

## The First Administrative Reforms Commission:

The first Administrative Reforms Commission was constituted by the Government of India on **5 January 1966** for **reviewing the public administration system of India** and recommending measures for making administration fit for carrying out the social and economic policies of the government and being responsive to the people. The Commission was Chaired initially by Morarji R Desai, MP, and later on by K.Hanumanthaiah, MP when Morarji R Desai became the Deputy Prime Minister of India.

The Commission presented its reports in 20 parts, which contained a total of 537 significant recommendations until the mid-seventies. **The 13th report specifically focused on matters related to the relationship between the central government and state governments.** In regards to the Inter-State Council, the Commission put forth the following recommendations:

1. Establishment of an Inter-State Council under Article 263 (b) and (c) of the Constitution. This council would address all national issues that are of interest to the states.
2. Assigning the Council functions outlined in Article 263 (a) to resolve and provide advice on disputes between states would divert its attention from the various national concerns it should address.
3. The Inter-State Council should replace the National Development Council, Chief Ministers' Conference, Finance Ministers' Conference, Food Ministers' Conference, and National Integration Council.
4. The Council should serve as a comprehensive mechanism for consultations between the central government and the states. It should primarily address issues of genuine and national significance, while other matters can be resolved through conferences convened by the relevant ministries at a lower, preferably official level.
5. The Council should have a suitable secretariat, and the Secretary of the Council should possess the necessary knowledge, experience, and status to effectively carry out their responsibilities.

## Sarkaria Commission:

To examine centre-state relations, the Government of India constituted its first ever commission in 1983 under the chairmanship of Justice Rajinder Singh Sarkaria, Shri B. Sivaraman and Dr. S.R. Sen; popularly known as the Sarkaria Commission. The commission submitted its report to the Indian government recommending, some of its findings are briefly discussed in this section:

**Legislative Relations:** The commission recommended that all the residuary powers to legislate in the field of taxation must be retained by the parliament while any other residuary field apart from taxation must come under the purview of the Concurrent List.

Further the commission also recommended that the Union occupy only that much part in the Concurrent List which concerns national interest, in other fields' states must be allowed to take actions within Union law. Also the Union must legislate on the

subjects related to the Concurrent list with prior consultation with the states and the Inter- Governmental Council suggested by the commission under Article 263.

**Administrative Relations:** commission observed that though Union laws take precedence over the State laws, they are meant to set a coordination between the state and the centre and thus non-compliance on the part of the state should be dealt patiently by the centre rather than invoking Article 365, which should be the last resort.

The commission envisaged the future of federalism in India based on the cooperation between the centre and the states. As the commission rightly observed:

"Federalism is more a functional arrangement for cooperative action, than a static institutional concept."

Here in this regard Commission quotes the use of Article 258 of the constitution to indicate the element of cooperation envisaged by the makers of the constitution. Article 258 provides for the delegation of executive power by the president and parliament to the states.

#### **On Deployment of Armed Forces:**

The existing relationship between the Union armed forces and the State civil authorities and the manner of their functioning as prescribed in the relevant Union laws and procedures do not need any change. However, before the Union Government deploys its armed and other forces in a State in aid of the civil power otherwise than on a request from the State Government or declares an area within a State as "disturbed", it is desirable that the State Government should be consulted, wherever feasible, and its cooperation sought, even though prior consultation with the State Government is not obligatory.

Further, Each State Government may work out, in consultation with the Union Government, short-term and long-term arrangements for strengthening its Armed Police. The objective will be to become largely self-reliant in the matter of Armed Police so that the assistance of the Union armed forces will be necessary only in cases of very severe disturbances.

A group of neighbouring States may, by consensus, have a standing arrangement for the use of the Armed Police of one another in case of need. The Union Government may devise by consensus the regional groupings, keeping in view contiguity and logistics and encourage States to participate fully. The Zonal Council would be the best forum for achieving consensus of the States within a zone for devising such an arrangement.

Sarkaria Commission also laid stress that states should incorporate various recommendations which was given by the National Police Commission in order to boost the effectiveness and morals of state armed police forces.

### **On Management of All India Services:**

Opinion on utility of All India Services: The All India Services are as much necessary today as they were when the Constitution was framed and continue to be one of the premier institutions for maintaining the unity of the country. Undoubtedly, the members of the All India Services have shown themselves capable of discharging the roles that the framers of the Constitution envisaged for them. Any move to disband the All India Services or to permit a State Government to opt out of the scheme must be regarded as retrograde and harmful to the larger interest of the country. Such a step is sure to encourage parochial tendencies and undermine the integrity, cohesion, efficiency and coordination in administration of the country as a whole.

The All-India Services should be further strengthened and greater emphasis given on the role expected to be played by them. This can be achieved through well-planned improvements in selection, training, deployment, development and promotion policies and methods. The present accent on generalism should yield place to greater specialisation in one or more areas of public administration.

### **Other Recommendations:**

- Every All-India Service officer, whether he is a direct recruit or a promoted officer, should be required to put in a minimum period under the Union Government and, for this purpose, the minimum number of spells of Union deputation should be laid down for direct recruits and promoted officers, separately.
- State Governments should offer officers for Union deputation only after screening them. The Union Government may lay down a screening mechanism and the criteria to be followed for the purpose by every State government.
- It should be followed as a principle that services of best officers of AIS shall not be monopolised by the union rather should also be also readily available to the State Governments to whose cadres they belong.
- There should be regular consultations on the management of All India Services between the Union and the State Governments. For this purpose, an Advisory Council for Personnel Administration of the All-India Services may be set up.
- To constitute All India Services in sectors like agriculture, cooperation, industry, etc

### **On Inter State Water Dispute Resolution:**

- Amending the act (Inter-State River Water Disputes Act 1956 )for making it mandatory for the union to constitute a tribunal within one year of the receipt of such a request by any state.
- Union should also be given the Suo motu power to appoint interstate water dispute resolution tribunal.
- Act should be amended to ensure that the award of a Tribunal becomes effective within five years from the date of constitution of a Tribunal.

- The Inter-State Water Disputes Act 1956 should be amended so that a Tribunal's award has the same force and sanction behind it as an order or decree of the Supreme Court to make a Tribunal's award really binding.

**On Article 356:** it recommended it be used in extreme cases where all other options ceased to work and only to prevent the constitutional breakdown of state machinery.

A warning should be issued to the errant State, in specific terms, that it is not carrying on the government of the State in accordance with the Constitution. Before taking action under Article 356, any explanation received from the State should be taken into account.

**Governor while recommending imposition of 356:** In a situation of political breakdown, the Governor should explore all possibilities of having a government enjoying majority support in the Assembly. If it is not possible for such a government to be installed and if fresh elections can be held without avoidable delay, he should ask the outgoing Ministry, if there is one to continue as a caretaker government, provided the Ministry was defeated solely on a major policy issue, unconnected with any allegations of maladministration or corruption and is agreeable to continue. The Governor should then dissolve the Legislative Assembly, leaving the resolution of the constitutional crisis to the electorate. During the interim period, the caretaker government should be allowed to function. As a matter of convention, the caretaker government should merely carry on the day to-day government and desist from taking any major policy decision.

If the important ingredients described above are absent, it would not be proper for the Governor to dissolve the Assembly and install a caretaker government. The Governor should recommend proclamation of President's rule without dissolving the Assembly.

The State Legislative Assembly should not be dissolved either by the Governor or the President before the Proclamation issued under Article 356(1) has been laid before Parliament and it has had an opportunity to consider it. Article 356 should be suitably amended to ensure this.

**The Second ARC** was setup by the Government of India on 31 August 2005 under the Chairmanship of Shri M. Veerappa Moily with the mandate to suggest measures to achieve a proactive, responsive, accountable, sustainable and efficient administration for the country at all levels of the government.

The Commission submitted its report in 15 parts during June 2006 to May 2009. Part-7 of the report titled 'Capacity Building for Conflict Resolution: Friction to Fusion' made the following two recommendations regarding the Inter-State Council:

- **The Inter-State Council must be given the complete role provided to it under the Constitution i.e. both conflict resolution and better coordination of policy and action in matters of interest to the Union and States.** For

resolution of conflicts, whether inter-State or Union-State, the mechanism of enquiring and advising, even without having the power to adjudicate, envisaged by clause (a) of Article 263 can be an effective method to resolve disputes.

- **The Inter-State Council should be constituted as and when the need in that behalf arises and that the Council need not exist in perpetuity.** The Council could best serve its purpose as a pro tem body with a flexible composition suited to its term of reference. The present omnibus Council may be dissolved. There should not be any bar or impediment for constituting more than one Council at a given time with different composition for each to consider different disputes or other matters of concern to different States and the Union. This approach would also facilitate meaningful, result-oriented discussions by parties directly interested in an item and facilitate time-bound solutions.

**About Inter State Council:** Article 263 of the Constitution of India provides for the establishment of an Inter-State Council. The text of the Article reads as under:

**"263. Provisions with respect to an inter-State Council – If at any time 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 may have arisen between States;**

**(b) investigating and discussing subjects in which some or all of the States, or the Union and one or more of the States, have a common interest; 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 the duties to be performed by it and its organization and procedure."**

The Commission on Centre-State Relations under the Chairmanship of Justice R. S. Sarkaria in its report in January 1988 recommended that:

**"(a) A permanent Inter-State Council called the Inter-Governmental Council (IGC) should be set up under Article 263.**

**(b) The IGC should be charged with the duties set out in clauses (b) and (c) of Article 263, other than socio-economic planning and development."** (para 9.10.01 of the Report)

Government of India accepted the recommendation of the Sarkaria Commission to set-up an Inter-State Council and notified the establishment of the Inter-State Council vide Presidential Order dated 28.05.1990.

- **The inter-state council is a recommendatory body** that has been empowered to investigate and discuss subjects of common interest between the Union and state(s), or among states.

- It **also makes recommendations for better coordination of policy and action** on these subjects, and deliberations on matters of general interest to the states, which may be referred to it by its chairman.
- It **also deliberates on other matters of general interest to the states as may be referred by the chairman to the council.**
- The Council **may meet at least thrice in a year.**
- **There is also a Standing Committee of the Council.**

#### **Composition:**

- Prime Minister – Chairman
- Chief Ministers of all States – Members
- Chief Ministers of Union Territories having a Legislative Assembly and Administrators of UTs not having a Legislative Assembly – Members
- Six Ministers of Cabinet rank in the Union Council of Ministers to be nominated by the Prime Minister – Members
- Governors of the state which are under the president rule
- Five Permanent invites from Union Cabinet

#### **MM Punchhi Commission:**

Almost two decades after the Sarkaria Commission, the second commission to examine the Centre-State relations was constituted in 2007 and chaired by Justice Madan Mohan Punchhi, a former Chief Justice.

The Punchhi Commission conducted a thorough examination of the evolving dynamics between the central government and state governments, **taking into account factors such as liberalization, globalization, decentralization (72-73 Amendments)**, and significant events that have influenced their relationship since the Sarkaria Commission. The commission submitted its report in 2010, which included several noteworthy recommendations:

**Inter-State Council:** The commission like its predecessor stressed on strengthening the National Development Council and Zonal Councils for better cooperation between the centre and the states. Furthermore, it strongly recommended that the Inter-State Council (ISC) be constituted and substantially strengthened as the key player in intergovernmental relations. The ISC will act as a constitutional mechanism in harmonizing centre-state relations which has become urgent in the changed circumstances.

**Fiscal Relations:** Commenting on the growing regional imbalances among the states, the commission was of the view that the **‘one-size fits all’** approach to fiscal consolidation has constrained fiscally strong states to raise more resources and therefore, recommended state-specific official deficit targets in the Fiscal Responsibility and Budget Management (FRBM) legislations of State.

**The commission emphasized states be given freedom to plan according to their own needs and priorities within the framework of nationally accepted priorities.**

**Panchayats:** the commission admitted a mismatch between the functions devolved to the Panchayats and funds given to them.

Hence, commission recommended that funds for the centrally sponsored scheme designed for PRIs shall be routed through the consolidated funds of state rather than centre directly giving it through their monitoring agencies.

### **Legislative Relations:**

- Consultation with States while legislating on matters in Concurrent List.
- Time limit on the president to take actions on bills reserved for his consideration by the governor.

**Role of Governor while Appointing and dismissing Chief Minister:** the Punchhi commission has given certain guidelines:

- The party or combination of parties which commands the widest support in the Legislative Assembly should be called upon to form the Government.
- If there is a pre-poll alliance or coalition, it should be treated as one political party and if such coalition obtains a majority, the leader of such coalition shall be called by the Governor to form the Government.
- In case no party or pre-poll coalition has a clear majority, the Governor should select the Chief Minister in the order of preference indicated below:

(a) The group of parties which had pre-poll alliance commanding the largest number.

(b) The largest single party staking a claim to form the government with the support of others.

(c) A post-electoral coalition with all partners joining the government

(d) A post-electoral alliance with some parties joining the government and the remaining including independents supporting the government from outside.

On the question of dismissal of a Chief Minister, the Governor should invariably insist on the Chief Minister proving his majority on the floor of the House for which he should prescribe a time limit.

### **Use of Article 356:**

On invoking the 356-commission recommended that guidelines given by the supreme court in the SR Bomai Case shall be followed.

Committee has termed use of Article 352 and 356 (declaration of president rule) as a measure of last resort, and should not be used in ordinary disturbance situation. To tackle these kinds of intermediate situations, a detailed legal or constitutional framework shall be provided.

### **Co-ordination between States, Centre-State Relations, and Inter-State Council:**

- Commission recommended the strengthening and mainstreaming of the Inter-State Council to make it a vibrant forum for all the tasks contemplated under article 263.
- The Council can further have expert advisory bodies or administrative tribunals with quasi-judicial authority to give recommendations to the Council if and when needed. In short, it is imperative to put the Inter-State Council as a specialized forum to deal with intergovernmental relations according to federal principles and Constitutional good practices.



- Commission also recommended suitable amendments to Article 263 with a view to make the Inter-State Council a credible, powerful and fair mechanism for management of inter-state and Centre-State differences.
- If decision by consensus does not work in the Inter-State Council, **it may be taken by majority in matters of national concern.** In other areas, an Empowered Committee of ministers may be asked to study and report within a prescribed time-frame a more acceptable way of resolving the problem. The ISC must be empowered to follow up the implementation of its decisions for which appropriate statutory provisions should be made.
- The Council should have experts in its organizational set up drawn from the disciplines of Law, Management and Political Science besides the All India Services. The proposed legislation should give the ISC an organizational and management structure different from the Government departments and flexible enough to accommodate management practices involving multidisciplinary skills conducive to federal governance under the Constitution.

#### **Zonal Councils:**

Under the States Re-organization Act, **1956 five Zonal Councils were created** ostensibly for curbing the rising regional and sectarian feelings and to promote co-operation in resolving regional disputes.

Later the **North Eastern Council** was created under the **North Eastern Council Act, 1971.**

In each of these Zonal Councils, **Union Home Minister is the Chairman and the Chief Ministers of the States in the Zones concerned are members.**

The Commission recommended that the **Zonal Councils should meet at least twice a year** with an agenda proposed by States concerned to maximize coordination and **promote harmonization of policies and action having inter-state ramification.** The Secretariat of a strengthened Inter-State Council can function as the Secretariat of the Zonal Councils as well.

#### **15<sup>th</sup> Finance Commission: (Under NK Singh)**

- **Share of states in central taxes:** The share of states in the central taxes for the 2021-26 period is recommended to be 41%, same as that for 2020-21. This is less than the 42% share recommended by the 14th Finance Commission for 2015-20 period. The adjustment of 1% is to provide for the newly formed union territories of Jammu and Kashmir, and Ladakh from the resources of the centre.

#### **Criteria Used by 15<sup>th</sup> Finance Commission:**

- **Income distance:** Income distance **is the distance of a state's income from the state with the highest income.** Income of a state has been computed as average per capita GSDP during the three-year period between 2016-17 and 2018-19. **A state with lower per capita income will have a higher share to maintain equity among states.**



- **Demographic performance:** the Commission used 2011 population data for its recommendations. The demographic performance criterion has been used to reward efforts made by states in controlling their population. States with a lower fertility ratio will be scored higher on this criterion.
- **Forest and ecology:** This criterion has been arrived at by calculating the share of the dense forest of each state in the total dense forest of all the states.
- **Tax and fiscal efforts:** This criterion has been used to reward states with higher tax collection efficiency. It is measured as the ratio of the average per capita own tax revenue and the average per capita state GDP during the three years between 2016-17 and 2018-19.
- **Revenue deficit grants:** 17 states will receive grants worth Rs 2.9 lakh crore to eliminate revenue deficit.
- **Sector-specific grants:** Sector-specific grants of Rs 1.3 lakh crore will be given to states for eight sectors: (i) health, (ii) school education, (iii) higher education, (iv) implementation of agricultural reforms, (v) maintenance of PMGSY roads, (vi) judiciary, (vii) statistics, and (viii) aspirational districts and blocks. A portion of these grants will be performance-linked.
- **State-specific grants:** The Commission recommended state-specific grants of Rs 49,599 crore. These will be given in the areas of: (i) social needs, (ii) administrative governance and infrastructure, (iii) water and sanitation, (iv) preservation of culture and historical monuments, (v) high-cost physical infrastructure, and (vi) tourism.
- **The Commission recommended a high-level committee at state-level to review and monitor utilisation of state-specific and sector-specific grants.**

#### **Grants to Local Governments:**

- Along with grants for municipal services and local government bodies, it includes performance-based grants for incubation of new cities and health grants to local governments.
- In grants for Urban local bodies, basic grants are proposed only for cities/towns having a population of less than a million. For Million-Plus cities, 100% of the grants are performance-linked through the **Million-Plus Cities Challenge Fund (MCF)**.
- MCF amount is linked to the performance of these cities in improving their air quality and meeting the service level benchmarks for urban drinking water supply, sanitation and solid waste management.

#### **Other recommendations**

- **Health:** States should increase spending on health to more than 8% of their budget by 2022. Primary healthcare expenditure should be two-thirds of the total health expenditure by 2022. Centrally sponsored schemes (CSS) in health should be flexible enough to allow states to adapt and innovate. Focus of CSS in health should be shifted from inputs to outcome. All India Medical and Health Service should be established.
- **Funding of defence and internal security:** A dedicated non-lapsable fund called the Modernisation Fund for Defence and Internal Security (MFDIS) will be constituted to primarily bridge the gap between budgetary

requirements and allocation for capital outlay in defence and internal security. The fund will have an estimated corpus of Rs 2.4 lakh crore over the five years (2021-26). Of this, Rs 1.5 lakh crore will be transferred from the Consolidated Fund of India. Rest of the amount will be generated from measures such as disinvestment of defence public sector enterprises, and monetisation of defence lands.

- **Centrally-sponsored schemes (CSS):** A threshold should be fixed for annual allocation to CSS below which the funding for a CSS should be stopped (to phase out CSS which outlived its utility or has insignificant outlay). Third-party evaluation of all CSS should be completed within a stipulated timeframe. Funding pattern should be fixed upfront in a transparent manner and be kept stable.

### Criticism

- Performance based incentives disincentivizes independent decision-making. Any conditions on the state's ability to borrow will have an adverse effect on the spending by the state, particularly on development thus, undermines cooperative fiscal federalism.
- It does not hold the Union government accountable for its own fiscal prudence and dilutes the joint responsibility that the Union and States have.

### Centrally sponsored schemes (CSS) are criticized for several reasons:

- **Lack of State Autonomy:** Critics argue that centrally sponsored schemes undermine the autonomy of state governments. The central government designs and implements these schemes, often without sufficient consultation with the states. This approach reduces the decision-making power of the states and limits their ability to address specific local needs and priorities.
- **Imbalanced Funding:** CSS typically involve a financial contribution from both the central and state governments. However, the funding pattern is often skewed, with the central government providing a higher proportion of the funds. This creates a financial burden on the states, as they may struggle to meet their share of the funding. Critics argue that this imbalanced funding arrangement puts undue pressure on state budgets and hampers their ability to allocate resources according to their own development priorities.
- **One-Size-Fits-All Approach:** Centrally sponsored schemes often follow a standardized approach and guidelines set by the central government. Critics argue that this approach fails to consider the diverse needs, challenges, and contexts of different states. It may lead to a uniform implementation of schemes that may not be suitable or effective in all states, resulting in inefficiencies and limited impact on the ground.
- **Administrative Burden:** The implementation of centrally sponsored schemes requires significant administrative machinery and capacity at the state level. Critics argue that states with limited administrative resources may struggle to effectively implement and manage these schemes. This burden can divert resources and attention from other important state-level initiatives and programs.

- **Lack of Flexibility:** Centrally sponsored schemes **often come with strict guidelines and conditions imposed by the central government.** Critics argue that these rigid guidelines limit the flexibility of states to adapt the schemes to their specific needs or modify them based on local circumstances. This lack of flexibility can hinder innovation, responsiveness, and effectiveness in addressing local challenges.
- **Political Considerations:** Critics also point out that centrally sponsored schemes can be influenced by political considerations. **The central government may use these schemes as a means to gain political mileage or control over states, which can undermine the objective and equitable implementation of the schemes.**