

## SYSTEM OF GOVERNANCE

### CENTER STATE RELATIONS

## Different Commissions and their Recommendations

### 1. Sarkaria Commission

- The agitation for State autonomy led to the creation of the Sarkaria Commission by the Central Government to recommend changes in Centre-State relationship.
- The Commission submitted its report in 1988.
- The founding fathers of the Indian Constitution were deeply concerned about ensuring the unity and integrity of the country.
- They were aware of the forces of disruption and disunity working within the country.
- These dangers at the time of independence could be handled only by a strong government at the Centre.
- Therefore, the framers of the Constitution assigned a predominant role to the Centre.
- At the same time, they made provisions for the establishment of co-operative federalism.
- The working of the Indian federation during the last five decades clearly shows that the relations between the Centre and the States have not always been cordial.
- The Administrative Reforms Commission and several other Commissions were appointed by the Government of India from time to time to regulate Centre-State relations.
- The Union Government appointed the Sarkaria Commission to suggest ways and means improve Centre-State relations.
- The clamour for more autonomy led to the constitution of the Sarkaria Commission in 1983 which was asked to examine and review existing arrangements between the Centres and the States in all spheres and recommend appropriate changes and measures.
- An extraordinary situation, the need to defeat the emergency regime of Indira Gandhi, brought them together.
- With the return of the Congress party under Indira Gandhi's leadership with a secure majority, the movements for state autonomy slowly receded in the background.
- At the present moment, there is no movement for state autonomy like earlier even though the struggle to get more financial resources for the state continues.
- In 1990 a visible change came in the correlation of forces active in Indian politics.

### Major Recommendations of Sarkaria Commission

The Sarkaria Commission finally submitted its report in the year 1988.

The Sarkaria Commission's charter was to examine the relationship and balance of power between state and central governments in the country and suggest changes within the framework of the Constitution of India.

Despite the large size of its reports – the Commission recommended, by and large, status quo in the Centre-State relations, especially in the areas, relating to legislative matters, the role of Governors, and the use of Article 356.

## ROLE OF GOVERNOR

### Issue of Appointment of Governor

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| <ul style="list-style-type: none"> <li>On the issue of appointment of the Governors, it made some important recommendations as given in the following:</li> <li>The <u>Governor</u> should be eminent in some walk of life and from outside the state. He should be a detached figure without intense political links or should not have taken part in politics in the recent past. Besides, he should not be a member of the ruling party.</li> <li>He should be appointed after effective consultations with the state Chief Minister and Vice President and Speaker of the Lok Sabha should be consulted by the PM before his selection.</li> </ul> | <ul style="list-style-type: none"> <li>As far as possible, the governor should enjoy the term of five years.</li> <li>He should be removed before his tenure only on the grounds as mentioned in the constitution or if aspersions are cast on his morality, dignity, constitutional propriety, etc.</li> <li>In the process of removal, the state government may be informed and consulted.</li> </ul> |
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**Regarding the 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 an 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 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 the 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 broad 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 a 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.

### **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 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 observations: “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 realized in the working of the system.
- 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 a permanent Inter-State Council.
- Also, it desired that both the Centre and the States should have a concern for the development of backward territory or areas.
- If the economic development of these backward regions is 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.

## **2. Rajmanner Commission, 1969**

In 1969, the Tamil Nadu government appointed Rajmanner 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:

- The 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.

## **3. Anandpur Sahib Resolution, 1973**

- In 1978, the Akali Dal came out with a controversial resolution called the Anandpur Sahib Resolution.
- It demanded greater autonomy for the States seeking Centre’s authority to be confined to only Defence, Foreign relation, Communications, Railways, and Currency.
- It also demanded residuary powers for the State. In the decade of 1980, as the regional parties became very assertive, they put-forth the demand for State autonomy in an organized manner.
- Their ‘conclaves’ were held at Vijaywada, Delhi, and Srinagar which raised the demand for redefining the Centre-States relations.

- Here also the Central government did not accept these recommendations.
- In 1973, the Akali Dal adopted Anandpur Sahib resolution which demanded the restriction of the centre's jurisdiction to only defence, foreign affairs, communications, and currency and vesting of residuary powers in the states.
- It also called for equal authority and representation of the states at the Centre.

In December 1977, the Communist government in West Bengal published a memorandum called the West Bengal memorandum which made the following recommendations:

- The word 'union' in the constitution should be replaced by the word 'federal'
- The centre's jurisdiction to be restricted to only defence, foreign affairs, communications, and economic coordination
- Deletion of articles 356, 357 and 360
- Rajya Sabha to have equal powers with that of the Lok Sabha
- Abolition of All-India services
- 75 percent of the revenue raised by the centre should be allocated to the states

### **NATIONAL COMMISSION TO REVIEW THE WORKING OF THE CONSTITUTION (NCRWC)**

The National Commission to Review the Working of the Constitution (NCRWC) too put forth its suggestions, many of which were a reiteration of Sarkaria Commission recommendations. Some of the novel recommendations are enumerated in the following:

- A statutory body called Inter-State Trade and Commerce Commission should be established as given under Article 307.
- The Governor should be appointed by a committee comprising the Prime Minister, Home Minister, Speaker of Lok Sabha, and the Chief Minister of the state concerned.
- Management of disasters and emergencies should be included in the Concurrent List of the Seventh Schedule.
- In case of a political breakdown in a state, before invoking Article 356, as far as practicable, the state should be given an opportunity to explain its position and redress the situation.
- The Inter-State Council order of 1990 should clearly specify the matters that should form part of the consultations.

### **4. Punchi Commission in 2007**

The Central Government constituted the Punchi Commission in 2007 to examine centre-state relations along with the possibility of giving sweeping powers to the centre for suo moto deployment of Central forces in states and investigation of crimes affecting national security. It was chaired by the former Chief Justice of India M.M. Punchi. It submitted its recommendation in 2009. Some of its important recommendations are given in the following:

- It called for giving a fixed term of five years to the governors and their removal by the process of impeachment (similar to that of the President) by the State Legislature.
- The governor should have the right to sanction the prosecution of a minister against the advice of the council of ministers.

- It called for an amendment of Articles 355 and 356 to enable the centre to bring specific trouble-torn areas under its rule for a limited period. Hence, it proposed ‘localizing emergency provisions’ under which either a district or parts of a district can be brought under the central rule instead of the whole state. Such an emergency should not be for more than 3 months.
- It proposed that the Centre should have the power to deploy its forces in case of communal conflagration without the state’s consent for a short period of a week.

Thus, we see that the issue of state autonomy has been a major issue in the dynamics of Indian federalism.

### **MODEL QUESTION:**

### **WRITE A SHORT NOTE ON CENTER-STATE RELATIONS IN THE WAKE OF MM.PUNCHHI COMMISSION REPORT.**

Home Minister Rajnath Singh will chair a meeting of the Standing Committee of the Inter-State Council (ISC) to discuss the recommendations made by the **Punchhi Commission on Centre-State relations.**

#### **Introduction:**

- The meeting would examine the Punchhi Commission’s report and discuss significant issues, including the role of Governors, Centrally-sponsored schemes and financial transfers from the Centre to the states and creation of a unified agricultural market for the nation.

#### **About Punchhi Commission:**

- The Punchhi Commission, notified in 2005, submitted its report in 2010.
- The Commission, in its report had said that ‘**National Security**’ as a subject was not specifically listed in any of the three Lists: The Union, the State or the Concurrent List.
- The subject of security under the **Article 352** and under the Emergency Provisions in Part XVIII of the Constitution has been assigned to the Union Government.
- Though it is an overriding executive power of the Union, in Constitutional practice, ‘Security’ is a subject in which the States and the Union have a common interest and are expected to act in a coordinated manner,” the report noted.
- The Commission also said that in case of communal riots, which has a potential of causing widespread violence within a territory, “the use of Article 355 may be in order.”

#### **Major Recommendations of Punchhi Commission:**

The Punchhi commission provided 312 recommendations in a seven volume report comprising:

1. Evolution of **Centre-state relations**
2. Constitutional scheme of relations, covering recommendations regarding **Article 19, Article 355 and 356 and Article 263.**
3. Economic and financial relations and recommendations include upgrading of the planning model to remove regional imbalances.
4. Recommendations regarding **73rd and 74th amendments** and the Sixth Schedule.
5. **Internal security**, covering issues like terror, Naxalism, insurgency and communal violence.
6. Environment issues and resource-sharing, particularly of rivers and minerals
7. Social development and **good governance.**
8. **Appointment of Governor:** The Punchhi commission recommended that the person who is slated to be a Governor should not have participated in active politics at even local level for at least a couple of years before his appointment.

9. **Removal of Governor:** For office of Governor, the doctrine of pleasure should end and should be deleted from the constitution. Governor should not be removed at whim of central government. The report supported the right of the Governor to give sanction for the prosecution of ministers against the advice of the state government.

#### **Centre-State relations:**

- **Part XI** of the Indian Constitution (**Articles 245 through 263**) deals with centre-state relations.
- It covers **legislative and administrative relations between states**.
- The **financial relationship** between the centre and states is covered in Part XII of the Indian Constitution, including **Article 280** that deals with the mandate for setting up a periodic Finance Commission.
- 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 relations between centre and state are divided :
- **Legislative relations**
- **Administrative relations**
- **Financial relations**

#### **Administrative relations between Centre and States**

- Union-state administrative relations in India are organized so as to enable the union government to exercise considerable direction & control over administrative machinery of the state.
- Union government has been armed with the powers of giving directions to state & has been given certain other powers to promote interstate coordination + settle interstate river water disputes.
- For above purpose, President may appoint interstate councils (Advisory in nature) to effect coordination b/w the states.

#### **Financial relations between Centre and States:**

- The states are almost completely dependent upon the centre for financial support.
- While proceeds of all the taxes within the state list are entirely retained by the state, proceeds of some of the taxes in union list are allotted wholly or partially to the states.
- Stamp duties, Duties of excise on medicinal & toilet preparations are mentioned in union list & are levied by central government but collected by state government
- Taxes levied & collected by union but assigned to states
- Duties with respect to succession of property other than of agricultural land
- Estate duty with respect to succession of property other than of agricultural land
- Terminal taxes on goods or passengers carried by railways, sea or air
- Taxes on railway's freight & fare

#### **Grants in aids and loans:**

- Prime objective is promoting welfare of STs & raise administration of scheduled areas
- Parliament make grants to give financial assistance to states to help overcome budgetary deficits
- Specific budget grants to states, as in case of jute producing states like WB, Assam, Bihar & Orissa, in lieu of share of Jute export duty, levied by government.
- Union can make grants for any public purpose for various national development scheme
- Union provides many other grants to states from time to time which mean states depend greatly on Union to get loans. A state government can only borrow within India & cannot raise a new loan without the consent of Union government, if there is an outstanding on previous loan.
- Constitution provides for appointment of finance commission by President every 5 years to advise him regarding distribution of resources between union & states & other revenue matters
- Niti Ayog also plays a vital role in financial relations between centre & states. It decides outlays of the plans for the country which in turn decides amount of money to be given to various states

#### **Cooperative federalism:**

- In exigencies of war, national interest takes precedence over points of centre – state divisions of powers.

- Substitution of primary police state by welfare state, where varied social services or technological advancement requires huge outlays & state government could not meet them on their own resources.

### **Why Indian Constitution is said to be federal in form, but unitary in spirit?**

The Centre was made more powerful as is revealed from the following facts:

- Single citizenship
- A strong centre
- Single Constitution for Union and States
- Centre can change name and boundaries of states
- Single unified judiciary
- Unitary in emergencies
- Common All-Indian Services
- Inequality of representation in the Council of States
- Appointment of Governor by President
- Appointment of the High Court Judges by the President.
- The office of CAG
- Special powers of council of state over state list
- Control over state laws
- Financial Dependence of states

### **Inter-State Council:**

- The Inter State Council (ISC) is a constitutional body created under the **Article 263** of the Constitution in pursuance of the **Sarkaria Commission**
- It is a forum to discuss problems between center and states.

### **Composition:**

- Prime Minister-Chairman
- Chief Ministers of all States –Member
- 3-Chief Ministers of Union Territories having a Legislative Assembly and Administrators of UTs not having a Legislative Assembly – Member
- 4-Six Union Ministers of Cabinet rank in the Union Council of Ministers nominated by the Prime Minister

### **Relevance of Inter-State Council:**

- The Inter State Council has also become significant in the backdrop of tensions brewing between Centre and some states regarding resource allocation and disputes related to jurisdiction.
- It can act as a forum for ironing out these disputes in pursuance of cooperative federalism.
- The Council can also play a role in exerting moral pressure on the executive to implement some recommendations of the Punchii Commission.
- It can reach a consensus on role of Governor.
- It can decide upon the use of **article 356** and other such constitutional matters.
- Bridge trust deficit between centre and states.
- Promote healthy competition between states.

### **What has been done to improve the centre-states relations?**

The central government took many steps to encourage a federal character to its functioning.

- A **National Development Council** was set up in **1952** and a **National Integration Council** was similarly set up in **1962**.
- **Annual conferences** were held between the centre and state chief ministers on finance, labour, food and other functional areas.
- The first constitutional body—called the **Inter-State Council (ISC)**—was set up in 1990 following the initial recommendation of the **First Administrative Reforms Commission (1969)**, which was endorsed by the **Sarkaria Commission on centre-state relations (1988)**.
- During the intervening years, there was a gradual centralization that diminished the political, legislative and administrative power of the states.

### **Way ahead:**

- The interstate council should be further strengthened to become the critical forum for not merely administrative but also political and legislative give and take between the centre and states.
- It should function in such a manner that it reflects the equal status of states and the centre.
- Even though the ISC's mandate is very broad, its aspiration has generally been limited to discussing affirmative action, welfare subjects and administrative efficiency and coordination.

**Conclusion:**

India's true potential will be achieved only when both the centre and the state are strong. India needs as many forums as it can get to improve implementation efficiency, the Inter-State Council should not be one of them. Along with another constitutionally sanctioned entity, the Finance Commission- the Inter-State Council should be the body that puts the "federation" back in the definition of the Indian nation.