

Revitalizing of Indian Federalism: An analytical study of Centre State Relations in India on the perspective of recommendation of MM Punchhi Commission

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Abstract

India is a Federation in theory and in practice. We adopting Unitarian feature on division of powers. The word federalism not mentioned in Constitution. But essence of Federation reflected on constitution. Since beginning of Constitution, there was prevailing dispute between centre and state relations .Constitution tilted to more centre rather than state and give supreme power to Union government in law making and executive powers. This make unhappy of states. States are demanding more power and equality on law making, financial powers and some other conflict matters. The role of Governors on State administration also making a tug of war between centre and state. Especially after the eve of seventies the position of State Governors used as the best tool in the hands of Central government for controlling the disobedient states. Many State Governments are dissolved by the Centre for just a vague report of State Governors. For example After the State General Election in Karnataka on 2018 Governor Vaajubhai Vala, invite BJP party to form government even they got lesser seats rather than Congress- JDU alliance. Likewise majority Governors have usually shows favoritism to ruling party of centre. In Kerala after the flood devastation when, some foreign countries offered financial aid to the state, But the central government refused and not given permission to state for receiving grant in aid and also the Central government refused to give permission to our ministers to visit aboard for collecting fund for flood relief due to political rivalry. These are the some incidents shows vast authority of centre on states affairs. Main feature of a Federation is the powers are divided among centre and states government. In Indian Constitution these powers are listed as Union List, State List and Concurrent List. As per the constitutional provisions the ultimate powers are vested in union and state according to their specified spheres , which is mentioned in union list and State list respectively . But the power to make legislation over Concurrent list and Residuary powers are exclusively vested in the hands of Union Government and also in certain period, ie during the time of State Emergency all law making power including the matters of State List are vested in the hands of Centre Government . In the federal sense the state has also power to make laws in concurrent matters. But in such cases if any clashes happened against Central laws , the central laws only prevail. So with these various reasons centre state relations are very hot subject in recent days.

After the first Election 1951-52, the Congress has won in centre and they got majority of states. That's time there is no tension between Centre and State government because majority of State administrations were under the leadership of Congress block. (Kerala, Bihar were exceptions). But after the 1967 the Congress lost majority of state supremacy on first time in history. Many regional and National Parties like CPI and Janatha parties emerged in state politics and its raised challenges against autonomy of Congress rule. After that many issues out broke in Centre state relations. Central government began continuously impose president rule in various states before and after. Moreover these issues became relevant on matters of the power of Governor, Imposition of Governor rule, Planning commission, Finance Commission etc. The states dissatisfaction continued towards partisan attitude of Central Planning Commission. Normally Members of Planning commission are the representatives of Central government and no participation of state government . In short above described issues cited to serious imbalances on centre state relations , which prevailing from the post independence period . Governments have appointed various commissions on time to time for addressing the Centre State relations . Such recommendations were not considered seriously by each government. Among the various Centre State commissions , MM Punci commission was one of the important commission closely studied all the aspects of Centre State relations and recommended keynote suggestions related to improvement of Centre State relations. In this study focusing the various aspects of

Centre -State Relations, conflicting areas and major recommendation of MM Punchi Commission for helping smooth functioning of Centre-State Administration.

Introduction

The Indian Constitution was adopted on November 26, 1949, and came into force on January 26, 1950. It is universally believed that our Constitution is an organic living institution. It is flexible and, designed to meet the needs and requirements of a fast changing and rapidly developing society. The federal system of governance has been discussed at length in various Articles of the Constitution outlining and determining the relationship between the Central and State Governments. At the same time, from the functional stand point, the Constitution does not restrict itself to a static format but lends to a dynamic process. The turn of events at the time of country's partition preceding the birth of free India impelled the Constituent Assembly to opt for a "Union of States" with a strong Centre, keeping away from the idea of a loose federation that had engaged the attention of the framers of the Constitution initially. In the last six decades since the Constitution has come into force 104 amendments have taken place, with several of these having direct bearing on Centre-State relations.. During the medieval leading upto British period, however, the relationship between the seat of central power and the provinces became, by and large, regulatory. The Government of India Act, 1935, was the first legal document which envisaged the system of federal states under the 'Crown' uniting both the British India and the Indian states. But the proposal was never implemented. The Cripps Mission and the Cabinet Mission Plan had proposed looser forms of federalism envisaging greater autonomy for the units. The Cabinet Mission Plan as a matter of fact had envisaged a weak Centre, where the powers of the Government would be confined to three subjects, namely, Foreign affairs, Defence and Communication. The Union Powers Committee formed by the Constituent Assembly under the Chairmanship of Pandit Jawaharlal Nehru, in its first report ended up recommending a weak Centre since it had to function under the limitations of the Cabinet Mission Plan, though Pandit Nehru himself had always advocated for a great deal of unitary control in federal India. It has been observed that the proposals of the Cripps Mission, the ones included in Cabinet Mission Plan and those of the first report of the Union Powers Committee had been made mainly to accommodate the Muslim League and the princely states and with a view to preventing the partition of the country. With the passing of the Indian Independence Act and the actual partition of the country, the complexion of the Constituent Assembly changed and the earlier compulsions that called for a federal India that gave a high degree of autonomy to the states no longer existed. There emerged, particularly in the wake of the events preceding the partition, then, a unanimous demand in the Constituent Assembly for a strong Centre. The framework of Centre-State relationship had worked fairly smoothly till mid-sixties and the institutions created under or inspired by the Constitution for this purpose enjoyed complete trust and respect of all concerned. This harmonious functioning was, perhaps, possible because this period was characterized by, by and large, a single party, that is the Congress Party, domination of the Governments both at the Centre and in most of the States. As such, the Centre-State relations were not really put to any severe test during this period. Whatever differences or occasional conflicts arose, were endeavoured for mitigation and resolution, not as between two different Governments but more between two entities of the same system. In a way this process was facilitated by the fact that the first Prime Minister, Pandit Jawaharlal Nehru (1947-64) was an iconic figure in the Indian polity and through his persona was able to wield considerable equation and personal authority with the State Governments. Thus political process and not the Constitutional machinery played a major part in Centre-State relationship during this period. Pt. Nehru, however, had absolutely no doubt whatsoever on the future of the Indian federal system and how the same had been envisioned in the Constitution. Speaking, as early as in 1951, on the Constitution (First Amendment) Bill, the main object of which was the amendment of Article 19 of the Constitution, he had said : ".....A Constitution which is unchanging and static, it does not matter how good it is, but as a Constitution it is past its use. It is in its old age already and gradually approaching its death. A Constitution to be living must be growing; must be adaptable; must be flexible; must be changeable... Therefore, it is a desirable and a good thing for people to realize that this very fine Constitution that we have fashioned after years of labour, is good in so as far as it goes, but as society changes as conditions change, we amend it in the proper way. It is not like the unalterable Law of the Medes and Persians that it cannot be changed, although the world around may change". "Report of the National Commission to Review the Working of the Constitution (Venkatachaliah Commission)" xvii

Again while speaking in 1954, on the Constitution (Fourth Amendment) Bill, the main object of which was the Amendment of Articles 31, 31A and 305 of, and the Ninth Schedule to, the Constitution, he had clearly indicated his vision on working of the Government and the administrative and other structures of the country, stating² : “After all, the Constitution is meant to facilitate the working of the Government and the administrative and other structures of this country. It is meant to be not something that is static and which has a static form in a changing world, but something which has something dynamic in it, which takes cognizance of the dynamic nature of modern conditions, modern society”. The year 1967, however, proved to be a watershed in the history of independent India when, perhaps, for the first time the Centre-State relations were put to a test. The General Elections in 1967 were followed by the formation of non-Congress Governments in a number of States, which included Bihar, Haryana, Kerala, Madhya Pradesh, Orissa, Tamil Nadu (Madras), Uttar Pradesh and West Bengal. Simultaneously, it was also the beginning of a period when coalition politics started at State level. The coalition governments were formed in many States, which included Bihar, Haryana, Kerala, Madhya Pradesh, Orissa, Uttar Pradesh and West Bengal. This was the time when certain issues of importance pertaining to Centre-State relations came into the fore both in the form of criticism of the functioning of existing mechanisms and processes as also because the regional political parties wanted to create their own niche in their respective regions. There were wide spread demands for providing greater autonomy for the States in their functioning particularly from non-Congress and other regional party led Governments. With the Congress Party having lost its political control in several parts of the country, the devices used earlier in maintaining harmonious Centre-State relationship could no longer be put to work. The subject acquired such a dimension as to be considered of sufficient importance to find a place in the Address of the then President, Dr. S. Radhakrishnan, to the Parliament on March 18, 1967. The President, while addressing the Joint Session of Parliament, observe. “For the first time since Independence, governments of political complexions different from that of the government at the Centre have been formed in several States. In a federal democratic polity, this is to be expected. Our Constitution has provisions to Review the Working of the Constitution, Union Public Service Commission regulating the relationship between the Union and the States and their mutual obligations. Further, over the years we have developed certain institutions for promoting cooperation, understanding and harmonious relations between the Union and the States, between one State and another. The National Developmental Council, the Zonal Councils and the periodic Conferences of the Governors and Chief Ministers are conspicuous examples of this nature. The Union Government will respect the constitutional provisions in letter and spirit without any discrimination and endeavor to strengthen the arrangements for a co-operative approach to national problems. We are sure that all the States will extend their cooperation in serving these institutions and making their deliberations increasingly fruitful and beneficial both to the Union and to themselves. Strengthening the unity of the country, safeguarding security, preserving democratic institutions, and promoting economic development and the well-being and happiness of our people are the common objectives towards which the Union and the States must strive together”. Co-existence through healthy relationship between the Centre and the States became a matter of the primary importance during this period, with the then Prime Minister, Smt. Indira Gandhi, noting the importance of working of a “more vigorous practicing federalism (in governance) with multiple parties and coalitions in power”. The “more vigorous practicing federalism”, articulated by Smt. Gandhi in 1967, however, underwent a change after the Parliamentary Elections in 1971. The huge success of the Congress Party in General Elections of 1971 was followed by even bigger success in the Assembly Elections that took place in 1972. With two-thirds majority in the Parliament and with the benefit of the “same party rule” in almost all the states, the same Prime Minister observed⁵ in 1972 that it was necessary that the state Governments should be “in tune with the government at the Centre, accept its policies and be willing to implement its programme”. These observations although brought in critical reactions, but at the same time set the tone for greater centralization of powers. The 42nd Amendment was passed during this period in the year 1976 which substantially altered the original character of the Constitution, leading it towards greater centralization of powers with Government of India. Many political historians, including R.C.S. Sarkar in his book “Union-State Relations in India”, have observed that over centralization of powers in the hands of Union Government was one of the major reasons that resulted in the ouster of the Congress “Union-State Relations in India”. The Janata Party that came into power at the Centre in the post-emergency period in 1977, however, was a coalition essentially of the parties that were opposed to the Congress Party led by Smt. Indira Gandhi and the imposition of emergency, though not carrying the same and in many cases totally different political

ideologies. At the same time with a host of non-Congress Governments in the States, there was obvious clamour and demand for greater autonomy for the States. Besides, several issues germane to 42nd Amendment were the subject matter of expression of opinion by a number of jurists, parliamentarians, editors and professional bodies. One of the significant suggestions uniformly made at that time was to provide for measures against the misuse of the Emergency provisions and to put the right to life and liberty on a secure footing. This and various other imbalances caused by some of the provisions of 42nd Amendment in the Constitution were corrected through the 44th Amendment, which was passed in the year 1978. However, with a weak coalition at the Centre and with its constituents coming from totally different political backgrounds, the Janata Party regime proved a short lived one and the people once again voted the Congress Party to power in 1980 at the Centre with a very large majority. Nevertheless, non-Congress coalitions continued in a large number of States till 1982 Assembly Elections, including in the North-East, giving strength to the forces of regionalism, resulting in the growth of a large number of regional parties. Non-Congress Governments in the States also started putting up a united front, demanding more administrative and fiscal autonomy. Around the same time, there were fissiparous forces at play in different parts of the country, seeking establishment of their own autonomous entities. Earlier in 1969, the Administrative Reforms Commission, constituted by the Government of India, had submitted its report, substantial parts of which had focused on the steps to be taken for maintaining harmonious Centre-State relations. The Rajamannar Committee, appointed by the Government of Tamil Nadu, likewise had given its report in 1971, recommending greater autonomy for the States basically in legislative and fiscal matters. The Shiromani Akali Dal in Punjab, the Telugu Desam Party in Andhra Pradesh, the State Governments of West Bengal, Tamil Nadu and the North-East had all been demanding review of the overall Constitutional scheme of Centre-State relations. Simultaneously, the demand for total autonomy of Jammu & Kashmir by some elements was also being voiced. This situation prompted the then Prime Minister, Smt. Indira Gandhi, to announce in the Parliament on March 24, 1983, the constitution of the first Commission on Centre-State Relations, to be headed by Justice R.S. Sarkaria, a retired Judge of the Supreme Court of India. The Conclave of Chief Ministers of non-Congress xx Governments and leaders of opposition held in Srinagar in October 1983 had once again echoed the need for a comprehensive review of Centre-State relations. The Sarkaria Commission submitted its report in 1988. Its recommendations and their implementation have been discussed in some detail subsequently in this Volume. The events post Sarkaria overtook, in many respects, the political configuration, bringing economic issues to the fore-front. The economic crisis of 1990- 91 prompted acceleration of the earlier liberalization process. Controls in many areas were removed and operation of the market largely restored. The entrepreneurship and management skills of the private sector were sought to be utilized in a greater measure in almost all activities. Similarly, more space in economic policy making was sought to be provided to the States. Other factors were also at work with profound impact on systems of governance everywhere. India like other countries was compelled to meet certain obligations as a result of its membership of international bodies in a fast globalizing world. The horror of terrorism around the world posed a serious threat to integrity, stability and peace for which action had to be taken through international co-operation. Similarly, global warming and environmental concerns stared every Nation in the face, calling for concerted action internationally. On the other hand, inadequacy of public services in critical areas like health and education, led to the demand for greater decentralization to bring Governments closer to the people with a view to ensure greater accountability. Although panchayats and municipalities existed, they were not endowed with adequate functions or resources of their own and were subjected to several controls. Supersessions were not uncommon and timely elections were not conducted. The Constitution was amended in 1993 to rectify the situation by giving these institutions Constitutional status, with the hope that they would function as a third-tier of governance, but empowering them adequately continued to remain a challenge. In many other respects the changes did not go far. Although the States were expected to perform functions on a scale larger than before, their access to tax powers and borrowing remained limited. The transfer system did help to alleviate the regional disparities in the levels of living and in public services to some extent, but sharp imbalances still remained. Also, while liberalization and restoration of the market helped to accelerate growth, regional disparities continues to exist. In an attempt to counter the possible ill effects on fiscal discipline, conditionalities came to be used increasingly with transfers. Fiscal discipline was sought to be imposed on State Governments by tying debt relief to enactment of fiscal responsibility laws. The proportion of Central revenues transferred to the States had increased substantially over the years and dependence of relatively backward States on transfers had gone up sharply. The planning

strategy, it was argued, needed a radical shift to reduce regional disparities and xxi promote all round development. Politically, however, with the rise of regional parties and coalitions, States seemed to gain the upper hand in many matters. Centre's powers of intervention also came to be circumscribed by judicial pronouncements in several areas such as imposition of President's rule. The dictum of 'basic structure' of the Constitution propounded by the Supreme Court in the celebrated Keshavananda Bharati case also tied the hands of the Centre in important ways. The effect, inter alia, was that while the States felt handicapped in pursuing development programmes of their own for lack of adequate funds, the Centre found itself hamstrung even when there was serious breakdown in law and order in some areas. Besides, the growth of the common market which is one of the main factors driving Nations to come together to form federations or economic unions was unable to gain the momentum warranted by its potential, despite the mandate of freedom of trade, commerce and intercourse within the Indian Union envisaged in Article 301. Given this background, it was felt that another look at the entire gamut of Centre-State relations was called for. It may be useful to make a mention here about the issue of Centre-State relations in so far as the State of Jammu & Kashmir is concerned. In May 2006, at the initiative of the Prime Minister, Dr. Manmohan Singh, five Working Groups had been constituted to address socio-economic development and other subjects related to the State of J & K. One of these Groups, headed by Justice S. Saghir Ahmad, a retired Judge of the Supreme Court, was assigned the subject of Centre-State relations. It is learnt that the Chairman of this Group has submitted its report to the Government in December 2009. Unlike the Sarkaria Commission which was constituted in the aftermath of consistent demands by some major political parties and opposition led State Governments, the constitution of this Commission was a pro-active step taken by the United Progressive Alliance (UPA-I) Government with a view to ensure more harmonious and healthier relationship between the Centre and the States in the future as well as for further strengthening of the third-tier of governance which had already been legally in existence since 1993, in many cases without the empowerment of the local body institutions as had been envisaged in the Constitution. The present Commission was thus constituted, under the Chairmanship of Shri Justice Madan Mohan Punchhi (Retd.), Former Chief Justice of India, to perform this task. The Terms of Reference of this Commission have been given in detail later in this Volume, but the basic question that the Commission identified to be addressed xxii was: "Are the existing arrangements governing Centre-State relations-legislative, executive and financial – envisaged in the Constitution, as they have evolved over the years, working in a manner that can meet the aspirations of the Indian society as also the requirements of an increasingly globalizing world? If not, what are the impediments and how can they be remedied without violating the basic structure of the Constitution?" The Report of the Commission, accordingly, addresses the above question and other related issues in all their hues and shades at great length in seven Volumes. The focus of the Commission during its numerous deliberations has consistently been on 'as to what framework of relationship between the Centre and the States will strengthen the unity and integrity of the country and ensure India's stability, security and economic growth and the welfare of her people'. It is hoped that the recommendations that have emerged after thorough understanding of the issues, and have been based on a balanced approach, will see early implementation so as to ensure healthier, smoother and more harmonious way.

Keywords

Administrative Reforms Commission, Quazi Federal, Unitary

Statement of the problem

The purpose of this study is to identify the working of Federalism and major issues in centre state relations in India. A big question raised from all the corners of State government is 'Are the existing arrangements governing Centre-State relations – legislative, executive and financial – envisaged in the Constitution as they have evolved over the years, working in a manner that can meet the aspirations of the Indian society as also the requirements of an increasingly globalizing world? If not, what are the impediments and how can rejuvenate the Union State relation without violating the basic structure of the Constitution?'

Since the all the years of adoption of Indian constitution all political thinkers trying to solve the issues in smooth functioning of federalism India. All concerned governments were appointed various commission for

the purpose of studying the basic issues behind the centre – state Relations in India. MM Punchi commission was the one and important commission among them. This study trying to analyze the various aspects and validity of MM Punchi Commission's report. And detailed study about the relevance and implication of mentioned Commission report on centre State relations.

The basic hypothesis is that the MM Punchi Commission and its recommendations are the mile stone and turning point for improving the smooth function of Centre state Relations.

This study put forward the urgent need of implementation of all recommendations of MM Punchi commission in Indian federalism. The analysis is divided into three main parts. The first section of this study introduces Constitutional Provisions of Centre – State Relations and analysis of major Articles which incorporated in Indian Constitution. The second section is a compilation of the analysis of Indian federalism after Independence and major issues in Centre –State Relations in India. The final section provides recommendation and suggestion of major Commissions of Centre state relations. This study entailed an examination of MM Punchi Commission Reports and how its recommendations helped for the rejuvenate Indian Federalism.

Objectives of the Study

This article gives the brief idea about the Union and State relations, that they maintain in dealing with the affairs of the country. As India is a federal country the powers are divided among the Central and State government. Naturally the issues will arise between Centre and State

The overall goal of this study is to investigate to find out the major recommendation of MM Punchi Commission and relevance of his recommendations in reducing the tensions between centre and State. The specific objectives of this work is to analyse the hurdles in Centre State relations and how to improve the relationship between Centre and States. This study aiming to find out the major studies, which took place in India on Centre State relations.

Hypotheses

In India Centre State Relations are drifting in nature since independence. The Indian Constitution federal in nature and tilted more to centre .The essence of Indian Constitution rely on Unitarian government.MM Punchi Commission report was a mile stone for settle the disputes and gap between union and states. In this study more focusing about the urgency of rejuvenate the Federal character of Indian Constitution.

Methodology

In the present study the following methodology has been adopted. Analytical and descriptive methods are used for evaluating the various study reports to understand the present condition of Centre State relations. Field surveys have been undertaken to generate primary data. The data from secondary sources like major books of Indian Constitution , Centre State relations , Federalism, World Constitutions etc. have also been taken in to consideration for the study. Finally, data collected from primary and secondary sources has been processed and analysed . Centre -State relations have several unique characteristics as a federal form of government that makes its analysis significantly different from most policy fields. Firstly implementation of a good pattern of federalism depends on the liberal Constitutional provisions of a nation. Secondly a healthy federal form of government shall prevail only through amicable settlement of disputes between centre and state government. Finally, a politically committed governments can only face a thorough criticism from publics.Together, these factors overlay the traditional approaches to the study of politics. A combined approach that recognizes both the common and unique factors that comprise centre state politics offers the best approach on this topic

Literature Review

Thomas J Anton: Brown University

A Broad conclusion “ Federalism is not just a form of government . It is a method for solving problems, a way of life . Although he focused on primarily on American Federalism. His analytic pursuit of the meaning of self government is as broad as his conclusion and this lends itself to application in other settings.

The Dimensions of Federalism, state governments and pollution control policies by William R Lowry, Durham .NC. Duke university press 1992.

The Tensions between federal and state actions in policy arena is the main focus of this book. William Lowry argues that state leadership in domestic policy is largely determined by two dimensions inherent in American Federal system.

The Meaning of American Federalism: constituting a self governing Society: by Vincent ostrem, San Francisco, Institute of Contemporary studies Press,1991

Vincent Ostrem achieves something quite remarkable regarding federalism. On one hand he offers a profound analysis of the meaning of “Federalism” and other hand he analyse the the role of federalism to division of powers.

1.1 Meaning and Nature of Indian Federalism

Decentralization is the dominant political trend of our time .The Concept of Federalism is a historical evolution and decentralization of power is the unique features of modern political System .

Modern federalism originated from United States. Countries like USA, Switzerland, Australia, Canada, India etc. have a federal form of government. In India we adopt our federalism from American Constitution.

In India have two sets of government, one at the **Centre and the other in the States**. This is an important feature of a federal government. In this way, India has followed the federal form of government.

Article 1 of the Constitution states that India, that is Bharat, shall be a Union of States. Federalism is an unique example of maintaining the unity and integrity of the country. But in actual practice, in most of the federations of the world, the centre has become powerful than the units and has a tendency to dominate them. The Indian Constitution has also some non-federal features, which are opposite to the features of a federal government. Because of this, India is not regarded as a true federation. Thus numerous Scholars, called Indian federalism as it a **Quasi -federation** due to vast powers left with the Government of India and subordinate role of the states. Not only has the constitution divided the powers between the centre and the states to give a special tilt in favor of the centre, but also the centre has come to acquire some of the powers of the states as well. As a result, often a demand is made that this trend must be checked and the states must be permitted greater autonomy within their spheres. Almost all the state governments in India addressed their grievances against the centre at one point of time or the other.

The founding fathers of the Indian Constitution have mainly been influenced by the provisions of the American and Canadian federations and we borrowed the concept of federalism from America and we have adopted the idea of federal structure with the strong centre from the Canadian constitution. The basis of federation is the distribution of powers among Executive, Legislature and Judicial authority

One important thing, here, is to be noted that the Constitution of India has not described India as a federation. On the other hand, Article 1 of the Constitution describes her as a “Union of States.”

This means, India is a union comprising of various States which are integral parts of it. The Indian Union is not destructible. Here, the States cannot break away from the union. They do not have the right to secede from the union. In a true federation, the constituting units or the States have the freedom to come out of union. The Supreme Court of India also describes it as “a federal structure with a strong bias towards the Centre”. Let us now discuss the federal and the unitary or non-federal features of the Indian Constitution. Federal structure means a constitutional division of power between the union and State Governments. It’s basic principle is division of functions between the centre and the states, each operating powers within its respective sphere .A unitary state is a state governed as a single power in which the central government is ultimately supreme.

1.2 Features of Federalism

Two sets of government: India has two sets of government - the Central or Union government and the State government. The Central government works for the whole country and the State governments look after the States. The areas of activity of both the governments are different.

Division of Powers: The Constitution of India has divided powers between the Central government and the state governments. The Seventh Schedule of the Constitution contains three lists of subjects which show how division of power is made between the two sets of government. Both the governments have their separate powers and responsibilities. List (7th Schedule of Indian Constn -**97 Items**) State List (**61Items**) and Concurrent list (**57Items**)

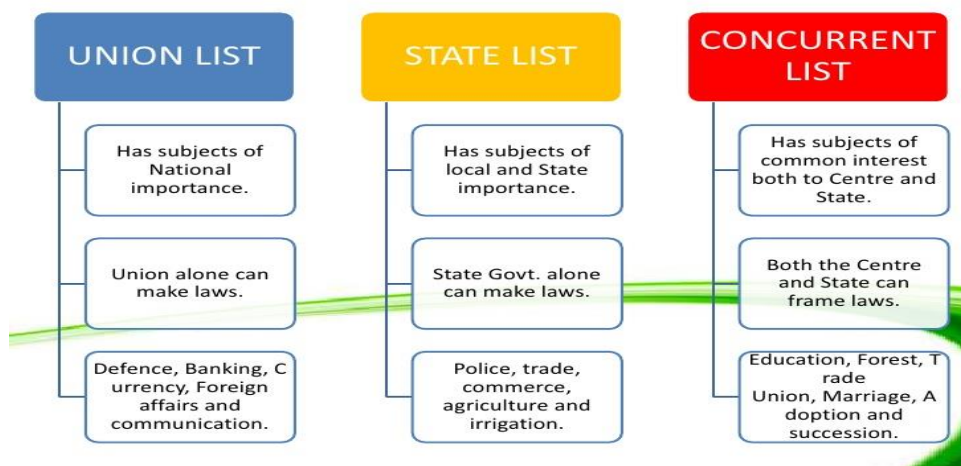
Written Constitution: The Constitution of India is written. Every provision of the Constitution is clearly written down and has been discussed in detail. It is regarded as one of the longest constitutions of the world which has 395 Articles 22 Parts and 12 Schedules.

Supremacy of the Constitution: The Constitution is regarded as the supreme law of the land. No law can be made which will go against the authority of the Constitution. The Constitution is above all and all citizens and organizations within the territory of India must be loyal to the Constitution.

Supreme judiciary: The Supreme Court of India is the highest court of justice in India. It has been given the responsibility of interpreting the provisions of the Constitution. It is regarded as the guardian of the Constitution.

Bi-cameral legislation : In India, the legislature is bi-cameral. The Indian Parliament, i.e., the legislature has two houses - the Lok Sabha and the Rajya Sabha. The Rajya is the upper house of the Parliament representing the States while the Lok Sabha is the lower house representing the people in general.

These are some of the features of a federal form of government and the Indian Constitution has included them in it.



1.3 Non-Federal features of Indian Constitution

The Constitution has also included some unitary or non-federal features which are given as below:

Division of powers are not equal : In a federation, power are divided equally between the two governments. But in India, the Central government has been given more powers and made stronger than the State governments.

Constitution is not strictly rigid : The Constitution of India can be amended by the Indian Parliament very easily.

Single Constitution: In India, we have only one Constitution. It is applicable to both the Union as a whole and the States.

Centre's control over States: The Centre exercises control over the States. The States have to respect the laws made by the central

Rajya Sabha does not represent the States equality: The populous States have more representatives in the RajyaSabh

Unified judiciary: India has a unified or integrated judicial system. The High Courts which work in the States are under the Supreme Court of India.

Proclamation of emergency: The Constitution of India has given emergency powers to the President. He can declare emergency in the country under three conditions. This is against the principles of a federation.

Thus, we find that though India has adopted a Federal form of government, yet there are various features of our Constitution which are non-federal or unitary. The framers of the constitution wanted to have a strong central government and therefore, had made every attempt to make the central government more powerful than the state governments. There are various reasons for this. India is a vast country where the people of different religious, languages, races, castes, etc. are residing. In order to maintain unity and integrity among them, a strong centre was thought to be necessary.

2.1 Constitutional Provisions of Centre-State Relations

India being a Federal State all the powers are distributed between the Centre and the States. The Constitution of India provides a dual polity with a clear division of powers between the Union and the States, each being supreme within the sphere allotted to it. The Indian federation is not the result of an agreement between independent units, and the units of Indian federation cannot leave the federation. Thus the constitution contains elaborate provisions to regulate the various dimensions of the relations between the centre and the states. The Relations between centre and the state are divided as

1. Legislative relations
2. Administrative relations
3. Financial relations

The Indian federation has acquired characteristics which are quite different from the American model.

(i) The residuary powers under the Indian Constitution are assigned to the Union and not to the States. However, it may be noted that the Canadian Constitution does the same mode of distributing the powers cannot be considered as eroding the federal nature of the constitution.

(ii) Though there is a division of powers between the Union and the States, the Indian Constitution provides the Union with power to exercise control over the legislation as well as the administration of the States. Legislation by a State can be disallowed by the President, when reserved by the Governor for his consideration. The Governor is appointed by the President of the Union and holds office “during his pleasure”. Again these ideas are found in the Canadian Constitution though not in the Constitution of the U.S.A.

(iii) The Constitution of India lays down the Constitution of the Union as well as the States, and no State, except Jammu and Kashmir, has a right to determine its own (State) Constitution.

(iv) When considering the amendment of the Constitution we find that except in a few specific matters affecting the federal structure, the States need not even be consulted in the matter of amendment of the Constitution. The bulk of the Constitution can be amended by a Bill in the Union Parliament being passed by as special majority

(v) In the case of the Indian Constitution, while the Union is indestructible, the States are not. It is possible for the Union Parliament to reorganize the States or to alter their boundaries by a simple majority in the ordinary process of legislation.

The ‘consent’ of the State Legislature concerned is not required; the President has only to ‘ascertain’ the views of the Legislatures of the affected States. The ease with which the federal organisation may be reshaped by an ordinary legislation by the Union Parliament has been demonstrated by the enactment of the States Reorganisation Act, 1956. A large number of new States have, since, been formed.

(iv) Under the Indian Constitution, there is no equality of representation of the States in the Council of States. Hence, the federal safeguard against the interests of the lesser States being overridden by the interests of the larger or more populated States is absent under our Constitution. Its federal nature is further affected by having a nominated element of twelve members against 238 representatives of the States and Union territories.

The major relations between union and states are given below

2.2. Centre State Legislative Relations

Articles 245 to 255 in Part XI of the Constitution deal with the legislative relations between the Centre and the State. Extent of laws made by Parliament and by the Legislatures of States. The Parliament can make laws for the whole or any part of the territory of India. Territory of India includes the states, UTs and any other area for the time being included in the territory of India. Whereas, the state legislature can make laws for whole or any part of state. The Parliament can alone make ‘extra territorial legislation’ thus the laws of the Parliament are applicable to the Indian citizens and their property in any part of the world. Subject-matter of laws made by Parliament and by the Legislation of States.

The Constitution divides legislative authority between the Union and the States in three lists- the Union List, the State List and the Concurrent List. The Union list consists of 99 items. The Union Parliament has exclusive authority to frame laws on subjects enumerated in the list. These include Foreign affairs, Defence, armed forces, communications, posts and telegraph, foreign trade etc. The State list consists of 61 subjects on which ordinarily the States alone can make laws. These include public order, police, administration of justice, prison, local governments, agriculture etc.

The Concurrent list comprises of 52 items including criminal and civil procedure, marriage and divorce, economic and special planning trade unions, electricity, newspapers, books, education, population control and family planning etc. Both the Parliament and the State legislatures can make laws on subjects given in the Concurrent list, but the Centre has a prior and supreme claim to legislate on current subjects. In case of conflict between the law of the State and Union law on a subject in the Concurrent list, the law of the Parliament prevails. Residuary powers of legislation. The constitution also vests the residuary powers (subjects not enumerated in any of the three Lists) with the Union Parliament. The residuary powers have been granted to the Union contrary to the convention in other federations of the world, where the residuary

powers are given to the States. However, in case of any conflict, whether a particular matter falls under the residuary power or not is to be decided by the court. Parliament's Power to Legislate on State List Though under ordinary circumstances the Central Government does not possess power to legislate on subjects enumerated in the State List, but under certain special conditions the Union Parliament can make laws even on these subjects.

a) In the National Interest (Art.249)

If the Rajya Sabha declares by a resolution supported by not less than 2/3 of its members present and voting, that it is necessary or expedient in the national interest that the Parliament should make laws with respect to any matter enumerated in the State List (Art.249). After such a resolution is passed, Parliament can make laws for the whole or any part of the territory of India. Such a resolution remains in force for a period of 1 year and can be further extended by one year by means of a subsequent resolution.

b) Under Proclamation of National Emergency (Art.250)

Parliament can legislate on the subjects mentioned in the State List when the Proclamation of National Emergency is in operation. However, the laws made by the Parliament under this provision shall cease to have effect on the expiration of a period of six months after the Proclamation has ceased to operate, except as respects things done or omitted to be done before the expiry of the said period.

c) By Agreement between States (Art. 252)

The Parliament can also legislate on a State subject if the legislatures of two or more states resolve that it is lawful of Parliament to make laws with respect to any matter enumerated in the State List relating to those State. Thereafter, any act passed by the Parliament shall apply to such states and to any other state which passes such a resolution. The Parliament also reserves the right to amend or repeal any such act.

d) To Implement Treaties (Art. 253)

The Parliament can make law for the whole or any part of the territory of India for implementing any treaty, international agreement or convention with any other country or countries or any decision made at any international conference, association or other body. Any law passed by the Parliament for this purpose cannot be invalidated on the ground that it relates to the subject mentioned in the State list.

e) Under Proclamation of President's Rule (Art.356)

The President can also authorize the Parliament to exercise the powers of the State legislature during the Proclamation of President's Rule due to breakdown of constitutional machinery in a state. But all such laws passed by the Parliament cease to operate six months after the Proclamation of President's Rule comes to an end.

Center's control over State Legislation

The Constitution empowers the centre to exercise control over the state's legislature in following ways:

1. 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.
2. Bills on certain matters enumerated in the State List can be introduced in the state legislature only with the previous sanction of the President as imposing restrictions on freedom of trade and commerce.
3. 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.

2.3. Centre State Administrative Relations

The administrative jurisdiction of the Union and the State Governments extends to the subjects in the Union list and State list respectively. The Constitution thus defines the clauses that deal with the administrative relations between Centre and States.

Centre State Relations during Normal Ties

1. Executive Powers of State be exercised in compliance with Union Laws: Article 256 lays down that the executive power of every State shall be so exercised as to ensure compliance with the laws made by Parliament and any existing laws which apply in that State, and the executive power of the Union shall extend

to the giving of such directions to a state as may appear to the Government of India to be necessary for that purpose.

2. Executive Powers of State not to interfere with Executive Power of Union: Article 257 of the Constitution provides that the executive power of every state shall be so exercised as not to impede or prejudice the exercise of the executive power of the Union, and the executive power of the Union shall extend to giving of such directions to a state as may appear to the Government of India to be necessary for that purpose. In short, the Union Government can issue directions to the state Government even with regard to the subjects enumerated in the state list.

3. Maintain means of communication of National or Military importance: The Union Government can give directions to the state with regard to construction and maintenance of the means of communication declared to be of national or military importance.

4. Protection of the Railways: Union can issue State Governments necessary directions regarding the measures to be taken for the protection of the railways within the jurisdiction of the State. It may be noted that the expenses incurred by the State Governments for the discharge of these functions have to be reimbursed by the Union Government.

5. To ensure welfare of Scheduled Tribes in the States: Union can direct the State Governments to ensure execution of schemes essential for the welfare of the Scheduled Tribes in the States.

6. To secure instruction in the mother-tongue at the primary stage of education: Union can direct the State Governments to secure the provision of adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups.

7. To ensure development of the Hindi language: Union can direct the State Governments to ensure the development of the Hindi language.

8. To ensure government of a State is carried on in accordance with the provision of the Constitution: Union can direct the State Governments to ensure that the government of a State is carried on in accordance with the provision of the Constitution. If any State failed to comply with any directions given by the Union in exercise of its executive power, then President may 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. Thus he may proclaim President's Rule in that State.

9. Delegation of Union's function to State: The President of India can entrust to the officers of the State certain functions of the Union Government. However, before doing so the President has to take the consent of the state Government. But the Parliament can enact law authorizing the Central Government to delegate its function to the State Governments or its officers irrespective of the consent of such State Government. On the other hand, a State may confer administrative functions upon the Union, with the consent of the Union only.

10. Appointment of High Dignitaries: Union has major say in appointment and removal of Governor and appointment of Judges of High Court and Members of State Public Service Commission.

11. All India Services: The presence of the All India Services - the Indian Administrative Services, Indian police Services - further accords a predominant position to the Union Government. The members of these services are recruited and appointment by the Union Public Service Commission. The members of these services are posted on key posts in the states, but remain loyal to the Union Government.

12. Union to adjudicate Inter-State River Water Dispute: The Parliament has been vested with power to adjudicate any dispute or complaint with respect to the use, distribution or control of the waters of, or in any inter-state river or river-valley. In this regard, the Parliament also reserves the right to exclude such disputes from the jurisdiction of the Supreme Court or other Courts.

Centre State Relations during Emergencies

1. Under President's Rule: The State Governments cannot ignore the directions of the Union Government, otherwise the President can take the action against the Government of the State stating that the administration cannot be carried on the accordance with the provisions of the Constitution and thus can impose President's rule on the State. In such an eventuality the President shall assume to himself all or any of the functions of the state Government.

2. Under Proclamation of National Emergency: During a Proclamation of National Emergency, the power of the Union to give directions extends to the giving of directions as to the manner in which the executive power of the State is to be exercised relating to any matter.

3. Under Proclamation of Financial Emergency: During a Proclamation of Financial Emergency, Union can direct the State Governments to observe certain canons of financial propriety and to reduce the salaries and allowances of all or any class of person serving in connection with the affairs of the Union including the Judges of the Supreme Court and High Courts. Union also requires all Money Bills or Financial Bills to be reserved for the consideration of the President after they are passed by the Legislature of the State. It is thus, evident that in the administrative sphere the States cannot act in complete isolation and have to work under the directions and in cooperation with the Center.

2.4. Centre State Financial Relations:

Indian Constitution has made elaborate provisions, relating to the distribution of the taxes as well as non-tax revenues and the power of borrowing, supplemented by provisions for grants-in-aid by the Union to the States. Article 268 to 293 deals with the provisions of financial relations between Centre and States. The Constitution divides the taxing powers between the Centre and the states as follows: The Parliament has exclusive power to levy taxes on subjects enumerated in the Union List, the state legislature has exclusive power to levy taxes on subjects enumerated in the State List, both can levy taxes on the subjects enumerated in Concurrent List whereas residuary power of taxation lies with Parliament only.

Distribution of the tax-revenue

1. Duties Levied by the Union but Collected and Appropriated by the States: Stamp duties on bills of Exchange, etc., and Excise duties on medical and toilet preparations containing alcohol. These taxes don't form the part of the Consolidated Fund of India, but are assigned to that state only.

2. Service Tax are Levied by the Centre but Collected and Appropriated by the Centre and the States.

3. Taxes Levied as Well as Collected by the Union, but Assigned to the States: These include taxes on the sale and purchase of goods in the course of inter-state trade or commerce or the taxes on the consignment of goods in the course of inter-state trade or commerce.

4. Taxes Levied and Collected by the Union and Distributed between Union and the States: Certain taxes shall be levied as well as collected by the Union, but their proceeds shall be divided between the Union and the States in a certain proportion, in order to effect an equitable division of the financial resources. This category includes all taxes referred in Union List except the duties and taxes referred to in Article 268, 268-A and 269; surcharge on taxes and duties mentioned in Article 271 or any Cess levied for specific purposes.

5. Surcharge on certain duties and taxes for purposes of the Union: Parliament may at any time increase any of the duties or taxes referred in those articles by a surcharge for purposes of the Union and the whole proceeds of any such surcharge shall form part of the Consolidated Fund of India.

Grants-in-Aid

Besides sharing of taxes between the Center and the States, the Constitution provides for Grants-in-aid to the States from the Central resources.

There are two types of grants:-

1. Statutory Grants: These grants are given by the Parliament out of the Consolidated Fund of India to such States which are in need of assistance. Different States may be granted different sums. Specific grants are also given to promote the welfare of scheduled tribes in a state or to raise the level of administration of the Scheduled areas therein (Art.275).

2. Discretionary Grants: Center provides certain grants to the states on the recommendations of the Planning Commission which are at the discretion of the Union Government. These are given to help the state financially to fulfill plan targets (Art.282).

Effects of Emergency on Center-State Financial Relations:

1. During National Emergency: The President by order can direct that all provisions regarding division of taxes between Union and States and grants-in-aids remain suspended. However, such suspension shall not go beyond the expiration of the financial year in which the Proclamation ceases to operate.
2. During Financial Emergency: Union can give directions to the States:-
 1. To observe such canons of financial propriety as specified in the direction.
 2. To reduce the salaries and allowances of all people serving in connection with the affairs of the State, including High Courts judges.
 3. To reserve for the consideration of the President all money and financial Bills, after they are passed by the Legislature of the State.

3 . Indian Federalism -After Independence

Union-state relationship worked reasonably well during the 17 year period from 1950 to 1967. During this period, the Congress party was ruling both in the centre and in the states. There for, the relations between the centre and the states by and large were smooth. However, with the passage of time, many irritants have cropped up into the working of the Indian federalism. The era of co-operation ended partially after the death of Nehru on 27th May 1964 and largely after the Fourth General Election held in February 1967. After these elections, the dominance of the Congress party at the centre and in some states declined considerably. Its majority in the Lok Sabha was reduced from 361 in 1962 to 282 seats. In 9 states, the non-Congress governments came into power. Particularly, after 1980, the political situation in the country has undergone a qualitative change as some powerful regional parties have come into power in some states, and CPI (M) has further strengthened its hold in West Bengal and Tripura. Moreover, the Janata Party was ruling in Karnataka. The opposition leaders of the Congress party in these states began to speak the language of conflict, threats, warnings and complaints. The relations between the centre and the states strained mainly because of partisan role of the centre. In this backdrop, an attempt is made in this chapter to discuss major tension areas between the centre and the states.

3.1 Challenges and Threats to Centre -State Relations in India

1 Regionalism: Its considered as one of the significant challenges of federalism. After the formation of Telangana in 2014 the demand of new states arise in every corner of country. Four fold division of UP, creation of Gorkhaland from West Bengal, viderba States from Maharashtra are the recent example for regional divisions and separatism of States.

2 Imbalances in Division of Powers: Majority of Core powers are vested in the hands of centre and Residuary powers also handled by Centre.

3 Centralization of powers: Article 200 gives the powers to Governor to reserve the state bills for consideration of President. Emergency Provisions of central government under Art352, 356, 360 are major concern of states.

4 Absence of Fiscal federalism: The Indian constitution give great powers of Taxation to Central government. The Institution like Finance commission, NITI ayog or planning commission has great economical power over states. Economic dependency of states to centre create hurdles in the relation with union and state.

5 Centralised Amendment powers: Normally in federal system the power of amendment to the federal constitution lies on a shared basis between centre and state. In India the constitution amendment lies with the centre under Article 368.

6 Integrated Services: Through the office of Integrated office like Election Commission, CAG, and All India Services, the Central government trying to influence in state administration.

7 Deployment of the CRPF or BSF in the States Another area of conflict between the union and the states in India has been the issue of deployment of central Para-military forces by the union in the states

8 Centre Encroachment on State's Autonomy The other important grievance of the states against the union government was that it was encroaching upon their autonomy even in respect of those subjects that had been included in the state legislative List and that the Indian union in actual practice became a unitary state. The state governments felt that the party in power at centre used the constitution as a tool to whittle down the authority of states. The centre encroached into the state's autonomy by its amending power. For instance, 3rd, 6th, 7th and 42nd Amendment Acts have brought a number of state subjects under the control of centre.

9 The allocation of discretionary grants and loans by the central government, it is alleged serves a powerful leverage in influencing the policies and programmes of state governments even in spheres such as education, medical and public health, which are constitutionally within the competence of states

10 Price Policy: Another grievance of the states against centre is price and wage policy. The central government alone determines the price and wage policy but the states have to suffer the impact of price rise and wage rise, which put heavy strain on their financial resources and causes higher budgetary deficits. For instance, the sugar price increased in one year period (Jan 2009-Dec 2009) from Rs. 20 to Rs.46. In the same way, the prices of wheat and the rice also increased. Some state governments distribute these commodities to the poor at subsidized prices. When the prices of these commodities rise, the state governments have to bear additional burden. Therefore, the state governments demand for more assistance to the states.

3.2 Office of the Governor:

The office of the Governor for each states in India has been a sensitive issues and its may cause to threat to federal character of India .The Governor has unique role to play in India's federal system. But his role has always been a controversial issue almost ever since the inception of this high office. It has become an important and irritating ingredient in centre state relations. The very mode of his appointment and the misuse of his discretionary powers were the centre of controversy. K.V. Rao says, "today at the root of all troubles is the simple fact that the Head of the State is neither chosen by that state nor is he responsible to it, nor removable."

1 Discretionary Powers of the Governor Article 163 makes the Governor sole judge in matters in which he is required to act in his discretion. The constitution visualizes situations where he is to act in his discretion and not on the advice of the Council of Ministers. The decision of the Governor in his discretion shall be final and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in his discretion.

The following are some instances where an opportunity arises for the Governor, to exercise his discretion. Governor determines whether the government of a state can or cannot be carried on in accordance with the provisions of the constitution. If he feels that it cannot be carried on, he can make a report to the President under Art. 356 (1).

If after the general elections, no single party is able to secure a clear majority or post-election splits reduce the majority to a minority, the Governor can use his discretion to determine which party has the best chances of forming a stable government.

In case, the Governor concludes that none of the parties represented in the legislature is in a position to form a stable government, he can in his discretion dissolve the legislature and order fresh elections.

The Governor can reserve a bill or bills passed by the state legislature for consideration of the President

Generally, the Governor is supposed to be guided by the advice of Council of Ministers.. The cases in this regard in recent years appear to be those of Punjab, Nagaland and Uttar Pradesh and latest being the dissolution of Bihar Assembly in May 2005, machinery has been misused by suspending or dissolving the assemblies keeping in view the interests of the ruling party at the centre.

Assemblies dissolved straight away from 1959-1980

Name of the State-	Year dissolved –
Kerala	1959
Haryana	1967
Tamil Nadu	1976
Karnataka	1977
Bihar, Haryana,	1977
Himachal Pradesh, MP, Punjab,	1977
Rajasthan, West Bengal, U.P	1977
and Odisha.	1977
Puducherry.	1978
Punjab, U.P, Bihar,	1978
Odisha, M.P, Rajasthan, Gujarat	1978
, Maharashtra and Tamil Nadu	1980

2. Controversy over Governor's Address According to Article 175 (1), the Governor can address either house of the state legislature separately or both the houses assembled. Reserving Bills for Presidential Assent Another area of concern between the union and states is the reservation of bills by the Governors for the assent of the President of India. Centre misusing the office of Governor :Failure of Constitutional Machinery Prior to going into the details of proper use or misuse of the Article 356. The expression "failure of the constitutional machinery" and "arising of a situation in which the government of the state cannot be carried out in accordance with the provisions of the constitution". Since 2009, the President's rule has been imposed 115 times and this provision, in fact, has been misused by Governors under the pressure of central ruling party .Suspending and dissolving the assemblies on partisan consideration;

Not giving a chance to the opposition to form government when electoral verdict was indecisive;

A few of such examples are given below

- 1 EMS Namboodripad in Kerala was dismissed on 1959
- 2 Rao Birendera Singh in Haryana was dismissed on 1967
- 3 The Ministry of Karunanidhi in Tamil Nadu was dismissed because there were allegations of corruption against the Ministry and also because it made demand for state autonomy.
- 4 (Nine State Governments were dismissed in 1977 by the Janata government at the centre on the ground that they had ceased to represent the people- a conclusion drawn on the basis of Parliamentary elections of that year.
- 5 Another nine state governments were dismissed in 1980 by the Congress government on the same ground

The grounds mentioned above clearly prove that the party in power at the centre has dismissed the state governments in an arbitrary manner. Articles 355, 356 and 365 give enormous scope for the centre.

Problems in Centre State Relations

Appointment and Dismissal of Governor

In connection with appointment of Governors in States, The state Government always displeases President appointed and dismissing the governor without making any consent with the States. No guarantee of tenure of Governor Office. So Governors are helpless to act independently. When ever new government came to power governors are forced to resign or act according to the pleasure of centre. No provision of independent governor office. When Modi came to power majority of Governors resigned or get notice for leaving Rajbhavan. As a supreme post in the States there is no provision for security or no participation of states in matter. Partisan Role of Governor Partisan role of govt or party bias of government, Governors are appointed by president but President doesn't have any choice. All the appointments are done by Prime Minister advise. Pleasure of PM is deciding the tenure of governor office. So governors are liable to PM interest. A large queue of governors can see in front of PM house are common in Delhi.

President Rule-356

The president can use article 356 for dissolving state government when the president is dissatisfied in State Government. On the occasion of failure of Constitutional machinery or any law and order issues happened in States president can freeze the state administration and have the right to impose state Emergency. The control of state legislative assembly shall take over by Central government and getting more power to centre. In such situation the concept of Federation is meaningless.

Deployment of Central force in States:

Whenever state police have been failed to control law and order situation on states, the centre govt has the power to deploy central forces in states. Or in the name of Internal violence, the centre government trying to interfere in state matters. Centre army like BSF, and Armed forces are engaging inhuman torture of ordinary civilians in borders of India.

Manipur, Nagaland, Mizoram, Assam, Meghalaya, Tripura, Arunachal Pradesh are victims of Armed forces- Some regional sentiment activist emerged against these atrocities. (best example was the Irom Sharmila (Manipur) done world's largest hunger strike for 16 yrs.)

Article 201 & 202 (Reservation of Bill for president Consent)

Art-201,202- Governor can hold a state bill without approval and he can sent the bill for presidents approval, in fact PM approval.(Right to hold Bill without time limit or resend). This provisions are largely misused by the Governors an Central Government for showing the supremacy over state powers.

All India Services

All India Services like IAS,IPS,IFS examination conducting by Central and appointment are done by President. But they working in states as an agent with loyalty to Centre. State govt doesn't have the right to take any action against AIS staff or required prior approval from centre. State can dismiss them only for 3 months.(instead of this system All states are planning to start State Administrative services)

Case against CM

If state and Centre have any political indifferences usually Chief ministers are troubled by central government. If state ruling party is differ from central ruling party. They can start CBI or vigilance case against CM as a revenge.

Financial and Taxation power of centre over states

The support and percentage of fund allocation is done by central government to each states If central government have any political dissatisfaction, it may cause to cut off financial assistance of central government or reduced the allocation of food supply, ration, and like infrastructure development of planning commission, road, rail etc.

Legislation on State List

During the period of Emergency, the union government has the right to make laws from state list on the name of national interest. This is an encroachment of state power on legislation, Central govt have the power to create any new states or liquidate or changes boundaries.

Likewise above mentioned Issues are raised in various parts of the country in time to time since independence. So Government planned to appoint commissions for studying centre – state relations

4.1 THE FIRST COMMISSION ON CENTRE-STATE RELATIONS

Justice R.S. Sarkaria Commission

An exhaustive and balanced treatment generally of the entire gamut of federal power sharing and distribution of responsibilities, as witnessed in the early period post India's independence, can be seen in the Report of the first Commission on Centre-State Relations, headed by Justice R.S. Sarkaria, which was submitted to the Government in the year 1988. Constituted in 1983, the first Commission had the benefit of over three decades of working knowledge and experience of the conduct of federal units and the Central Government, an experience concurring with the times when the country as a whole and the units individually had to meet with pressing contradictions in following the theory and practice of federal ethos. Some of these contradictions related to: Nationalism vs regional ethnicism, uni-lingualism vs multi-linguistic culturalism, secularism vs religious Nationalism and centralism vs federalism. The first Commission, therefore, in segregated sections, examined in detail, the nature of contradictions and complementarities in the federal relations that were in vogue and had been put in practice over the three decades, in relation to the federal conventions that were enunciated by the framers within the overall Constitutional edifice. The Commission examined the same in the three universally accepted sectional forms namely, the legislative, the administrative and the financial relations. In the legislative relations, among others, detailed consideration was given to the structural and functional aspects of the 'legislative lists' in the domain of the Centre, the State and the concurrent jurisdiction, the Articles of the Constitution bearing close links with the functioning of the Centre and States and the related aspects. In the administrative relations the report provided extensive focus on the role of Governor, the prime and organic Constitutional link between the Centre and the State. Other subjects, dealt with in this section included the promulgation of Ordinances, the emergency provisions, the deployment of Union Armed Forces in a State for Public Order duties, the role of All India Services, and the functioning of the Inter-Governmental Councils. In financial relations, detailed consideration was given to the distribution of taxation powers, the transfer mechanisms under the aegis of the Finance Commission(s), the Report of the Commission on Centre-State Relations resource mobilization practices by the Centre and the States, the economic and social planning including the Panchayati Raj system, the balanced development of agriculture and industry, the inter-state trade and commerce, the inter-state river-water disputes and other connected issues, which had the economic, political and emotive bearing on the federal relations. In addition, the Commission focused its attention to the role of Judiciary, the mass media, dissemination and communication of prompt and correct information and the management of the language formulae to promote healthy practices and sound federal relations. 6.1.02. The Report, admittedly, strove to situate the 'Union of States' framework of the Indian Republic and its polity in a living design that would lead to 'striking a fair balance' between autonomy and integration in the declared mould of 'Federation with a strong Centre'. It attempted to find workable and mutually acceptable resolution mechanisms on several issues in the sensitive domain of the federal government's prerogatives and States' rights and Constitutional claims in the spirit of cooperative federalism, but within the overall framework of the Constitutional prescriptions. Another interesting aspect was that the report addressed the methods of 'exercise of authority' that would be devolving under various federal provisions of the Constitution and suggested ways of achieving transparency and objectivity in the same. The recommendations relating to the role and conduct of the institution of the Governor, as an example, would make the point manifest. The Commission recognized and supported the utmost need for the growth of a congenial political and federal culture, with favoured norms and conventions under which conflicts would

be resolved through negotiations, thereby minimising the options for frequent references to the Constitutional provisions and judicial interventions. On the working of the Constitution, the principal guiding force for the functioning of the federal mechanisms, the Commission's opinion had been explicit and clear. The Commission, inter-alia, reported: "it is neither advisable nor necessary to make any drastic changes in the basic character of the Constitution." This is because "the working of the Constitution ... has demonstrated that its fundamental scheme and provisions have withstood reasonably well the inevitable stresses and strains of the movement of a heterogeneous society towards its development goals". The report with an elaborated coverage of subjects and their logical treatment, guided by a detailed consultation process, signified itself to be considered as a standard reference document for banking upon, from time to time, in resolving federal differences in the two-tier administrative system in spite of the fact that some of its recommendation were not formally accepted by the Government. It advanced persuasive arguments on the advantages of :

- (1) 'decentralization' in the context of maintenance of diversities and pluralistic identities;
- (2) establishment and adherence to conventions outside the Constitutional stipulations for smoothening the federal fabric ; and
- (3) development of mutual trust, confidence and understanding between the two tiers of polity.

Dwelling on the 'Principle of Union supremacy' in the legislative and administrative fields, the Report averred that 'Supremacy Rule is the keystone of Federal Power'. Further, focusing this concept in a comparative perspective with other established federations such as USA, Canada, Australia, and Germany, the Commission maintained: "In every Constitutional system having two levels of government with demarcated jurisdiction, contents respecting power are inevitable....The rule of Federal Supremacy is a technique to avoid such absurdity, resolve conflicts and ensure harmony between the Union and State laws. This principle, therefore, is indispensable for the successful functioning of any federal or quasi-federal Constitution..."

The Recommendations of Sarkaria commission The first Commission in all made 247 recommendations on different areas of Centre-State Relations which were given due and detailed consideration by the Government. Of these 247, 179 recommendations were accepted while some are still under examination. Some of the important recommendations which have been accepted and implemented pertain to the role of the Governor, the constitution of Inter Governmental Council and strengthening of the Local-self Governing Bodies. On the Role of Governor, the Commission made a number of important recommendations on selection, appointment, tenure and discretionary powers of the Governors, guiding principles for the Governors in choosing Chief Ministers and functioning of the State Legislatures. The Commission recommended that in order to ensure effective consultation with the State Chief Minister in selection of a person to be appointed as Governor, the procedure of consultation should be prescribed in the Constitution itself by suitably amending Article 155. While the Union Government has not agreed to amend the Constitution in this regard, it is of the view that the practice of prior consultation with State Chief Ministers should be continued as a matter of convention and not as a matter of obligation. The Commission also recommended a number of criteria for making appointment of Governors, majority of which have been accepted by the Union Government. The Union Government has also accepted the Commission's guiding principles relating to the choosing of the Chief Ministers, and the functioning of the State Legislature. Dwelling on Article 263 of the Constitution, which envisages establishment of an institutional mechanism to facilitate coordination of policies and their implementation by the Union and the State Governments, the Commission The First Commission on Centre-State Relations.

Report of the Commission on Centre-State Relations recommended that a permanent Inter-State Council called the Inter-Governmental Council (IGC) should be set up under Article 263. In pursuance of this recommendation, the Union Government had set up the Inter-State Council, under the provisions of Article 263 of the Constitution, in the year 1990. The Commission also recommended that the local self-governing bodies need to be significantly strengthened both financially and functionally, and recommended enactment of a Parliamentary law uniformly applicable throughout India containing provisions analogous to Articles 172 and 174 of the Constitution. The Union Government accepted the recommendations and more specific provisions have been made in the Constitution through the 73rd and 74th Constitutional Amendment Acts, which confer Constitutional status on Panchayati Raj Institutions as well as Municipalities and District Planning Committees. Provisions have also been made for setting up of Finance Commissions to review the financial position of these bodies and to make recommendation to the State governments for devolution of

resources. Some of the other major recommendations made by the Sarkaria Commission which have been accepted by the Government are:

- (i) that prior consultation with the States, individually and collectively, in respect of overlapping and concurrent jurisdictions, should be adhered to, except in rare and exceptional cases of extreme urgency or emergency, though it may not be necessary to make such consultation a matter of constitutional obligation;
- (ii) that ordinarily, the Union should occupy only that much field of a concurrent subject on which uniformity of policy and action is essential in the larger interest of the Nation, leaving the rest and the details for action by the States within the broader framework of the policy laid down in the Union law;
- (iii) that Article 356 should be used very sparingly, in extreme cases and only as a matter of last resort; and
- (iv) that the net proceeds of corporation tax may be made permissibly shareable with the States by an appropriate amendment of the Constitution.

It is generally well regarded that the first Commission on Centre-State Relations, which subsequently came to be known as Sarkaria Commission after its Chairman's name, had given an excellent report on this subject which made a signal contribution for smoothening the relations between the Union and the States. And working relationship between the Central Government and the State Governments of this great country in the future.

Regarding use of Article 356: The Sarkaria Commission made the following recommendations:

This article should be used very sparingly and as a matter of last resort. It can be invoked only in the event of political crisis, internal subversion, physical breakdown and non compliance with the constitutional directives of the centre.

Before that, a warning should be issued to the errant state in specific terms and alternate course of action must be explored before invoking it.

The material fact and grounds on the basis of which this article is invoked should be made an integral part of the Proclamation; it will ensure effective Parliamentary control over the invocation of the President Rule.

The Governor's report must be a 'speaking document' and it should be given wide publicity.

So the Sarkaria Commission was an important attempt to streamline the centre-state relations.

It has become a reference point for any discussion on centre-state relations and it has been frequently referred to even by the judiciary.

On its recommendation, the Inter-State council was established in 1990 and it has considered its recommendations.

However, many of its important recommendations have not been implemented and tensions in federal relations are a recurrent feature.

Relating to Legislative Matters

While it made the general observation that the Constitution is basically sound and there is no need for drastic changes in the basic character of the Constitution, nevertheless it gave following recommendations: (1) Ordinarily, the Union should occupy only that much field of a concurrent subject on which uniformity of Policy and Action is required in the larger interest of the Nation, leaving the rest of the details for State action, within the abroad frame-work of the Policy laid down in the Union Law. (2) Whenever, the Union proposes to undertake Legislation on a subject belonging to the Concurrent List, the States' views must be ascertained through inter-Governmental Councils. (3) Parliamentary law passed under clauses (1) of Article 252, on request of two or more States should not be perpetual but should be for specific period not exceeding three years. (4) On receipt of a resolution from a State recommending creation or abolition of a Legislative Council, the same will be presented before the Parliament within a reasonable time.

4.2 THE ADMINISTRATIVE REFORMS COMMISSION (1969)

The Administrative Reforms Commission (1969) made 22 recommendations to improve Centre State relations. It ruled out any constitutional amendment and considered the existing provisions as sufficient to regulate federal tensions. The important recommendations are given out of 22 recommendations in the following:

- Establishment of an Inter-state council under Article 263 of the constitution
- Delegation of powers to the maximum extent to the states
- Augmenting financial resources of the states through fiscal transfers from the centre
- Appointment of non-partisan persons having long experience in public life and administration as Governor of a state

Other Recommendations

- It made the strong suggestion that Article 370 was not a transitory provision. This appears to have been made specifically in response to “one all-India political party” that demanded the deletion of Article 370 “in the interests of national integration.
- It recommended that the residuary powers of legislation in regard to taxation matters should remain exclusively in the competence of Parliament while the residuary field other than that of taxation should be placed on the concurrent list.
- That the enforcement of Union laws, particularly those relating to the concurrent sphere, is secured through the machinery of the states.
- To ensure uniformity on the basic issues of national policy, with respect to the subject of a proposed legislation, consultations may be carried out with the state governments individually and collectively at the forum of the proposed Inter-Governmental Council. It was not recommended that the consultation be a constitutional obligation.
- Ordinarily, the Union should occupy only that much field of a concurrent subject on which uniformity of policy and action is essential in the larger interest of the nation, leaving the rest and details for state action.
- On administrative relations, Sarkaria made some observation: “Federalism is more a functional arrangement for cooperative action, than a static institutional concept.
- Article 258 (power of the Union to confer powers etc on states in certain cases) provides a tool by the liberal use of which cooperative federalism can be substantially realised in the working of the system.
- A more generous use of this tool should be made than has hitherto been done, for progressive decentralization of powers to the governments of the states.
- The Commission strongly recommended the establishment of permanent Inter-State Council.
- In addition, it desired that both the Centre and the States should have the concern for the development of backward territory or areas.
- If the economic development of these backward regions are undertaken in a planned manner, the separatist tendencies will be automatically controlled.
- Differences between the Union and the States should be resolved by mutual consultation.
- It has taken a favourable view on the demand of the States to provide more financial resources at their disposal.
- In order to improve Centre-State relations in the country, it has suggested economic liberalization and suitable amendments to the Constitution.

4.3 . Rajmanna Commission, 1969

In 1969, the Tamil Nadu government appointed Rajmanna Commission to look into this aspect and it submitted its report in 1971. It demanded readjustment of the VII schedule and residuary power to the states. Its other important recommendations are given in the following:

- Setting of an Inter-State council immediately
- Finance commission to be made a permanent body
- Deletion of Articles 356, 357 and 365 which dealt with the President's rule
- Abolition of All-India Services (IAS, IPS and IFS)
- Planning Commission to be replaced by a statutory body
- The Central government completely ignored its recommendations.

6 Madan Mohan PUNCHI COMMISSION

The Punchhi Commission was constituted by the Government of India in 2007 as a Commission on Centre-State relations. It was chaired by Justice Madan Mohan Punchhi who was formerly the Chief Justice of India from 18 January 1998 until his retirement on 9 October 1998. The Commission came into effect on the 27th of April, 2007 to relook into the problems and issues in Centre-State relations in India ever since these issues were earlier looked into by the Sarkaria Commission which had submitted its report in 1988.

Composition of the Punchhi Commission

Madan Mohan Punchhi (Retd.), Former Chief Justice of India, Chairman.

Shri Dharendra Singh, Former Secretary to the Government of India, Member.

Shri Vinod Kumar Duggal, Former Secretary to the Government of India, Member.

N.R. Madhava Menon, Former Director, National Judicial Academy, Bhopal, and National Law School of India, Bangalore, Member.

Shri Vijay Shanker, IPS (Retd.), Former Director, Central Bureau of Investigation, Govt of India, Member Secretary.

Amaresh Bagchi was a member from 4th July, 2007 until his death in 20th February, 2008.

The Commission had submitted its report to the then Home Minister of India, P Chidambaram in March 2010. The Commission submitted its report in 7 volumes and 4 supplementary volumes.

They are:

Volume 1: Evolution of Centre-State Relations in India.

Volume 2: Constitutional Governance and the Management of Centre-State Relations

Volume 3: Centre-State Financial Relations and Planning

Volume 4: Local Self Governments and Decentralized Governance

Volume 5: Internal Security, Criminal Justice and Centre-State Co-operation

Volume 6: Environment, Natural Resources and Infrastructure

Volume 7: Socio-Economic Development, Public Policy and Good Governance

Supplementary Volume 1: Task Force Reports

Supplementary Volume 2: Research Studies

Supplementary Volume 2A: Research Studies

Supplementary Volume 3: Responses from Stakeholders

Supplementary Volume 4: Regional Consultations

MAIN PURPOSES OF THE COMMISSION

To examine the possible role, responsibility and jurisdiction of the Centre during major and extended eruptions of communal/caste or other social violence or conflicts.

To review other areas of Centre-State relations include that of taxes and rivers' linking.

To study if there is a need to set up a Central law enforcement agency to take up suo motu crimes investigation with inter-state or international ramifications with grave implications on national security.

To see the feasibility of suo motu deployment of central forces in the States if needed.

To examine the role and responsibility of the centre with respect to the states in the effective devolution of autonomy and powers to the Panchayati Raj institutions and other local bodies.

To support independent planning and budgeting at the district level and linking Central assistance of states to States' performance.

To examine the relevance of separate taxes for freeing inter-state trade to establish a unified domestic market.

To examine the role and removal procedures of governors.

In brief, it can be said that the chief objective of the Commission was to examine the prospect of "giving sweeping powers to the Union government to deploy central forces in the states and the investigation of crimes affecting national security."

PUNCHHI COMMISSION MAIN RECOMMENDATIONS

The Commission gave 312 recommendations in its report. Some of the major recommendations are given below:

Articles 355 & 356

The report recommended that these Articles be amended. It sought to protect the interests of the States by trying to curb their misuse by the Centre. It said that the centre should try to bring only the specific troubled area under its jurisdiction and that too for a brief period, not more than three months. That means, the Commission sought to localize the emergency provisions under Articles 355 and 356.

National Integration Council

In matters concerning internal security the Punchhi Commission recommended the creation of a superseding structure (much like the Homeland Security Department in the US), that gave prominence to the National Integration Council. It recommended the Council to meet at least once annually. It also advised a five-member delegation of the Council to visit any communally affected area within two days.

Concurrent List Subjects

The Commission recommended that the Centre should consult states before introducing bills on items in the concurrent list through the inter-state council.

Appointment of Chief Ministers

In case of appointment of state chief ministers, the Commission recommended that:

There should be clear guidelines on the chief ministers' appointment so that the discretionary powers of the governor are limited in this regard.

A pre-poll alliance to be regarded as one political party.

Order of precedence in forming state government:

The group/alliance with the largest pre-poll alliance with the highest number.

The single largest party with support from others.

The post-poll alliance with a few parties joining the government.

The post-poll alliance with a few parties joining the government and remaining including independents giving outside support.

President's Pocket Veto

There should be a provision by which the President's decision to use his Pocket veto power is communicated to the State within six months.

Appointment and Removal of Governors

Recommendations regarding appointment of Governors:

The incumbent should have stayed away from active politics even at the local level for at least two years prior to his appointment.

The state chief minister should have a say in the governor's appointment.

There should be a committee entrusted with the appointment of governors. This committee should comprise of the Prime Minister, the Home Minister, Speaker of the Lok Sabha, and the concerned state Chief Minister. Even the Vice President can be involved in the procedure.

Recommendations regarding appointment of Governors:

The Doctrine of Pleasure should be deleted from the Constitution.

Only a resolution by the state legislature should remove the governor.

It supported the right of the governor to sanction the prosecution of ministers against the state government's advice.

It recommended that there be provision for the impeachment of the governor by the state legislature.

Treaty Making Power of Union

There should be a regulation in the treaty-making power of the union executive with respect to treaties that are concerned with matters in the state list. The Commission recommended that the states be involved more in such treaties.

Communal Violence Bill

The Punchhi Commission recommended the amendment of the Communal Violence Bill. It said that the central forces be allowed to deploy forces in the state without the state's consent for a short period in case of communal violence. This is because the issue of state consent should not be an obstacle in the speedy alleviation of the communal tension. But such a deployment should not exceed a week's time and post-facto consent is to be sought from the state.

The Commission also recommended the stopping of the convention of appointing governors as chancellors of universities.

Recommendation and Suggestion for improving the Centre State Relations

- All India Services Should be abolished
- Inter State Council Should be formed
- Article 356 should be scrapped
- Governor must be eminent personality, should be outside the states, No Active in Politics

- Give more economic autonomy in financial matters, including receiving foreign funds, loans without the consent of Centre.

- The appointment of Governor should be through direct election .
- Bring the provisions in constitution regarding the use of discretion powers on the basis of law.

Conclusion

The federal spirit was slowly damaged by the centre through the partisan use of the institutions like the Governor, Finance commission etc. Required a constitutional provisions for reduce the trends towards centralization and the state should be given more powers and Financial Autonomy in the financial matters. In India, the Centre-States relations constitute the core elements of the federalism. The Central Government and State Government cooperate for the well-being and safety of the citizens of India. An urgent need of work together in the field of environmental protection, terror control, family control and socio-economic planning. The Indian constitution aim at reconciling the national unity while giving the power to maintain state to the State governments. It is true that the union has been assigned larger powers than the state governments, but this is a question of degree and not quality, since all the essential features of a federation are present in the Indian constitution. It is often defined to be quasi-federal in nature. Thus, it can be safely said that Indian Constitution is primarily federal in nature even though it has unique features that enable it to assume unitary features upon the time of need. Federal but its spirit is unitary.

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