maximum of 2, from leading universities, research organisations and other relevant institutions in an ex-officio capacity. Part-time members would be on a rotation.
 - (iv) Ex-Officio Members: Maximum of 4 members of the Union Council of Ministers to be nominated by the Prime Minister.
 - (v) Chief Executive Officer: He is appointed by the Prime Minister for a fixed tenure, in the rank of Secretary to the Government of India.
 - (vi) Secretariat: As deemed necessary.

SPECIALISED WINGS

NITI Aayog houses a number of specialised wings, including:

1. **Research Wing:** It develops in-house sectoral expertise as a dedicated think tank of top notch domain experts, specialists and scholars.
2. **Consultancy Wing:** It provides a market-place of whetted panels of expertise and funding, for the Central and State Governments to tap into matching their requirements with solution providers, public and private, national and international. By playing match-maker instead of providing the entire service itself, NITI Aayog is able to focus its resources on priority matters, providing guidance and an overall quality check to the rest.
3. **Team India Wing:** It comprises of the representatives from every State and Ministry and serves as a permanent platform for national collaboration. Each representative:
 - (a) Ensures that every State/Ministry has a continuous voice and stake in the NITI Aayog.
 - (b) Establishes a direct communication channel between the State/Ministry and NITI Aayog for all development related matters, as the dedicated liaison interface.

NITI Aayog functions in close cooperation, consultation and coordination with the Ministries of the Central Government, and State Governments by making recommendations to them.

OBJECTIVES

To evolve a shared vision of national development priorities, sectors and strategies with the active involvement of States in the light of national objectives. The vision of the NITI Aayog will then provide a framework ‘national agenda’ for the Prime Minister and the Chief Ministers to provide impetus to:

1. To foster cooperative federalism through structured support initiatives and mechanisms with the States on a continuous basis, recognising that strong States make a strong nation.
2. To develop mechanisms to formulate credible plans at the village level and aggregate these progressively at higher levels of government.
3. To ensure, on areas that are specifically referred to it, that the interests of national security are incorporated in economic strategy and policy.
4. To pay special attention to the sections of our society that may be at risk of not benefitting adequately from economic progress.
5. To design strategic and long-term policy and programme frameworks and initiatives, and monitor their progress and their efficacy. The lessons learnt through monitoring and feedback will be used for making innovative improvements, including necessary mid-course corrections.
6. To provide advice and encourage partnerships between key stakeholders and national and international like-minded think tanks, as well as educational and policy research institutions.
7. To create a knowledge, innovation and entrepreneurial support system through a collaborative community of national and international experts, practitioners and other partners.
8. To offer a platform for resolution of inter-sectoral and inter-departmental issues in order to accelerate the implementation of the development agenda.
9. To maintain a state-of-the-art Resource Centre, be a repository of research on good governance and best practices in sustainable and equitable development as well as help their dissemination to stake-holders.
10. To actively monitor and evaluate the implementation of programmes and initiatives, including the identification of the needed resources so as to strengthen the probability of success and scope of delivery.
11. To focus on technology upgradation and capacity building for implementation of programmes and initiatives.
12. To undertake other activities as may be necessary in order to further the execution of the national development agenda, and the objectives mentioned above.

Through the above, the NITI Aayog aims to accomplish the following objectives and opportunities:

1. An administration paradigm in which the Government is an “enabler” rather than a “provider of first and last resort.”
2. Progress from “food security” to focus on a mix of agricultural production, as well as actual returns that farmers get from their produce.
3. Ensure that India is an active player in the debates and deliberations on the global commons.
4. Ensure that the economically vibrant middle-class remains engaged, and its potential is fully realised.
5. Leverage India’s pool of entrepreneurial, scientific and intellectual human capital.
6. Incorporate the significant geo-economic and geo-political strength of the Non-Resident Indian Community.
7. Use urbanisation as an opportunity to create a wholesome and secure habitat through the use of modern technology.
8. Use technology to reduce opacity and potential for misadventures in governance.

The NITI Aayog aims to enable India to better face complex challenges, through the following:

1. Leveraging of India's demographic dividend, and realisation of the potential of youth, men and women, through education, skill development, elimination of gender bias, and employment
2. Elimination of poverty, and the chance for every Indian to live a life of dignity and self-respect
3. Redressal of inequalities based on gender bias, caste and economic disparities
4. Integrate villages institutionally into the development process
5. Policy support to more than 50 million small businesses, which are a major source of employment creation
6. Safeguarding our environmental and ecological assets

GUIDING PRINCIPLES

In carrying out the above functions, the NITI Aayog is guided by the following principles:

1. *Antyodaya*: Prioritise service and uplift of the poor, marginalised and downtrodden, as enunciated in Pandit Deendayal Upadhyay's idea of 'Antyodaya'.
2. *Inclusion*: Empower vulnerable and marginalised sections, redressing identity-based inequalities of all kinds—gender, region, religion, caste or class.
3. *Village*: Integrate our villages into the development process, to draw on the vitality and energy of the bedrock of our ethos, culture and sustenance.
4. *Demographic dividend*: Harness our greatest asset, the people of India; by focussing on their development, through education and skilling, and their empowerment, through productive livelihood opportunities.
5. *People's Participation*: Transform the developmental process into a people-driven one, making an awakened and participative citizenry—the driver of good governance.
6. *Governance*: Nurture an open, transparent, accountable, pro-active and purposeful style of governance, transitioning focus from Outlay to Output to Outcome.
7. *Sustainability*: Maintain sustainability at the core of our planning and developmental process, building on our ancient tradition of respect for the environment.

Therefore, the NITI Aayog is based on the following seven pillars of effective governance:

- (i) Pro-people agenda that fulfils the aspirations of the society as well as individuals.
- (ii) Pro-active in anticipating and responding to citizen needs.
- (iii) Participative, by involvement of citizens.
- (iv) Empowering women in all aspects.
- (v) Inclusion of all groups with special attention to the SCs, STs, OBCs and minorities.
- (vi) Equality of opportunity for the youth.
- (vii) Transparency through the use of technology to make government visible and responsive.

FINANCE COMMISSION

Article 280 of the Constitution of India provides for a Finance Commission as a quasi judicial body. It is constituted by the president of India every fifth year or at such earlier time as he considers necessary.

COMPOSITION

The Finance Commission consists of a chairman and four other members to be appointed by the president. They hold office for such period as specified by the president in his order. They are eligible for reappointment.

The Constitution authorises the Parliament to determine the qualifications of members of the commission and the manner in which they should be selected. Accordingly, the Parliament has specified the qualifications of the chairman and members of the commission¹. The chairman should be a person having experience in public affairs and the four other members should be selected from amongst the following:

1. A judge of high court or one qualified to be appointed as one.
2. A person who has specialised knowledge of finance and accounts of the government.
3. A person who has wide experience in financial matters and in administration.
4. A person who has special knowledge of economics.

FUNCTIONS

The Finance Commission is required to make recommendations to the president of India on the following matters:

1. The distribution of the net proceeds of taxes to be shared between the Centre and the states, and the allocation between the states of the respective shares of such proceeds.
2. The principles that should govern the grants-in-aid to the states by the Centre (i.e., out of the consolidated fund of India).
3. The measures needed to augment the consolidated fund of a state to supplement the resources of the panchayats and the municipalities in the state on the basis of the recommendations made by the state finance commission.
4. Any other matter referred to it by the president in the interests of sound finance.

The commission submits its report to the president. He lays it before both the Houses of Parliament along with an explanatory memorandum as to the action taken on its recommendations.

ADVISORY ROLE

It must be clarified here that the recommendations made by the Finance Commission are only of advisory nature and hence, not binding on the government. It is up to the Union government to implement its recommendations on granting money to the states.

To put it in other words, 'It is nowhere laid down in the Constitution that the recommendations of the commission shall be binding upon the Government of India or that it would give rise to a

legal right in favour of the beneficiary states to receive the money recommended to be offered to them by the Commission’.

As rightly observed by Dr. P.V. Rajamannar, the Chairman of the Fourth Finance Commission, “Since the Finance Commission is a constitutional body expected to be quasi-judicial, its recommendations should not be turned down by the Government of India unless there are very compelling reasons”.

The Constitution of India envisages the Finance commission as the balancing wheel of fiscal federalism in India. However, its role in the Centre–state fiscal relations was undermined by the emergence of the erstwhile Planning Commission, a non-constitutional and a non-statutory body. Dr P V Rajamannar, the Chairman of the Fourth Finance commission, highlighted the overlapping of functions and responsibilities between the Finance Commission and the erstwhile Planning Commission in federal fiscal transfers.