

Chapter 13 - Federal Structure of Indian Polity

Federalism is a system of government in which the power is divided between a central national authority and several constituent regional authorities. The word “federal” originates from the Latin word “*foedus*,” meaning “covenant” or “treaty.” This reflects the idea that, in a federal system, the central and regional governments have a constitutional agreement to share power.

In a federal system, there are typically two or more tiers of government - the national/central government and the state/regional governments. Each level of government has its own jurisdiction and responsibilities as outlined in the constitution. The central government is responsible for matters of national importance, while the state governments handle more local and regional affairs.

UNITARY & FEDERAL FORM OF GOVERNMENT:

The classification of governments into unitary and federal systems is based on the relationship between the central authority and the subnational units.

Unitary Form of Government:

A unitary government is a form of governance in which ultimate authority is vested in a single central government, and all administrative divisions, if they exist, derive their powers from it. The central authority retains the right to alter, curtail, or abolish these units, ensuring uniformity in laws and policies across the nation. Examples of countries following this system include the United Kingdom, France, China, Japan, and Italy. The central government has the power to create, modify, or abolish subnational units, and it can override their decisions if needed. It emphasizes uniformity, national identity, and centralized control, with the consolidation of power considered a matter of priority.

In this model, the central government retains the primary decision-making power, delegating authority to lower levels of government only as needed. The system carries both merits and demerits. Among its strengths, it ensures that laws, policies, and regulations remain consistent and uniform throughout the country. It also reduces administrative costs compared to federal systems and facilitates swift decision-making, particularly in times of crisis or national emergencies.

Key features - Unitary Government

- **Concentration of Powers:** All powers are vested in a single central government, which can delegate powers to smaller units but retains ultimate authority.
- **Single Government:** There is a single set of governmental apparatus, including a single supreme legislature, executive body, and judiciary.
- **Written or Unwritten Constitution:** A unitary government may or may not have a written constitution. For example, England has an unwritten constitution, while France has a written one.
- **Rigid or Flexible Constitution:** Unlike federal systems, unitary governments may either have rigid or flexible constitutions. For instance, the English constitution is flexible, while the French

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one is slightly rigid.

- **No Special Judiciary:** There is no need for a special judiciary with wide powers of judicial veto in a unitary government. The highest court in a unitary system cannot sit in judgment over laws passed by the central authority.

Unitary Features of the Indian Constitution:

1. **Strong Centre:** The central government in India holds significant power compared to the states. This is evident in the Union List, which contains more subjects than the State List, giving the Centre more authority over important matters. For example: subjects like defence, foreign affairs, and currency are under the exclusive jurisdiction of the central government.
2. **States Not Indestructible:** Unlike in other federations, Indian states don't have guaranteed territorial integrity. Parliament can unilaterally change the state boundaries, names, or areas, with a simple majority. For example: The Parliament of India can alter the boundaries of states like it did with the creation of Telangana from Andhra Pradesh in 2014.
3. **Unified legal framework:** Unlike some federations where states can have their own constitutions, India operates under a single constitution for both the Centre and the states. States must abide by the central constitution.
4. **Flexibility of Amendment:** The process of amending the Indian Constitution is less rigid as compared to other federations. The bulk of it can be amended by Parliament with either a simple or a special majority. For example: 42nd Constitutional Amendment Act of 1976 made many significant changes to the Constitution through a parliamentary majority.
5. **Varied State Representation:** Representation in the upper house of Parliament, the Rajya Sabha, is based on population, unlike in the U.S. where each state has equal representation in the Senate. For example: Uttar Pradesh, with a larger population, has more Rajya Sabha seats as compared to smaller states like Goa.
6. **Emergency Provisions:** During emergencies, the central government's power increases, converting the federal structure into a unitary one, temporarily. For example: The imposition of the national emergency during the Indo-Pak war of 1971 centralized power in the central government's hands.
7. **Single Citizenship:** India follows a system of single citizenship, unlike some federations where citizens hold both national and state citizenship.
8. **Unified Judicial System:** India has a unified judiciary enforcing both central and state laws, unlike in the US where federal and state laws are enforced by separate court systems. For example: The Supreme Court of India has jurisdiction over both central and state matters.
9. **All-India Services:** India has services like the IAS, IPS, and IFS which are common to both the Centre and states, managed and controlled by the central government.
10. **Integrated Financial Oversight:** The Comptroller and Auditor-General of India, who audits both central and state government accounts, is appointed by the President without state consultation. For example: CAG audits the finances of states as well as the central government.
11. **Parliamentary powers over State 195 subjects:** Parliament can legislate on state list subjects if the Rajya Sabha passes a resolution in the national interest, thus extending Parliament's legislative

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competence without amending the Constitution. For example: Goods and Services Tax (GST) was introduced by Parliament, affecting state taxation.

12. **Appointment of Governor:** Governors are appointed by the President and serve as agents of the Central government in the states. Example: Governor of Maharashtra represents the central government's interests in the state.
13. **Centralized Electoral Administration:** The Election Commission, which conducts elections at both the central and state levels, is appointed by the President without state involvement.
14. **Presidential Veto Power:** Governors can reserve certain state bills for the President's consideration, who can withhold his assent. This gives the President absolute veto power over state legislation. For example: The President withheld his assent to the Gujarat Control of Organized Crime (GUJCOC) Bill in 2004.

Federal form of government:

A federal form of government is a system where the power is divided between a central authority and several smaller regional units, such as states or provinces. This division of power is typically outlined in a constitution and ensures that both the central government and regional governments operate within their respective jurisdictions.

Key features - Federal Government

- **Multiple Levels of Government:** In a federal system, there are two or more tiers of government that govern the same citizens. This means that both the central government and the constituent units have their own set of responsibilities and powers.
- **Defined Jurisdictions:** Each level of government has its own specific jurisdiction in areas like legislation, taxation, and administration. The constitution clearly outlines the powers and responsibilities of each tier, thus ensuring that they operate within their designated spheres.
- **Constitutional Basis:** The existence and authority of each level of government is constitutionally guaranteed. The Constitution serves as the foundation for the federal system, and its fundamental provisions cannot be changed unilaterally by one level of government. Any change requires the consent of both the central and constituent governments.
- **Judicial Oversight:** Courts play a crucial role in interpreting the Constitution and the powers at different levels of government. The highest court acts as an impartial arbiter, resolving disputes that may arise between the central and constituent governments in the exercise of their respective powers.
- **Financial Autonomy:** To ensure the financial independence of each level of government, the sources of revenue for each tier are clearly specified in the constitution. This financial autonomy allows governments to carry out their responsibilities effectively.

Federal Features of the Indian Constitution:

- **Dual Government structure:** India has a dual system of government, with the Union handling national matters like defence and foreign relations, while states manage regional concerns such as public order and local governance.

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- **Written Constitution:** India's Constitution is the world's lengthiest, meticulously outlining the structure, powers, and functions of both the Union and state governments. For example, it clearly defines the subjects on which the Union, states, or both can legislate, reducing potential conflicts.
- **Distribution of Powers:** Powers are divided between the Union and states through three lists: Union List, State List, and Concurrent List. In case of a conflict, Union laws prevail, with residual subjects falling under Union jurisdiction.
- **Constitutional Supremacy:** The Constitution is the highest law of the land, and all laws passed by the Union or states must adhere to its provisions. The judiciary, led by the Supreme Court and High Courts, ensures that the governmental actions are aligned with constitutional principles.
- **Rigid Amendment Procedure:** Amendments to provisions related to federal structure require significant consensus, demanding a special majority in Parliament and approval by half of the state legislatures. This ensures stability in the division of powers.
- **Independent Judiciary:** The Constitution establishes an independent judiciary, with the Supreme Court safeguarding constitutional supremacy through judicial review and resolving disputes between the Union and states or among states (PYQ 2021). Safeguards like judges' tenure and service conditions ensure the judiciary's independence from governmental influence.
- **Bicameral legislature:** The Constitution institutes a bicameral legislature, with the Rajya Sabha representing the states and the Lok Sabha representing the Indian populace. While less powerful, the Rajya Sabha plays a crucial role in maintaining the federal equilibrium.

Idea of Federalism in India:

The concept of federalism in India is unique and has gradually evolved. Article 1 of the Constitution describes India as a "Union of States," signifying that the states collectively form the Indian Union. However, the word "federation" is not explicitly used. India follows a model of "holding together federation," in which powers are divided between the Centre and the states for administrative purposes. This differs from a "coming together federation," such as the United States, where independent states voluntarily unite to form a federation.

The Indian Constitution is often characterized as "federal in form but unitary in spirit," "quasi-federal," or even a model of "bargaining federalism," highlighting the coexistence of both federal and unitary features. Scholars have also described it as "cooperative federalism," a "federation with a centralizing tendency," and "pragmatic federalism." The Supreme Court, in the landmark *S.R. Bommai v. Union of India* (1994) case, declared federalism to be part of the Constitution's Basic Structure, underscoring its central role in India's political framework.

Is the Indian Federation 'sui generis'?

India is considered a federation *sui generis*, also known as a quasi-federal system. This classification is due to the unique blend of federal and unitary elements in the Indian Constitution. India's federal system has a strong centralizing tendency, which is evident from the numerous unitary features that have been incorporated into the Constitution. These features include:

- **Appointment of Governors:** Governors are appointed by the Union government, which gives the Centre significant influence over state governance.

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- **Alteration of State Boundaries:** The Union government has the power to alter the state boundaries under Article 3, which further reinforces the Centre's authority.
- **All India Services:** The institution of All India Services, where officers are trained by the central government and serve under state cadres, also contributes to the centralizing tendency.
- **Emergency Provisions:** The use of Article 356, which allows the President to impose President's Rule in a state, is another example of the centre's strong influence.
- **Single Constitution:** India has a single constitution that applies to all the states, which is another characteristic of a unitary system.

Centre-State Relations:

"The basic principle of federations is that the legislative and executive authority is partitioned between the Centre and the States not by any law to be made by the Centre, but by the Constitution itself.... The States are in no way dependent upon the Centre for their legislative or executive authority. The States and the centre are co-equal in this matter" - Dr. B. R. Ambedkar

By this statement, Dr. B.R. Ambedkar emphasized that in a federation, the division of powers between the central government and the states flows directly from the Constitution itself, rather than from laws enacted by the Centre. The states possess their own legislative and executive authority, independent of the central government. This arrangement firmly establishes India's federal structure, wherein both the Union and the states derive their legislative, executive, and financial powers directly from the Constitution.

A. LEGISLATIVE RELATIONS

Part XI (Articles 245-255) of the Indian Constitution deals with legislative relations between the States and the Centre. The legislative relationships between the union and the states are divided into three categories:

1. Territorial extent of central and state legislations
2. Parliamentary legislation in the state field
3. Centre's control over state legislation.

Article 245: Extent of laws made by the Parliament and by the Legislatures of States

- (1) Subject to the provisions of this Constitution, Parliament may make laws for the whole or any part of the territory of India, and the Legislature of a State may make laws for the whole or any part of the State.
- (2) No law made by Parliament shall be deemed to be invalid on the ground that it would have extra-territorial operation.

Territorial extent of Central and State legislations

It defines the territorial extent of laws enacted by Parliament and the state legislatures. Parliament is empowered to make laws for the whole of India or any part of it, while state legislatures may legislate for the entire state or any part within its boundaries. The provision also makes it clear that a law passed by

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Parliament will not be considered invalid merely because it has extraterritorial operation. In this way, Parliament retains the authority to enact laws that may extend beyond India's borders, while state legislatures exercise jurisdiction over their respective territories.

However, it is to be noted that Under Article 245(1), though the power of Parliament to make laws extends throughout India, it is not an unlimited power, as demonstrable by the phrase "subject to the provisions of the Constitution of India". The chief limitations are prohibition on the enactment of laws in violation of Fundamental Rights [Article 13(2)], rule of law and the basic structure of the Constitution.

Allocation of Legislative Subjects

Article 246 clearly delineates the legislative powers of the Parliament and the State Legislatures. Parliament has exclusive power to make laws on matters listed in the Union List, such as defence, foreign affairs, and banking. Both Parliament and State legislatures can make laws on subjects in the Concurrent List, like criminal laws and forests.

Article 246: Subject-matter of laws made by Parliament and by the Legislatures of States

- (1) Notwithstanding anything in clauses (2) and (3), Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule (in this Constitution referred to as the "Union List").
- (2) Notwithstanding anything in clause (3), Parliament, and, subject to clause (1), the Legislature of any State also, have power to make laws with respect to any of the matters enumerated in List III in the Seventh Schedule (in this Constitution referred to as the "Concurrent List").
- (3) Subject to clauses (1) and (2), the Legislature of any State has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule (in this Constitution referred to as the "State List").
- (4) Parliament has power to make laws with respect to any matter for any part of the territory of India not included in a State notwithstanding that such matter is a matter enumerated in the State List.

Evolution of Centre-State Relations:

Pre-independence: The foundations of India's current federal system can be traced back to the pre-independence era. The Simon Commission report of 1930 laid the groundwork for a federal structure in India. The support for federalism gained further momentum during the First Round Table Conference in 1930, where the British Government officially accepted the principle of an All-India Federation comprising British India and the Princely States.

The Government of India Act of 1935 outlined the major features of the federal system, which were later incorporated into the Constitution of India by the Constituent Assembly. However, the provisions related to federalism were never fully implemented, and only the sections dealing with the provinces became effective in 1937.

Constituent Assembly debates Centre-State relations

When the Constituent Assembly was convened in 1946, it officially endorsed the principle of

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federalism as the structure of the new India. The Assembly debated the concept of federalism extensively during the drafting of the Indian Constitution. One of the key points of discussion was the nature of the distribution of powers of the Indian Federation. The Assembly members generally agreed that a unitary system was not only undesirable but also impractical due to the country's diverse elements and external circumstances. This view was carried throughout the debates, with the understanding that a federal structure was necessary to integrate the various regions and provinces.

The concept of federalism was influenced by the federal systems of the United States and the Soviet Union. However, the Indian context was unique, and the Assembly members recognized that the orthodox definition of federalism would not apply directly. They had to address the challenges of integrating areas under British rule into a single federation.

The debates also highlighted the tensions between national unity and state autonomy. While some members, like J.B. Kriplani, advocated for a federal system with maximum autonomy being given to the states. PM J.L. Nehru's resolution supported the idea of strong autonomous provinces and a relatively weak Centre. Other members, like Brajeshwar Prasad, warned of the dangers of federalism leading to the fragmentation of the country.

This concept was later modified based on the recommendations of the Union Powers Committee, which suggested vesting the residuary powers of government in the Centre rather than the States. The Assembly ultimately decided to adopt a federal system with a strong Centre, recognising the need for a unified government in the face of the Partition and the challenges of integrating princely states.

Post-Independence: At the time of independence in 1947, India had a highly centralized structure of the federation, with the central government holding most powers and the states having limited autonomy. This was a departure from the initial vision of a federal system with strong autonomous provinces and a relatively weak Centre. Since then, India's centre-state relations have been dynamic and evolving in response to changing circumstances. In the 1960s and 1970s, the relations faced several challenges, including the rise of regional and linguistic identity politics, which led to the creation of new states and the emergence of powerful regional parties. This period also saw the proclamation of a national emergency and the central government's intervention in state affairs through the imposition of the President's rule and the use of financial incentives and sanctions to influence state policy.

In the 1980s and 1990s, the decentralization of power and the devolution of financial resources to the states became an important policy goal. Initiatives were undertaken to empower the states and to strengthen federalism, with the 73rd and 74th Constitutional Amendments being significant steps in this direction. However, this process has not been without challenges, and there have been tensions between the central and state governments on issues such as revenue sharing and the allocation of resources.

However, State legislatures have exclusive power to legislate on matters in the State List, such as public order and health. Additionally, Parliament can make laws for Union Territories and any part of India not included in a State, even if the subject is in the State List.

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Courts reconcile overlaps using doctrines. Under the *pith and substance* doctrine, a law's true character is examined: if its main thrust falls within the enacting legislature's competence, incidental encroachment on another list is permitted. Conversely, if a statute merely *disguises* an encroachment on another legislature's power, it violates the *doctrine of colourable legislation*, which bars indirect infringement of constitutional limits. For example, if a state law ostensibly on public health (a state subject) actually regulates insurance (a Union subject), courts will strike it down as colourable.

The Constitution provides for a three-fold distribution of legislative subjects between the Centre and the states – Union List, State List, and Concurrent List: [Also refer to Schedule 7 in the Appendices]

- The Union List (List I) contains 98 subjects of national importance such as defence, foreign affairs, banking, communications, and currency. Only Parliament can make laws on these subjects.
- The State List (List II) has 59 subjects of state and local importance like police, trade, commerce, agriculture, and irrigation. Only the respective state legislatures can make laws on these matters.
- The Concurrent List (List III) includes 52 subjects of common interest to both the Centre and the states, such as education, forests, marriage, and trade unions. Both Parliament and state legislatures can enact laws on these matters, but in case of a conflict, the central law prevails.

The 42nd Amendment, 1976 transferred five subjects to the Concurrent List from the State List, that is, (a) Education (PYQ 2006), (b) Forests (PYQ 2004), (c) Weights and Measures, (d) Protection of Wild Animals and Birds, and (e) Administration of Justice; constitution and organisation of all courts except the Supreme Court and the High Courts.

Reforming the Seventh Schedule

The Seventh Schedule is central to India's federal structure. By dividing legislative powers between the Union and the States through the Union, State, and Concurrent Lists, it ensures a balanced distribution of authority. This demarcation strengthens federalism and enables effective governance. It brings clarity in jurisdiction, reducing legislative overlap and allowing both levels of government to function smoothly. The structure fosters harmony and minimizes friction, encouraging cooperation while preserving distinct roles.

Crucially, it helps prevent conflicts through the Concurrent List, where both Centre and States can legislate, and promotes the unity and integrity of the nation. At the same time, it grants states legislative autonomy, empowering them to address region-specific needs.

Issues with the Current Seventh Schedule

However, several challenges persist. Over-centralization has weakened state autonomy, especially due to the frequent shift of subjects from the State to the Concurrent List without adequate consultation. This undermines the federal balance.

The Concurrent List often leads to Centre-State disputes over overlapping subjects like education and forests. In many cases, ambiguity leads to increased judicial intervention rather than cooperative resolution.

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Moreover, the lists are outdated, reflecting priorities of the mid-20th century and failing to address modern concerns such as climate change or digital governance. The framework also sidelines local bodies, as there's no distinct list recognizing their legislative roles, despite constitutional recognition through the 73rd and 74th Amendments.

Way Forward

To restore balance, commissions like Sarkaria and Punchhi have emphasized the need for prior consultation with states before altering the legislative domain, especially in shifting subjects to the Concurrent List. N.K. Singh, Chairman of the 15th Finance Commission, has advocated for reforming the Schedule by adding a Local Government List, recognizing the growing importance of urban and rural local bodies.

Finally, there is a strong case for periodic reviews – every 20 years – to update the lists and ensure they reflect India's evolving socio-economic landscape and governance needs.

Matters Not Covered by the Lists

Article 248: Residuary Powers of Legislation

* (1) Subject to article 246A, Parliament has exclusive power to make any law with respect to any matter not enumerated in the Concurrent List or the State List.

(2) Such power shall include the power of making any law imposing a tax not mentioned in either of those Lists.

* Substituted by the 101st Constitutional Amendment Act, 2016

Article 248 deals with the residuary powers of legislation, which grants Parliament exclusive authority to make laws on any matter not explicitly listed in the Concurrent List or the State List.

Article 248 grants Parliament the exclusive power to legislate on matters that are not mentioned in the Union List, State List, or Concurrent List of the Seventh Schedule. This means that any subject not expressly included in these lists falls under the residuary powers of Parliament. Importantly, Parliament's power includes the ability to impose taxes on matters not covered in the other two lists, except for GST, which is a concurrent power.

The significance of Article 248 lies in its reflection of the Constitution's unitary bias. Unlike countries like the United States or Australia, where residuary powers are vested in the states, the Indian Constitution places this power firmly with the Centre. This decision strengthens the national government and allows it to respond to unforeseen or emerging matters that are of national importance. The Supreme Court in the case of *Naga People's Movement of Human Rights v. Union of India* (1997) upheld Parliament's power to enact laws such as the Armed Forces (Special Powers) Act, emphasizing its authority to legislate on matters falling outside the state's jurisdiction under the residuary powers conferred by Article 248.

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Sarkaria Commission on Residuary Powers

In the past, several states have demanded that the residuary powers, including those of taxation, should be vested in the States. The Sarkaria Commission on Centre-State Relations (1988) reinforced the idea that residuary legislative powers, particularly in taxation, should remain with Parliament to avoid potential conflicts and inconsistencies across states. It highlighted that such powers were essential for maintaining economic regulation and ensuring a uniform legal framework across the country.

Article 254 – Inconsistency between Union and State laws (Doctrine of Repugnancy)

Article 254 of the Indian Constitution addresses situations of repugnancy—that is, inconsistency—between laws made by Parliament and laws made by State Legislatures on subjects in the Concurrent List. The principle governing such conflicts is known as the Doctrine of Repugnancy.

Under Article 254(1), if a State law is repugnant to a Union law on the same subject, the Union law prevails, and the State law becomes void to the extent of the inconsistency—irrespective of whether the Union law is earlier or later in time. The doctrine applies even if the Union law is not currently enforced in that State. However, a State can legislate on a Concurrent List subject even when a Union law exists. Repugnancy arises only if the two laws are irreconcilable and cannot operate together.

Article 254(2) provides an exception. If a State law, inconsistent with an earlier Union law, is reserved for the President and receives assent, it prevails in that State despite the inconsistency. The Union law yields only to the extent of the inconsistency.

Parliament retains the power to override such a State law by enacting a new law on the same subject. This overriding power is subject to three conditions:

1. The new Parliamentary law must cover the same subject.
2. The State law must have been enacted with Presidential assent.
3. The overriding law must be made directly by Parliament, not by delegated authority.

If a State law covers a field not already legislated on by Parliament, repugnancy does not arise.

Article 254: Inconsistency between laws made by Parliament and laws made by the Legislatures of States:-

(1) If any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of an existing law with respect to one of the matters enumerated in the Concurrent List, then, subject to the provisions of clause (2), the law made by Parliament, whether passed before or after the law made by the Legislature of such State, or, as the case may be, the existing law, shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void.

(2) Where a law made by the Legislature of a State with respect to one of the matters enumerated in the Concurrent List contains any provision repugnant to the provisions of an earlier law made by Parliament or an existing law with respect to that matter, then, the law so made by the Legislature of such State shall, if it has been reserved for the consideration of the President and has received his assent, prevail in that State, provided that nothing in this clause shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or

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repealing the law so made by the Legislature of the State.

Limitations to the Territorial Jurisdiction of Parliament:

The territorial jurisdiction of Parliament in India is subject to certain special provisions outlined in the Constitution. These provisions ensure that the plenary powers of Parliament are limited in specific contexts.

- The President of India is empowered under Article 240 of the Constitution to make regulations for the peace, progress, and good governance of specific Union Territories such as Dadra and Nagar Haveli and Daman and Diu, Andaman and Nicobar Islands, Lakshadweep, Ladakh, and Puducherry. These regulations carry the same authority as Acts of Parliament and may even repeal or amend laws made by Parliament concerning these territories.
- The Governor has the authority to restrict or modify the application of Acts of Parliament to scheduled areas through notifications. In Assam, the Governor may also direct that specific Acts of Parliament shall not apply to autonomous districts or regions, or that they shall apply with certain exceptions or modifications.

II. Parliamentary legislation in the state field

There are contingencies in which Parliament of India has been given the power to make laws on matters even in the State List enshrined in Articles 249, 250, 252, 253 and 356.

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5 Situations When Parliament Can Make Laws on State List

(Articles 249, 250, 252, 253, 356)



1 Article 49 –National Interest

If Rajya Sabha passes a 2/3 resolution – Parliament can make laws on State List for 1 year.



2 Article 250 –National Emergency

During a National Emergency – Parliament can make laws on State List anywhere in India



3 Article 252 –Consent of States

If 2 or more states request – Parliament can make laws for those states



4 Article 253 –International Agreements

To implement international treaties – Parliament can make laws even on State List



5 Article 356 –President's Rule

When President's Rule is imposed in a state – Parliament can make laws

Article 249: Power of Parliament to legislate with respect to a matter in the State List in the national interest

(1) Notwithstanding anything in the foregoing provisions of this Chapter, if the Council of States has declared by resolution, supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest that Parliament should make laws with respect to any matter enumerated in the State List specified in the resolution, it shall be lawful for Parliament to make laws for the whole or any part of the territory of India with respect to that matter while the resolution remains in force.

(2) A resolution passed under clause (1) shall remain in force for such period not exceeding one year as may be specified therein:

Provided that, if and so often as a resolution approving the continuance in force of any such resolution is passed in the manner provided in clause (1), such resolution shall continue to be in force for a further period of one year from the date on which under this clause it would otherwise have ceased to be in force.

(3) A law made by Parliament which Parliament would not but for the passing of a resolution under clause (1) have been competent to make shall, to the extent of the incompetency, cease to have effect on

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the expiration of a period of six months after the resolution has ceased to be in force, except as respects things done or omitted to be done before the expiration of the said period.

Article 249 gives Parliament the authority to make laws on matters listed in the State List if Rajya Sabha deems it necessary in the national interest (PYQ 2006). This resolution requires a special majority, which is a two-thirds majority of the total number of members present and voting (PYQ 2016). Once passed, this resolution remains in effect for a year and can be extended by another resolution. Laws enacted through such a resolution are valid for six months after the resolution expires.

Although a potent centralising provision, Article 249 has been invoked rarely. A notable example is from 1950, during the Korean War, when rising prices of imported goods and the risk of black marketing required regulatory intervention beyond the Centre's normal competence. Accordingly, the Rajya Sabha passed a resolution empowering Parliament to legislate on Entries 26 and 27 of List II (trade and commerce; production, supply, and distribution of goods), leading to the enactment of the Essential Supplies (Temporary Powers) Amendment Act, 1950.

Emergency Legislation: Parliament's Authority on State List Subjects

Article 250: Power of Parliament to legislate with respect to any matter in the State List if a Proclamation of Emergency is in operation

(1) Notwithstanding anything in this Chapter, Parliament shall, while a Proclamation of Emergency is in operation, have, power to make laws for the whole or any part of the territory of India with respect to *[goods and services tax provided under article 246A or] any of the matters enumerated in the State List.

(2) A law made by Parliament which Parliament would not but for the issue of a Proclamation of Emergency have been competent to make shall, to the extent of the incompetency, 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 expiration of the said period.

* Inserted by the 101st Amendment, 2016

Article 250 grants Parliament the power to make laws on any subject included in the State List during an emergency. The Parliament can exercise this power only if a proclamation of Emergency is in effect. This means that the central government can make laws on subjects typically within the jurisdiction of state governments, such as law and order, public health, and education, if necessary to deal with the emergency. These laws have the same effect as if they were made by the State Legislature.

During a proclamation of Emergency, the power of a state legislature to make laws on the same matter is not restricted. However, in case of any repugnancy between a state law and a parliamentary law, the parliamentary law is to prevail. However, once the emergency ends, these laws cease to have effect after six months, unless approved by the State Legislature. This ensures that the central government's temporary legislative powers are not permanent and that the federal structure of the country is preserved.

Inter-State Legislative Cooperation: Parliament's Role

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Article 252: Power of Parliament to legislate for two or more States by consent and adoption of such legislation by any other State

(1) If it appears to the Legislatures of two or more States to be desirable that any of the matters with respect to which Parliament has no power to make laws for the States except as provided in Articles 249 and 250 should be regulated in such States by Parliament by law, and if resolutions to that effect are passed by all the House of the Legislatures of those States, it shall be lawful for Parliament to pass an Act for regulating that matter accordingly, and any Act so passed shall apply to such States and to any other State by which it is adopted afterwards by resolution passed in that behalf by the House or, where there are two Houses, by each of the Houses of the Legislature of that State.

(2) Any Act so passed by Parliament may be amended or repealed by an Act of Parliament passed or adopted in like manner but shall not, as respects any State to which it applies, be amended or repealed by an Act of the Legislature of that State.

Article 252 of the Constitution provides a special mechanism through which Parliament can legislate for two or more states on matters in the State List, provided those states consent. If the legislatures of two or more states pass a resolution by a simple majority, requesting Parliament to enact a law on a particular subject, Parliament is empowered to legislate on that matter. The law so enacted applies only to the states that passed the resolution, though other states may adopt it later by passing a similar resolution. Importantly, such a law can be amended or repealed only by Parliament, not by the legislatures of the concerned states.

Some of the laws enacted by Parliament under Article 252(1) are- Urban Land (Ceiling and Regulation) Act, 1976; the Estate Duty Act, 1953, in its application to agricultural land; the Seeds Act, 1966; the Water (Prevention and Control of Pollution) Act, 1974; the National Capital Region Planning Board Act, 1985.

Enforcement of International Agreements

Article 253: Legislation for giving effect to international agreements

Notwithstanding anything in the foregoing provisions of this Chapter, Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association, or other body.

Article 253 gives Parliament the power to enact laws to implement international treaties, agreements, conventions, or decisions made at international conferences, even if they are in conflict with other laws. This allows India to fulfil its international obligations by overriding state laws, if necessary. It can be done without the consent of the states. (PYQ 2013) For instance, when India signed the Paris Agreement on climate change in 2016, Parliament could pass laws to reduce carbon emissions nationwide, even if it affected existing environmental regulations at the state level. This ensures that India complies with its international obligations, regardless of local laws.

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Parliament's Power to Legislate under Article 356

When the President's rule is imposed in a state, the Parliament gains the power to make laws related to matters in the State List for that state. These laws remain in effect even after the President's rule ends. The duration of these laws is not limited to the duration of the President's rule, but they can be repealed, altered, or re-enacted by the state legislature.

Under Article 356, Parliament has the power to make laws with respect to all matters in the State List when the President declares that the Government of a State cannot be carried on in accordance with the provisions of the Constitution. This article has been discussed in detail in the Emergency Chapter.

III. Centre's control over State Legislation:

Besides the Parliament's power to directly legislate on state subjects during exceptional situations, the Constitution grants the Centre additional control over state legislative matters through various mechanisms listed below.

- **Reservation of Bills:** The governor of a state can reserve a bill passed by the state legislature for the President's consideration under Article 200. However, the Supreme Court's 2025 judgment clarified that the Governor cannot indefinitely delay assent or reserve a Bill for the President after it has been re-passed by the Assembly; in such cases, the Governor must grant assent within one month. The President, too, does not have an "absolute veto" and must decide on reserved Bills within three months, with any undue delay open to judicial review
- **Financial Emergency:** During a financial emergency, the Centre can instruct the states to reserve money bills and other financial bills for the President's consideration.
- **Prior Consent of the President:** Article 288 provides that no state law can impose a tax on water or electricity stored, generated, consumed, distributed, or sold by any authority established by a law made by Parliament for regulating or developing any inter-state river or river valley, unless the President specifically allows it. If a state legislature wishes to enact such a law after the commencement of the Constitution, it must reserve the bill for the President's consideration and the law will only take effect once it receives the President's assent. Similarly, Article 304 empowers state legislatures to impose reasonable restrictions on the freedom of trade, commerce, or intercourse with or within the state in the public interest, but such bills can only be introduced with the previous sanction of the President.
- Articles 31-A and 31-C grant immunity to laws providing for agrarian reforms and promotion of Articles 39(b) and 39(c) from Articles 14 and 19 of the Constitution. However, the immunity under Article 31-A is not available to a State law unless it has received the assent of the President.

B. ADMINISTRATIVE RELATIONS

The Constitution of India lays down clear rules to guide how the Centre and the States work together in running the country's administration. For laws made by both the Union and the States to be put into action smoothly, there has to be good coordination and cooperation between their administrative systems. To make this possible, the framers of the Constitution included detailed provisions on how executive

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powers should be shared and used. These rules, given in Articles 256 to 263, help avoid conflicts and ensure that both levels of government can work hand in hand effectively.

Central Directives to States

Article 256: Obligation of the States and the Union

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 to 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.

Article 256 defines the obligations of both the States and the Union. It mandates that the executive power of every State must be exercised in a manner that ensures compliance with laws made by Parliament, as well as with any existing laws applicable in that State. This makes State Governments responsible for the enforcement and implementation of such laws within their territories. At the same time, the Union Government holds the authority to issue directions to State Governments whenever necessary, to secure effective implementation. This authority allows the Union to guide State administrations on matters within its legislative and executive domain, thereby ensuring uniformity in the application of national laws and policies across the country.

Interestingly, Article 256 is not an idle mandate. A regime of punitive provisions scaffolds it. Article 365 stipulates that if states do not comply with or give effect to central directions, the 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 this Constitution.” Article 356 authorises the president—in practice, the union cabinet—to wrench state governments from office and dissolve state assemblies if they cannot be run in accordance with the Constitution. Collectively, Articles 256, 365, and 356 form a constitutional mechanism wherein the first mandates compliance, the second warns of consequences, and the third provides for corrective action.

Coordination between Union and States

Article 257: Control of the Union over States in certain cases

(1) 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 the giving of such directions to a State as may appear to the Government of India to be necessary for that purpose.

(2) The executive power of the Union shall also extend to the giving of directions to a State as to the construction and maintenance of means of communication declared in the direction to be of national or military importance:

Provided that nothing in this clause shall be taken as restricting the power of Parliament to declare highways or waterways to be national highways or national waterways or the power of the Union with respect to the highways or waterways so declared or the power of the Union to construct and maintain means of communication as part of its functions with respect to naval, military and air force works.

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(3) The executive power of the Union shall also extend to the giving of directions to a State as to the measures to be taken for the protection of the railways within the State.

(4) Where in carrying out any direction given to a State under clause (2) as to the construction or maintenance of any means of communication or under clause (3) as to the measures to be taken for the protection of any railway, costs have been incurred in excess of those which would have been incurred in the discharge of the normal duties of the State if such direction had not been given, there shall be paid by the Government of India to the State such sum as may be agreed, or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India, in respect of the extra costs so incurred by the State.

Article 257 outlines the control of the Union over states in certain cases. This provision ensures that the executive power of the states does not hinder the functioning of the Union government. The Union government has the authority to give directions to state governments to ensure that their executive power does not impede the exercise of the Union's executive power.

The Union government can also direct states to construct and maintain means of communication that are declared to be of national or military importance. This includes highways, waterways, and other infrastructure that are crucial for the country's development and defence. Additionally, the Union government can direct states to take measures for the protection of railways within their jurisdiction.

If a state incurs additional costs in carrying out these directions, the Union government must compensate the state for the extra expenses. This is determined through an agreement or arbitration, if necessary.

Article 257(4) provides that if the State concerned has incurred costs in excess of those which would have been incurred in the discharge of its normal duties if the direction had not been given, the Government of India is obligated to compensate that State for the excess expenditure incurred.

Delegation of Union Powers

Article 258: Power of the Union to confer powers, etc., on States in certain cases

(1) Notwithstanding anything in this Constitution, the President may, with the consent of the Governor of a State, entrust either conditionally or unconditionally to that Government or to its officers, functions in relation to any matter to which the executive power of the Union extends.

(2) A law made by Parliament which applies in any State may, notwithstanding that it relates to a matter with respect to which the Legislature of the State has no power to make laws, confer powers and impose duties, or authorise the conferring of powers and the imposition of duties, upon the State or officers and authorities thereof.

(3) Where by virtue of this article powers and duties have been conferred or imposed upon a State or officers or authorities thereof, there shall be paid by the Government of India to the State such sum as may be agreed, or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India, in respect of any extra costs of administration incurred by the State in connection with the exercise of those powers and duties.

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Article 258 empowers the Union to confer certain powers on the States. Under this provision, the President may, with the consent of the Governor, entrust functions relating to matters within the executive power of the Union to the State Government or its officers. Such delegation of authority can be made either with conditions attached or without any conditions, depending on the needs of governance.

A law enacted by Parliament that extends to any State may confer powers and duties to the State or its officers, even in matters that fall outside the State Legislature's jurisdiction. This provision ensures that the State can utilize its administrative machinery and local expertise to address issues effectively. Whenever such powers and duties are imposed on a State or its officers, the Government of India is required to compensate the State for any additional expenses incurred in discharging these responsibilities. The amount of compensation is determined either through mutual agreement between the Union and the State or, in the absence of agreement, through arbitration. The delegation permitted under Article 258 relates **only to executive functions**. The Constitution **does not permit legislative powers to be delegated** between Union and State governments. Hence, Parliament cannot confer legislative power to states on Union subjects.

Entrusting States' Powers

* **Article 258A: Power of the States to entrust functions to the Union**

Notwithstanding anything in this Constitution, the Governor of a State may, with the consent of the Government of India, entrust either conditionally or unconditionally to that Government or to its officers, functions in relation to any matter to which the executive power of the State extends.

* Inserted by the 7th Amendment, 1956

According to Article 258A of the Indian Constitution, the Governor of a State may, with the consent of the Central Government, entrust either conditionally or unconditionally to the Union Government or its officers, functions related to any matter that falls under the executive power of the State. This article was added by the 7th Amendment of the Constitution in 1956.

Exercise of Foreign Jurisdiction:

Article 260: Jurisdiction of the Union in relation to territories outside India

The Government of India may by agreement with the Government of any territory not being part of the territory of India undertake any executive, legislative, or judicial functions vested in the Government of such territory, but every such agreement shall be subject to, and governed by, any law relating to the exercise of foreign jurisdiction for the time being in force.

Article 260 allows the Government of India to enter into agreements with the governments of territories outside India to undertake executive, legislative, or judicial functions on their behalf. However, these agreements must comply with any laws related to the exercise of foreign jurisdiction that are currently in effect. This provision gives the central government the legal basis to extend its jurisdiction beyond India's

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borders and perform duties in other territories through contractual arrangements with their respective governments.

Under **Article 253**, Parliament can legislate on any subject (even in the State List) to fulfill international obligations or treaties. This allows it to override federal limitations for treaty implementation.

Enforcement of Court Judgments Nationwide

Article 261: Public acts, records, and judicial proceedings

(1) Full faith and credit shall be given throughout the territory of India to public acts, records, and judicial proceedings of the Union and of every State.

(2) The manner in which and the conditions under which the acts, records, and proceedings referred to in clause (1) shall be proved and the effect thereof determined shall be as provided by law made by Parliament.

(3) Final judgments or orders delivered or passed by civil courts in any part of the territory of India shall be capable of execution anywhere within that territory according to law.

Article 261 ensures that public acts, records, and judicial proceedings are recognized and enforced uniformly across the country. It mandates that full faith and credit should be given to these acts, records, and proceedings of both the Union and individual states. The manner in which these are proved, and their effects determined, is governed by laws made by Parliament. Additionally, final judgments or orders delivered by civil courts in any part of India can be executed anywhere within the country according to law, promoting the rule of law and consistency in the legal system.

Doctrine of Full faith and credit

The doctrine of full faith and credit in India is based on Article 261 of the Indian Constitution, which ensures that public acts, records, and judicial proceedings of the Union and states are recognized and given legitimacy throughout the country.

The significance of the doctrine of full faith and credit lies in its ability to promote consistency and cooperation among different jurisdictions in India. The doctrine helps to maintain consistency in the application of laws and judgments across different states. This, in turn, promotes cooperation and reduces potential conflicts between different jurisdictions.

Dispute Resolution for Inter-State Rivers:

Article 262: Adjudication of disputes relating to waters of inter- state rivers or river valleys

(1) Parliament may by law provide for the adjudication of 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.

(2) Notwithstanding anything in this Constitution, Parliament may by law provide that neither the Supreme Court nor any other court shall exercise jurisdiction in respect of any such dispute or complaint as is referred to in clause (1).

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Article 262 grants Parliament the power to enact laws for the adjudication of disputes related to the use, distribution, or control of waters in inter-state rivers or river valleys. This includes the authority to establish a tribunal for resolving such disputes. Additionally, Parliament can also pass laws that prohibit the Supreme Court or any other court from exercising jurisdiction over such disputes once they are referred to the tribunal, ensuring that the adjudication process is handled exclusively by the designated body.

Inter-State Council

Article 263: Provisions with respect to an inter-State Council

If at any time it appears to the President that the public interests would be served by the establishment of a Council charged with the duty of-

- (a) inquiring into and advising upon disputes which may have arisen between States; (b) investigating and discussing subjects in which some or all the States, or the Union and one or more States, have a common interest; or
- (c) making recommendations upon any such subject and, in particular, recommendations for the better co-ordination of policy and action with respect to that subject,

it shall be lawful for the President in order to establish such a Council, and to define the nature of the duties to be performed by it and its organisation and procedure.

Article 263 provides for the establishment of an Inter-State Council if it appears to the President that it would serve public interests. The Council is responsible for inquiring into and advising on disputes between states, investigating and discussing common subjects, and making recommendations for better policy coordination. The President can establish the Council by order, defining its duties and procedures.

Division of Administrative powers between the Centre and the States

A. All-India Services:

The Indian Constitution, under Article 312, provides for the creation of additional “All-India services” that are common to both the Union and the states. These services are distinct from central and state services and are designed to manage important sectors of administration in the country. The power to suspend officials of All India Services lies with the state, while the power of appointment and taking disciplinary action against them is vested only with the President of India.

The concept of an integrated and cohesive All India Services was incorporated in the Constitution, inspired by administrative practices of the past. The central government oversees their recruitment, training, promotion, and disciplinary matters. Upon entry into the services, a member of the Indian Administrative Service (IAS) is allotted to a particular state, where they serve under the state government. This arrangement fosters cooperation in governance, as these officials discharge responsibilities on behalf of both the Union and the States, thereby strengthening the administrative framework of the country.

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B. Public Service Commissions:

The Centre-State relations in the context of public service commissions in India are governed by specific provisions. Firstly, the chairman and members of a state public service commission are appointed by the Governor of the state, but they can only be removed by the President of India. This ensures that the removal process is centralized and uniform across all states. Secondly, the Parliament can establish a Joint State Public Service Commission (JSPSC) for two or more states at the request of the state legislatures concerned. The Chairman and members of the JSPSC are appointed by the President of India, ensuring a unified and centralized approach to public service recruitment across the participating states.

Thirdly, the Union Public Service Commission (UPSC) can serve the needs of a state at the request of the state Governor and with the approval of the President. This allows the UPSC to assist the states in their recruitment processes, particularly in cases where specialized qualifications are required. Lastly, the UPSC can also assist states in framing and operating schemes of joint recruitment for any services that require candidates with special qualifications. This facilitates cooperation between the Centre and states in ensuring efficient and effective public service recruitment processes.

C. Integrated Judicial System:

The judicial system in India is a unified and integrated system, despite being a federal country with dual powers. This means that there is a single chain of courts that handles both central and state laws, with the Supreme Court at the top. Each state has its own High Court, which is the highest court within the state and is responsible for administering both central and state laws. The Chief Justice of the High Court is appointed by the President in consultation with the Chief Justice of India and the Governor of the concerned state. Additionally, the Constitution allows for the creation of a common High Court for two or more states, such as the High Court for Assam and Nagaland.

Provisions for Central Administrative Oversight

The Indian constitution contains several provisions that enable the Centre to exercise control over the state administration. Article 355 imposes two key duties on the Centre (a) to protect every state against external aggression and internal disturbance, and (b) to ensure that the government of every state is carried out in accordance with the Constitution. The Governor of a state is appointed by the President and holds office at the President's pleasure.

In addition to being the constitutional head of the state, the Governor acts as an agent of the Centre, submitting periodical reports to the Centre about the state's administrative affairs. Furthermore, the State Election Commissioner, though appointed by the Governor, can be removed only by the President. These provisions collectively empower the Centre to oversee and guide the state administration effectively.

Extra-constitutional devices for Centre- State coordination

Extra-constitutional devices are non-constitutional bodies and conferences that promote cooperation and coordination between the Centre and the states. These include advisory bodies and conferences that facilitate consultation on various matters. Examples of such bodies include the NITI Aayog, which

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succeeded the Planning Commission, and the Zonal Councils. These bodies are not part of the formal structure of the Indian Constitution or legal system but are created to foster interstate cooperation and coordination.

Additionally, several conferences are held regularly to facilitate Centre-State consultations. These conferences are presided over by high-ranking officials such as the President, Prime Minister, Cabinet Secretary, and Chief Justice of India. Examples include the Governors' Conference, Chief Ministers' Conference, Chief Secretaries' Conference, and Home Ministers' Conference. These conferences provide a platform for state leaders to discuss and resolve issues related to governance and administration.

C. FINANCIAL RELATIONS

In a federal system of government, powers and responsibilities are divided between the central (Union) government and the state governments. But for this division of powers to work smoothly, both levels of government need access to financial resources. In India, the Constitution clearly lays down how the revenues are distributed and how financial relations between the Centre and the States are managed.

The financial relationship between the Centre and the States in India is primarily governed by Articles 268 to 293 in Part XII of the Constitution. These provisions are designed to regulate how revenue is shared between the two levels of government. Originally, India followed the revenue-sharing scheme laid out in the Government of India Act, 1935, where the Union collected most of the revenue, with a portion passed on to the States. Over time, however, the Constitution has evolved to ensure a fairer distribution of resources, especially with the introduction of the GST regime. Today, while the Union still enjoys significant financial advantages, such as the ability to levy additional taxes and foreign financial aid, the States now have a larger role in decision-making, particularly in the GST Council.

The financial relations can broadly be studied under two heads:

1. Distribution of tax revenues, and
2. Grants-in-aid and other financial transfers.

Constitutional Basis for Financial Relations: No tax without authority of law (Article 265): It states that no tax can be levied or collected except by authority of law. This means that taxation must be backed by a legislative act and cannot be imposed by executive order.

Distribution of Tax Revenues (Articles 268–271)

Recognizing economic disparities among States and unequal fiscal capacities, the Constitution supplements the allocation of taxing powers with a revenue-sharing architecture:

- **Article 268: Duties Levied by Centre but Collected and Appropriated by States:**
 - Certain duties, such as stamp duties and excise duties on medicinal and toilet preparations, are levied by Parliament but collected and retained by the States. These duties are better administered locally, hence the States collect and keep the proceeds entirely.
- **Article 268A (Repealed):**
 - Earlier, Article 268A dealt with the Service Tax, allowing its levy by the Centre but sharing with States. This provision was repealed with the advent of GST.
- **Article 269: Taxes Levied and Collected by Centre but Assigned to States**

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- Taxes on inter-state trade or commerce (like sales or purchase of goods in the course of inter-state trade) were originally covered under Article 269. The Central Sales Tax (CST) was an example. The net proceeds of such taxes were collected by the Centre but assigned to the States from where the sale originated. With GST, this landscape has changed, and most such taxes have been subsumed. The Integrated GST (IGST) mechanism now governs inter-state supplies.
- **Article 269A: Levy and Collection of GST on Inter-State Trade**
 - Inserted by the 101st Constitutional Amendment (2016), this Article provides for IGST. The Centre levies and collects IGST on inter-state supplies, including imports. The proceeds are then apportioned between the Centre and destination States based on recommendations of the GST Council.
- **Article 270: Taxes Levied and Collected by Centre but Shared with States**
 - This provision deals with income tax (excluding agricultural income) and Union excise duties (before GST). These taxes are levied and collected by the Centre, but a portion of the net proceeds is shared with States. The Finance Commission, appointed every five years, recommends the percentage share of States, as well as how it is divided among individual States. With GST, Article 270 has been amended to include GST as a part of the divisible pool.
- **Article 271: Surcharges for Union Purposes**
 - Parliament is empowered to levy surcharges on certain central taxes, such as income tax and duties, for Union purposes. The proceeds from such surcharges belong entirely to the Centre and are not shared with States.

| Article | Description | Examples |
|---------|---|-------------------------------------|
| 268 | Taxes levied by Union, collected & appropriated by States | Stamp duties, some excise duties |
| 269 | Taxes levied & collected by Union but assigned to States | Inter-state sale of goods (pre-GST) |
| 269A | GST on inter-state trade (IGST), collected by Union, shared between Centre & States | Integrated GST (IGST) |
| 270 | Taxes levied & collected by Union, distributed between Centre & States | Income tax, Central GST (CGST) |
| 271 | Surcharges for Union purposes | Surcharge on income tax |
| 272 | (Repealed) | |

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Grants-in-Aid from the Centre (Articles 275 and 282)

Recognizing that States have varying levels of fiscal capacity and expenditure needs, the Constitution authorizes the Union government to provide financial assistance through grants-in-aid. These transfers help ensure minimum standards of public services and reduce regional disparities. Grants are of two main types:

Statutory Grants:

Statutory grants are mandated by the Constitution and are charged on the Consolidated Fund of India. Article 275 empowers the Parliament to make grants to states in need of financial assistance, based on the recommendations of the Finance Commission. These grants are not provided to every State, but only to those meeting specific conditions. Additionally, there are specific grants aimed at promoting the welfare of scheduled tribes and raising the level of administration in scheduled areas. These grants are also given to states on the recommendations of the Finance Commission.

Discretionary Grants: Discretionary grants under Article 282, on the other hand, are not mandatory and are made at the discretion of the central government. They are funded from central resources and are provided for public purposes, even if they are not within the legislative competence of the central government. These grants serve a two-fold purpose: to assist states financially in fulfilling plan targets and to give leverage to the Centre to influence and coordinate state action to effectuate the national plan.

Key Differences between Statutory & Discretionary Grants

- **Mandatory vs Discretionary:** Statutory grants are mandatory and are provided based on predetermined conditions, while discretionary grants are not mandatory and are made at the discretion of the central government.
- **Funding:** Statutory grants are charged on the Consolidated Fund of India, whereas discretionary grants are funded from central resources.
- **Purpose:** Statutory grants are mainly used for specific purposes, such as promoting scheduled tribe welfare and raising the level of administration in scheduled areas. Discretionary grants are utilized for a broader range of purposes, including supporting specific projects or programs and influencing state action to align with national plans.

In addition to the statutory and discretionary grants, a third category known as “temporary grants-in-aid” exists. These grants were introduced for a specific period, notably for ten years from the inception of the Constitution. They were allocated to the states of Assam, Bihar, Odisha, and West Bengal as compensation for the revenue loss incurred due to the abolition of export duties on jute and jute products.

Funded from the Consolidated Fund of India, these grants were disbursed based on the recommendations of the Finance Commission. Their purpose was to alleviate the financial strain caused by the removal of export duties on jute and its products, particularly affecting the mentioned states.

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Goods and Services Tax Council (Covered in detail under the Constitutional bodies) The Goods and Services Tax (GST) Council is a joint forum of the Centre and the States, established under the 101st Constitutional Amendment Act of 2016. Its main purpose is to ensure smooth and efficient administration of GST through cooperation and coordination between the Centre and the States. Article 279-A empowers the President to constitute this council. The council makes recommendations on various matters related to GST, including:

- Taxes, cesses, and surcharges levied by the Centre, States, and local bodies that will be merged into GST.
- Goods and services that may be subjected to GST or exempted from it.
- Model GST Laws, principles of levy, and apportionment of GST on supplies in inter-state trade, along with principles governing the place of supply.
- Threshold turnover limits below which goods and services may be exempted from GST. Special rates for a specified period to raise additional resources during natural calamities or disasters. Rates, including floor rates with bands, of GST.

Finance Commission: (Covered in detail under the Constitutional bodies)

Article 280 of the Constitution establishes the Finance Commission as a quasi-judicial body, with its primary purpose being the distribution of financial resources between the central government and the states. Constituted by the President every five years, or as needed, the Finance Commission operates as a crucial mechanism in maintaining fiscal equilibrium within India's federal structure.

The key responsibilities of the Finance Commission include making recommendations to the President on several critical matters. Firstly, it advises on the division of the net proceeds of taxes between the central government and the states, as well as determining the respective shares of these proceeds among the states themselves. Secondly, it outlines the principles guiding grants-in-aid from the central government to the states, sourced from the Consolidated Fund of India.

Moreover, the commission plays a pivotal role in enhancing the financial capabilities of states' local bodies. It recommends measures to augment the Consolidated Fund of a state to bolster the resources available to panchayats and municipalities, aligning with suggestions from the respective State Finance Commissions. Additionally, the Finance Commission addresses any other financial matters referred to it by the President, further contributing to the stability of the nation's fiscal framework.

Protection of the States' Interest:

Article 274: President required to Bills affecting taxation in which States are interested

(1) No Bill or amendment which imposes or varies any tax or duty in which States are interested, or which varies the meaning of the expression "agricultural income" as defined for the purposes of the enactments relating to Indian income-tax, or which affects the principles on which under any of the foregoing provisions of this Chapter moneys are or may be distributable to States, or which imposes any such surcharge for the purposes of the Union as is mentioned in the foregoing provisions of this Chapter, shall be introduced or moved in either House of Parliament except on the recommendation of the President.

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(2) In this article, the expression “tax or duty in which States are interested” means

(a) a tax or duty the whole or part of the net proceeds whereof are assigned to any State; or

(b) a tax or duty by reference to the net proceeds whereof sums are for the time being payable out of the Consolidated Fund of India to any State.

Types of Bills Requiring Presidential Recommendation

- Tax or Duty Bills Affecting States’ Interests: Any bill that imposes or changes taxes/duties in which States have a share or interest (for example, income tax, excise duties, GST, etc.).
- Bills Altering the Definition of Agricultural Income: Since “agricultural income” is exempt from Union income tax and is a State subject, any change to its definition can affect State revenues.
- Bills Affecting Principles of Money Distribution: Any bill that changes the principles or formulae by which the Centre shares revenues with the States (such as the Finance Commission’s recommendations).
- Bills Imposing Surcharges on Taxes/Duties: Surcharges on taxes/duties that are otherwise shareable with States (except GST, which is exempt from surcharges as per Article 271).

Important terms:

- The term “tax or duty in which states are interested” refers to taxes or duties where either the entire net proceeds or a portion thereof are assigned to any state. It also includes taxes or duties for which sums are payable from the Consolidated Fund of India to any state.
- The concept of “net proceeds” refers to the revenue generated from a tax or duty minus the cost incurred in its collection. The determination and certification of the net proceeds of a tax or duty in any area are entrusted to the Comptroller and Auditor- General of India. His certification holds final authority in this regard.

Borrowing by the Centre and the States:

The Indian Constitution grants borrowing powers to both the central government and the state governments, subject to certain limitations and conditions. The central government can borrow funds upon the security of the Consolidated Fund of India or provide guarantees, but only within the limits set by Parliament. However, Parliament is yet to enact a law fixing such limits. Similarly, state governments can borrow within India upon the security of their respective Consolidated Funds or provide guarantees, but within the limits set by their respective state legislatures.

The central government can provide loans to any state or give guarantees for loans raised by a state, with the costs charged to the Consolidated Fund of India. However, as per article 293, a state cannot raise any loan without the consent of the central government if it still owes any money to the central government from a previous loan or guarantee. (PYQ 2018)

The Centre-state financial relations undergo significant changes during emergencies. Two types of emergencies are relevant in this context: National Emergency and Financial Emergency.

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1. **National Emergency (Article 352):** During a national emergency, the President can modify the constitutional distribution of revenues between the Centre and the states. This includes reducing or cancelling the transfer of finances, including tax sharing and grants-in-aid, from the Centre to the states. This modification remains in effect until the end of the financial year at which the emergency ceases to operate.
2. **Financial Emergency (Article 360):** When a Financial Emergency is proclaimed, the Centre can issue directions to the states. These directions include:
 - **Observing Financial Propriety:** The states must adhere to specific financial norms.
 - **Salary Reductions:** The Centre can reduce the salaries and allowances of all state employees.
 - **Presidential Oversight:** The Centre can reserve all financial bills, including money bills, for the President's consideration.

Fiscal Federalism:

Fiscal federalism refers to the financial arrangements and interactions between the central government and subnational (state/provincial) governments in a federal system of governance. It encompasses the following key aspects:

1. **Revenue Sharing:** Division of tax revenue and other resources between the Centre and states
2. **Expenditure Responsibilities:** Delineation of spending responsibilities between the central and state governments.
3. **Fiscal Autonomy:** The degree of financial independence and decision-making powers enjoyed by state governments; the ability of states to raise their own resources through taxes, borrowings, etc.
4. **Fiscal Discipline:** Measures to ensure fiscal responsibility and sustainability at both the central and state levels. e.g. setting fiscal deficit targets, debt limits, and other fiscal rules.

Broad Principles Associated With Fiscal Federalism:

- **Decentralization:** Each public service should be provided by the jurisdiction having control over the minimum geographic area that would internalize the benefits and costs of such provision.
- **Principle of Subsidiarity:** Functions should be performed at the lowest level of government. The principle implicitly implies hierarchy.
- **Fiscal Equivalency:** The jurisdiction determining the order of provision of each public good should include the set of individuals that consume it. This generally requires a large number of overlapping jurisdictions.

In the Indian context, fiscal federalism has evolved significantly since independence, with a gradual shift towards greater decentralization and state autonomy, while maintaining the Centre's role in ensuring national development goals and fiscal discipline. The dynamic interplay between the Centre and States on financial matters is a key aspect of India's federal structure.

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Fiscal Federalism in the Indian Constitution:

- **Government of India Act, 1919:** It laid the foundation of fiscal federalism in India and provided for the clear-cut separation of revenue heads between the Centre and the Provincial governments.
- **Government of India Act, 1935:** besides the jurisdictional distribution of revenue between the Union and States, there was also a provision for revenue sharing and transfer. Since these federal arrangements were effected under colonial rule there was a strong bias towards the Centre.
- **Constitution of India, 1950:** Independent India's fiscal federal arrangements were largely the logical extensions of the Government of India Act, of 1935; provided for the necessary institutional framework, the financial and functional division of responsibilities between the Centre and the states, and a well-defined mechanism for intergovernmental transfers, particularly from the Centre to the States and UTs. This ensured an equitable distribution of financial resources.

Supreme Court on Fiscal Federalism:

In *Coffee Board v. C.T.O.*, the Supreme Court observed that realising the limitations on the financial resources of the States and the growing needs of the community in a welfare State, the Constitution has made specific provisions empowering Parliament to set aside a portion of its revenues for the benefit of the States, not in stated proportions but according to their needs. The resources of the Union Government are not meant exclusively for the benefit of the Union activities. The Union and States together form one organic whole for the purposes of utilization of the resources of territories of India as a whole.

Centre-State Fiscal Relations: Challenges in the Post-GST Era

The introduction of the Goods and Services Tax (GST) has significantly impacted the centre-state relations in India. While GST was intended to create a unified national market, it has reduced the taxation power of the states, making them more dependent on the Centre for financial resources. Delays in fund transfers, such as GST compensation and IGST, have further strained the relationship.

Another issue that has caused friction is the delay in providing compensation to states for their loss of revenue due to the implementation of GST. This has handicapped the States' ability to provide relief during the COVID-19 pandemic. Additionally, the overuse and misutilization of cess by the Centre has reduced the financial resources available to the states. The Centre has retained 40% of the cess collected in the Consolidated Fund of India instead of remitting it to funds for specific purposes, as informed by the Comptroller and Auditor General (CAG) of India. Between 2017-18 and 2022-23, collections from cesses and surcharges rose by 133%, accounting for nearly 25% of total Union taxes – yet these are excluded from devolution to states. The share of cess and surcharge alone grew from ₹85,638 crore in 2015-16 to ₹3.63 lakh crore in 2023-24.

However, the higher tax devolution recommended by the Finance Commission has enhanced the states' autonomy in deciding their expenditure priorities. The GST Council, which makes taxation decisions, has reduced the taxing power of the states related to indirect taxes. This has led to concerns about horizontal

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imbalances and rising regional inequalities, as the reliance on a single instrument of fiscal federalism, the Finance Commission, can exacerbate these issues.

Moreover, centrally sponsored schemes (CSS), which require matching contributions from states, have deepened interstate fiscal disparities. In FY 2023-24, of the ₹19.4 lakh crore allocated to CSS and Central Sector Schemes, only ₹4.25 lakh crore (22%) was devolved to states. Wealthier states can leverage these schemes more effectively, while less affluent states are compelled to borrow or divert limited resources, increasing their liabilities. As per a PRS Legislative Research 2023 report, states' committed liabilities towards CSS increased by 19% between FY16 and FY23.

The fiscal relations between the Union and state governments have undergone significant changes in recent years. The abolition of the Planning Commission and the creation of the NITI Aayog are notable developments. Additionally, the 14th Finance Commission recommended a higher tax devolution to the states, increasing it from 32% to 42%. The 101st Amendment, 2016 introduced the Goods and Services Tax (GST) and established the GST Council under Article 279A for joint decision-making. The government has also accepted the recommendations of the 15th Finance Commission and modified the formula for sharing resources between the Centre and the States. The 15th Finance Commission's recommendations also capped states' borrowing at 3% of their Gross State Domestic Product (GSDP), with any enhanced borrowing linked to the implementation of sectoral reforms, such as in the power sector. In FY 2023-24, out of the allowed borrowing of ₹8.7 lakh crore by states, around ₹1.4 lakh crore was conditional on power sector reforms.

The absence of the Planning Commission has changed the way grants were given to states for balanced regional development. The 15th Finance Commission's terms of reference included exploring possibilities of linking devolution to the performance of states in implementing the central schemes. The final recommendation has given higher weightage to the 2011 census, which has been resented by some of the southern states. Simultaneously, increasing conditionality attached to grants and insistence on specific labelling of expenditures have restricted states' flexibility, aligning state spending priorities more closely with central preferences. This trend has been called "coercive federalism" by some politicians.

Kerala vs Centre – fiscal tensions:

In 2024, Kerala recently filed a suit in the Supreme Court under Article 131 of the Constitution, urging the court to direct the Union government to lift the ceiling on state borrowing limits, as it violates Article 293 (borrowing by states) of the Constitution.

Provisions of Article 293:

- **State Borrowing Power:** States can borrow within India against their Consolidated Fund of State, under limits set by their legislature.
- **Union Guarantees:** The Union government may guarantee state loans within limits set by Parliament.
- **Consent Requirement:** States must seek Union government consent for loans if they owe any previous loans to or guaranteed by the Union. Conditions can be imposed on this consent.
- **Exception:** Temporary overdrafts or arrangements with the Reserve Bank of India do not

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require prior consent.

- Continuation of Existing Loans: Loans taken by states before the Constitution's commencement remain valid under the same terms. RBI data indicates a significant decline in states' reliance on Union loans, plummeting from 57% in 1991 to merely 3% by FY 2020. This shift underscores states' increasing preference for market borrowings and alternative financing sources. The diminishing Union loans impact the relevance of Article 293, as its regulatory scope hinges on states owing money to the Union.

Suggestions to improve Fiscal relations:

Cooperative fiscal federalism should be adopted instead of combative federalism, which involves greater fiscal devolution to states. This would ensure that the states have more control over their finances and can make decisions that are more responsive to local needs. As part of this shift, addressing horizontal fiscal imbalances becomes crucial. Richer states should be guaranteed a minimum fiscal resource value, while poorer states should have a defined ceiling for their share. Such measures would promote a more equitable distribution of resources, ensuring fairness across diverse regions.

Making the Finance Commission a permanent body would help in dealing with fiscal federalism issues more effectively. In line with this, the 16th Finance Commission should focus on enhancing devolution to states. This should not only involve increasing their share in net taxes but also consider state-specific challenges such as demographic changes, migration, and climate change when making transfers. Further, the Commission should prioritize equity in its approach by including the Human Development Index (HDI) as a factor in horizontal tax distribution, which could better address state-level disparities.

The Centre should also work to address the trust deficit by engaging in deliberations with states and bridging the gap. Such collaboration can reduce reliance on discretionary transfers, ensuring that fiscal transfers are transparent, automatic, and based on clear, objective criteria, rather than arbitrary decision-making.

Furthermore, fiscal decentralization is crucial, where local governments are given a share in GST collections, allowing them to have more autonomy and decision-making power. To this end, specific taxation powers, such as property tax or local sales tax, should be devolved to local governments. This would enable them to raise their own resources, further reducing their reliance on central grants.

Moreover, the Union government should reconsider the borrowing constraints imposed on states. Currently, these constraints limit states' ability to invest in much-needed development projects. The review of off-budget borrowings is also necessary, as these often remain unscrutinized and can create hidden liabilities that ultimately fall on the public budget. Addressing these issues will help ensure that states have a clearer, more manageable fiscal framework.

Finally, a thorough rationalization of public expenditure by the central government is needed, particularly in Central Sector and Centrally Sponsored Schemes. This should be done in collaboration

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with state governments, to ensure that resources are allocated efficiently and are used effectively for their intended purposes.

Cooperative federalism

Cooperative federalism is like a team effort between the central government and the states, where they work together to solve common problems. Coined by *Granville Austin*, it emphasizes collaboration between different levels of government for the country's growth. Think of it as a horizontal relationship where neither the Centre nor the States hold superiority over the other. This approach is visible in institutions like Niti Aayog and the GST Council, where decisions are made collectively, benefiting everyone involved. Notably, during the COVID-19 pandemic, the cooperative federalism between the central and state governments played a crucial role in managing the crisis.

One big advantage of cooperative federalism is that it helps in resolving issues smoothly, propelling the nation's development forward. By bringing together diverse perspectives and resources, it harnesses the unique strengths of each region. Take the GST Council, for example. It streamlines tax procedures across states, making it easier for businesses to operate nationwide. This model is crucial for a country as diverse as India, where historical and political factors contribute to its rich tapestry of cultures and challenges.

Challenges to cooperative federalism:

One major roadblock to cooperative federalism is over-centralization, where the Union list has more items than the state list, giving the Centre more taxation powers and reducing the active participation of States. Secondly, the ineffective inter-state council, which has met only twice in 50 years, also hinders cooperation. Thirdly, the misuse of presidential rule, where the Centre takes over State machinery, has been a significant issue. Fourthly, the tussle between the Governor and the elected government of the States, selective application of the President's rule, and inter-state water disputes further complicate the situation.

Fifthly, in the financial sphere, issues such as the Centre ignoring Finance Commission recommendations for state-specific grants, the levy of cesses and surcharges not shareable with states, and the inclusion of off-budget borrowings in States' FRBM targets create significant financial burdens on the States. The recent example of the Centre not paying GST compensation to states in a timely manner also highlights the financial challenges faced by States.

Strengthening cooperative federalism:

The improvement of cooperative federalism has been recommended by various committees and panels. The Sarkaria and Punchhi Commission, for instance, suggested measures to enhance cooperative federalism, including depoliticization of the office of the governor, a fixed tenure for the governor, restrictive use of Article 356, and extending the mandate of the Inter-State Council. These recommendations were reiterated by the National Commission to Review the Working of the Constitution (NCRWC).

Additionally, local self-government empowerment is seen as crucial for further strengthening cooperative federalism. This involves empowering the third level of Indian federalism, which includes local

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self-government. This empowerment is essential for effective governance and for ensuring that the needs of local communities are met. Another key recommendation is the revival of the National Integration Council to build political consensus on major issues of 223 policy and security. This council can play a vital role in fostering cooperation and coordination between the Centre and the States, which is essential for the smooth functioning of the federation.

The Supreme Court in the **S.R. Bommai v Union Of India case**, 1994 has also emphasized the importance of federalism as part of the basic structure of the Constitution. For a smooth-functioning federation, there is cooperation and coordination between the Centre and the States. To achieve this, India needs to strive for democratic decentralization of administration and strengthening of governments at all levels.

Competitive Federalism:

Competitive federalism refers to a system where the central and state governments have a vertical relationship with the states competing with each other, and with the Centre, for benefits, resources, and investments. This concept gained significance in India after the 1990s economic reforms, which emphasized the importance of a free-market economy and globalization.

Competitive federalism in India is reflected in the dynamic interplay between the Centre and the states, as well as among the states themselves. Both levels of government strive to design and deliver more effective welfare initiatives to improve the quality of life for citizens. For instance, while the Centre launched the **Ayushman Bharat** scheme to provide affordable healthcare, states like Tamil Nadu introduced their own initiatives, such as the **Chief Minister's Comprehensive Health Insurance Scheme**, tailored to local needs. Similarly, in the agricultural sector, the Centre's **PM-KISAN** scheme is complemented by innovative state-level measures like **Rythu Bandhu** in Telangana and **Rythu Bharosa** in Andhra Pradesh. These examples demonstrate how competition fosters innovation and efficiency in governance, ultimately benefiting the people.

States in India are increasingly engaging in **para-diplomacy**, or state-level diplomacy, to attract foreign direct investment, promote trade and commerce, and encourage cultural exchanges. Gujarat, for instance, has gained global recognition by organizing the **Vibrant Gujarat Global Investors Summit**, which serves as a major platform to attract foreign investors. Similarly, states are competing in the tourism sector by highlighting their unique cultural heritage and natural attractions while simultaneously upgrading infrastructure and services to draw more visitors. Another important area of competition is **investment promotion**, where states offer a range of incentives such as tax holidays, land acquisition support, and subsidies to lure investors. A notable example is the **Global Investors' Summit of March 2023**, where Andhra Pradesh secured investments worth **Rs 13 lakh crore across 20 sectors**, showcasing the intensity of inter-state competition for economic growth.

Infrastructure development has emerged as another critical area where states are making substantial investments to enhance their competitiveness and attract investment. Large-scale projects such as the **Delhi-Mumbai Industrial Corridor** and the **Vizag-Chennai Industrial Corridor (VCIC)**, developed through joint efforts of the central and state governments, aim to create world-class industrial zones and improve connectivity. Alongside physical infrastructure, states are also prioritizing innovation and

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entrepreneurship by supporting startups and small businesses. Initiatives like **Telangana's T-Hub** and **Kerala's Startup Mission (KSUM)** demonstrate how states are fostering an ecosystem of innovation to drive economic growth and create employment opportunities.

Challenges to Competitive Federalism:

Firstly, resource disparities between states with lower and higher per capita incomes make it difficult for poorer states to compete, as they lack the resources to invest in key areas like infrastructure and education. Secondly, the widening trust deficit and shrinkage of the divisible pool of taxes have plagued Centre-State relations, making cooperation and competition among them difficult. Thirdly, regulatory hurdles can also hinder competitive federalism, as states may face restrictions that prevent them from competing in certain sectors.

Fourthly, some states have inherent competitive advantages like skilled labour, infrastructure, and capital that make them attractive investment destinations. Encouraging competitive investment patterns in these situations can exacerbate existing inequalities. Fifthly, states may pursue their own interests without considering the impact on others, leading to a race to the bottom as they lower taxes and provide excessive incentives to attract investments. This lack of coordination can undermine the potential benefits of competitive federalism.

Strengthening competitive federalism:

To promote competitive federalism, the Central government can play a crucial role by taking several measures. Firstly, promoting collaboration and sharing of best practices through the rejuvenation of the inter-state council under Article 263 will provide a forum for resolving disputes and fostering competition. Secondly, greater autonomy needs to be provided to states with regard to subjects in the Concurrent List, which will enhance healthy competition among them. Thirdly, the Central Government can also allocate funds to states based on their performance in areas such as infrastructure, education, healthcare, and ease of doing business. This will incentivize states to improve their performance and compete. Fourthly, The Central government can provide capacity-building support to states to enhance their governance, policy formulation, and implementation capabilities.

Role of Niti Aayog:

NITI Aayog plays a crucial role in promoting competitive federalism. To achieve this, it facilitates the improvement in the performance of states and union territories (UTs) by encouraging healthy competition among them. This is done through transparent rankings in various sectors, along with a hand-holding approach. NITI Aayog has launched several indices to track the performance of states and UTs.

These indices include the School Education Quality Index, State Health Index, Composite Water Management Index, Sustainable Development Goals Index, India Innovation Index, Export Competitiveness Index, and others. These rankings are based on quantitative objective criteria and are released regularly. The ranking of states and districts in these indices encourages them to improve their performance, fostering a competitive spirit that drives development. Additionally, NITI Aayog releases

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delta rankings for the performance of Aspirational Districts every month, further emphasizing the importance of competition and improvement.

Asymmetric Federalism:

Symmetric federalism refers to a system in which all constituent states of a federation enjoy equal powers and status, with no distinction made between them. In contrast, **asymmetric federalism** is a model where different units within a federation are granted varying degrees of political, administrative, or fiscal autonomy. This arrangement is often adopted to accommodate the unique historical, cultural, linguistic, or ethnic characteristics of certain regions. In India, for example, states such as **Jammu and Kashmir (prior to 2019), Nagaland, Mizoram, and several other north-eastern states** reflect asymmetrical features in their relationship with the Union.

Asymmetric federalism can be categorized into two types: **de jure asymmetry** and **de facto asymmetry**. De jure asymmetry resolves differences in legislative powers, representation in central institutions, and rights and obligations set out in the Constitution. De facto asymmetry, on the other hand, reflects agreements that arise from national policy and are not necessarily entrenched in the constitution.

Asymmetric federalism in India: Accommodating diversity through constitutional flexibility

Asymmetric federalism enables India to accommodate its vast regional diversity by allowing different states and territories varying degrees of autonomy and special provisions based on their unique circumstances, developmental needs, and cultural characteristics.

Addressing development disparities: Articles 371 (Maharashtra and Gujarat) and 371D-E (Andhra Pradesh) tackle intra-state development disparities, while statutory grants under Article 275 bridge inter-state resource gaps.

Managing political circumstances: Article 371F addresses Sikkim's unique integration, while Article 371H provides special arrangements for Arunachal Pradesh's law and order needs.

National strategic interests: The abrogation of Article 370 and Union Territory status for J&K upholds national unity. Article 239AA governs Delhi's administration, while UT status for Andaman & Nicobar Islands, Lakshadweep, and Ladakh ensures central oversight in strategic regions.

Cultural heritage: Articles 371A (Nagaland) and 371G (Mizoram) preserve unique northeastern cultures, while Articles 371B (Assam) and 371C (Manipur) protect intra-state ethnic diversity.

Tribal rights: Schedule V Autonomous District Councils safeguard tribal rights and customary practices, while Schedule VI Tribes Advisory Councils ensure tribal welfare and advancement.

Administrative solutions: Gorkhaland Territorial Administration and Ladakh Autonomous Hill Development Council provide cultural recognition and local control.

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Historical acknowledgment: Article 239AB (Puducherry) and UT status for Daman & Diu, Dadra & Nagar Haveli acknowledge unique colonial histories.

Dispute resolution: Chandigarh's UT status resolves inter-state territorial disputes while serving both Punjab and Haryana.

Evaluating Asymmetry in Indian Federalism:

In considering the evolution towards symmetry in federalism, it's essential to weigh both sides. Asymmetry in federalism has its advantages, notably in safeguarding rights and conserving ethnicity and culture. In north-eastern India, where there is a distinct ethnic makeup, asymmetry allows for the preservation of cultural identities. Moreover, it fosters recognition of differences and facilitates self-rule for ethno-cultural minorities, promoting social justice and unity in diversity.

However, there are valid concerns regarding asymmetry in federalism. Some argue that it can lead to discrimination, such as prescribing property ownership based on regional criteria. Moreover, asymmetric status is sometimes associated with secessionist movements, as seen with repealed Article 370. Additionally, asymmetry can be viewed as anti-egalitarian, as it may hinder the extension of rights uniformly across the nation. There's also discomfort with the imbalance of powers between states and the Union, potentially undermining stability.

To address these issues, reforms are necessary. Acknowledging and accommodating diversity is crucial, recognizing that one-size-fits-all policies may not suit a diverse country like India. Establishing transparent asymmetric arrangements, grounded in overall gains for the federation, can contribute to nation-building. It is important to avoid any unilateral tilt towards any axis of federation, driven by short-term political gains, which could harm long-term stability. Gradual reforms may be needed to mitigate existing constitutional asymmetry, ensuring that diversity is protected without sacrificing unity. Ultimately, asymmetric federalism can serve as a means of standardizing 'Indianness,' fostering a sense of unity while respecting cultural differences, in line with the vision of 'Ek Bharat, Shreshth Bharat.'

Special Category States:

The Special Category Status (SCS) is a classification given by the Centre to assist the development of states that face geographical and socio-economic disadvantages. To be eligible for this status, states must fulfil certain requirements based on the Gadgil formula. These requirements include:

- **Hilly and Difficult Terrain:** The state must have challenging geographical conditions that hinder development.
- **Low Population Density and/or Tribal Population:** The state must have a low population density or a significant share of tribal population, which can impact its resource mobilization.
- **Strategic Location along Borders:** The state must be situated along international borders, which can pose unique challenges and require special assistance.
- **Economic and Infrastructural Backwardness:** The state must be economically and infrastructurally backward, requiring significant support for development.

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- **Non-Viable Nature of State Finances:** The state must have a non-viable financial situation, making it difficult to manage its finances and fund development projects.

However, as per the 14th Finance Commission, the 'special category status' has been discontinued for most states, except for the north-eastern states and three hill states.

Inter-State Water Disputes:

Inter-state water disputes in India are a significant issue in the country's federalism, with various disputes arising over the use, distribution, and control of waters from inter-state river basins. These disputes are governed by the Inter-State River Water Disputes Act, 1956, and the Inter-State Water Dispute Tribunals, established under this Act.

Constitutional Provisions and Water Laws: The Indian Constitution provides for the regulation and development of inter-state rivers and river valleys through Entry 56 of the Union List. Additionally, Entry 17 of the State List deals with water-related matters such as water supply, irrigation, canal, drainage, embankments, water storage, and water power. Article 262 of the Constitution empowers Parliament to provide for the adjudication of disputes related to waters and prohibits the Supreme Court from exercising jurisdiction in such matters.

Interstate River Water Disputes Act, 1956: The Interstate River Water Disputes (ISWD) Act, 1956 was enacted under Article 262 of the Indian Constitution to provide for the adjudication of disputes related to water of inter-state rivers and river valleys. The Act aims to resolve these disputes through various mechanisms. It provides for a negotiated settlement among states, and in cases where a settlement cannot be reached, it establishes ad-hoc tribunals to resolve the disputes. These tribunals are vested with the power of civil courts and can order surveys and investigations to aid in their decision-making. Once a tribunal's award is published, it is equivalent to the verdict of the Supreme Court, and the Centre can frame a scheme to give effect to the decision.

The ISWD Act has been effective in resolving several water disputes, such as the Narmada Tribunal's Award. However, several issues undermine its effectiveness. One major issue is the finality of the tribunal's decisions, as contesting states can approach the Supreme Court under Article 136 (Special Leave Petition) to challenge the award. Additionally, rights and rehabilitation issues can delay implementation, as seen in the case of the Narmada Bachao Andolan. The lack of political will for resolution among multiple states, regional parties, and the Centre also makes it challenging to build consensus, as seen in the Satluj-Yamuna Link canal issue.

Another significant issue is the huge delay in establishing a tribunal, proceedings, and implementation of an award. For example, the Godavari and Cauvery disputes have faced long delays in resolution. Furthermore, institutional issues such as the absence of authoritative data, the ad-hoc nature of the tribunal, and opacity in the institutional framework make for an ineffective dispute resolution process.

The river water dispute remains a challenge. Changes must be made to the existing Act, such as provision

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for permanent tribunal, timely resolution, and forming a dispute resolution committee. Further, holistic water management practices, such as water conservation and harvesting techniques for moderating water usage must inform equitable and effective water governance.

Some of the major inter-state water disputes in India include:

1. Krishna Water Disputes Tribunal II (2004) – Karnataka, Telangana, Andhra Pradesh, Maharashtra
2. Mahanadi Water Disputes Tribunal (2018) – Odisha & Chhattisgarh
3. Mahadayi Water Disputes Tribunal (2010) – Goa, Karnataka, Maharashtra
4. Ravi & Beas Water Tribunal (1986) – Punjab, Haryana, Rajasthan
5. Vasudhara Water Disputes Tribunal (2010) – Andhra Pradesh & Odisha

Inter-State Border Disputes:

Inter-state border disputes refer to conflicts between different states regarding territorial boundaries. These disputes often arise due to historical, cultural, economic, or administrative reasons. For instance, the Cauvery River water-sharing dispute between Karnataka and Tamil Nadu is a legacy of the historical demarcation of regions, leading to disagreements between states. Similarly, the water-sharing dispute between Punjab and Haryana from the Bhakra-Nangal dam is a result of competition for scarce resources like water.

Another factor contributing to these disputes is cultural and ethnic differences. For example, the Assam-Nagaland border dispute involves demographic shifts and divergent cultural identities. Political boundaries also play a role, as changes in political boundaries over time can lead to disagreements. For instance, the Belgaum district dispute between Maharashtra and Karnataka was a result of the reorganization of districts in 1956. Administrative decisions regarding district reorganization can also create tensions, such as the Telangana-Andhra Pradesh bifurcation.

The lack of a clear legal framework for border delineation can also lead to disputes. For example, the border issues between Uttar Pradesh and Uttarakhand are a result of inadequate legal frameworks. Furthermore, the lack of a specific constitutional mechanism to resolve inter-state border disputes hinders the resolution of these disputes. Vote bank politics and regionalism also contribute to the persistence of these disputes.

The results of these disputes are far-reaching and can have significant economic and social impacts. Disputes can hinder economic development and cross-border trade, impacting the overall prosperity of the regions involved. They can also lead to social unrest, including occasional outbreaks of violence, as seen in the Assam-Nagaland border dispute.

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| Examples of Inter-State Border Disputes | |
|---|--|
| Karnataka -Maharashtra | Belgaum district is embroiled in one of India's most significant inter-state border disputes, largely due to its substantial Marathi and Kannada-speaking populations. The contention over this area has persisted for an extended period. In 1956, during the reorganization of states, Belgaum came under Karnataka, having previously been part of the Bombay presidency. |
| Assam-Mizoram | The border dispute between Assam and Mizoram traces its roots back to the two British-era notifications of 1875 and 1933, during which Mizoram was known as Lushai Hills and was a district within Assam. The 1875 notification delineated Lushai Hills from the plains of Cachar and established a boundary between Lushai Hills and Manipur. Despite Mizoram attaining statehood in 1987 after years of insurgency, it continues to assert the boundaries established in 1875. |
| Haryana-Himachal Pradesh | The Parwanoo region has become a focal point in the border dispute between Himachal Pradesh and Haryana. Situated adjacent to Haryana's Panchkula district, Haryana has laid claim to certain parts of the land within Himachal Pradesh |
| Himachal Pradesh-Ladakh | Himachal Pradesh and Ladakh both assert ownership over Sarchu, a strategically significant area situated along the route between Leh and Manali. Positioned between Himachal's Lahul and Spiti districts and Ladakh's Leh district, Sarchu serves as a crucial stopover for travellers journeying between the two cities. |
| Arunachal Pradesh-Assam | Arunachal Pradesh's contention stems from the unilateral transfer of forested tracts in the plains, historically belonging to hill tribal chiefs and communities, to Assam, during the reorganization of Northeastern states. Upon achieving statehood in 1987, Arunachal Pradesh lodged grievances over these territorial transfers, arguing for the restoration of land traditionally associated with hill tribal chiefs and communities. |
| Assam-Nagaland | The Assam-Nagaland border dispute, the longest-running in the Northeast, originated shortly after Nagaland gained statehood in 1963. While the Nagaland State Act of 1962 delineated borders based on a 1925 notification, Nagaland contests this, asserting claims over Naga-dominated regions in North Cachar and Nagaon districts. This disagreement has led to tensions and periodic clashes between Assam and Nagaland, notably in 1965, 1968, 1979, 1985, 2007, and |

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| | |
|-----------------|---|
| | 2014, exacerbating the dispute and sustaining its contentious nature over the years. |
| Meghalaya-Assam | The Assam-Meghalaya border issue stems from Meghalaya's challenge to the Assam Reorganisation Act of 1971, which allocated Blocks I and II of the Mikir Hills to Assam. Meghalaya claims that these blocks were historically part of the United Khasi and Jaintia Hills district since its establishment in 1835. Presently, there are 12 disputed points along the 733-km border. Meghalaya supports its claim with survey maps from 1872 and 1929, as well as notifications from 1878 and 1951, while Assam refers to the recommendations of the Churachand Committee, which are rejected by Meghalaya. |

Inter-State Council: Key Issues and Recommendations

Despite its constitutional mandate, the Inter-State Council (ISC) has been largely ineffective due to several challenges. **Firstly**, one of the major issues is its underutilization, with only 10 meetings held in the last 22 years, leading to slow progress in resolving inter-state disputes. **Secondly**, the ISC functions only in an advisory capacity, with no binding force on either the Centre or the States, which often results in its recommendations being disregarded by governments. **Thirdly**, the council suffers from a lack of technical and managerial experts, limited autonomy, and minimal engagement with civil society, which undermines its participatory and cooperative nature. **Fourthly**, the ISC is not a permanent body and exists only at the discretion of the President, making its role uncertain and inconsistent.

To enhance the functioning of the Inter-State Council, several reforms are required. **Firstly**, meetings should be held regularly within a fixed time frame to address contemporary issues effectively, as recommended by the Punchhi Commission, which suggested convening at least three meetings per year. **Secondly**, Article 263 should be suitably amended to empower the ISC with greater authority rather than restricting it to an advisory role. **Thirdly**, the council should be equipped with technical and management experts to improve its efficiency in handling complex intergovernmental matters. **Fourthly**, civil society participation must be incorporated into its functioning to make the body more inclusive and representative. **Fifthly**, in line with the recommendation of the Sarkaria Commission, the ISC should be made a permanent body to ensure its stability and continuity.

Zonal Councils:

The Zonal Councils are advisory bodies the States Reorganization Act of 1956, to promote cooperative federalism and for addressing inter-state issues. The councils are structured with the union home minister as the chairman and Chief Ministers of states in each zone acting as the vice-chairmen by rotation, each holding office for a year. The councils comprise members from states and union territories, as well as advisors from central ministries. The main objectives of the Zonal Councils are: to bring out national

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integration, arrest the growth of regionalism and particularistic tendencies, enable the Centre and states to cooperate and exchange ideas, and establish a climate of cooperation for the successful execution of developmental projects.

The Zonal Councils are **advisory bodies** established by the States Reorganization Act of 1956 to strengthen cooperative federalism and address inter-state issues. Each council is chaired by the Union Home Minister, while the Chief Ministers of states within the zone serve as vice-chairpersons on a rotational basis, holding office for one year. The councils include members from states and union territories of the respective zone, along with advisors from central ministries.

The primary objectives of the Zonal Councils are to promote national integration, curb the growth of regionalism and particularistic tendencies, foster cooperation and the exchange of ideas between the Centre and the states, and create an environment of collaboration for the effective implementation of developmental programs and projects.

Unlike the Inter-State Council, contemplated by Article 263, Zonal Councils are merely statutory bodies, established under the Part III of the States Reorganisation Act of 1956. The Act prescribes a total of five Zonal Councils:

1. The Northern Zonal Council, comprising the States of Haryana, Himachal Pradesh, Jammu & Kashmir, Punjab, Rajasthan, National Capital Territory of Delhi and Union Territory of Chandigarh;
2. The Central Zonal Council, comprising the States of Chhattisgarh, Uttarakhand, Uttar Pradesh and Madhya Pradesh;
3. The Eastern Zonal Council, comprising the States of Bihar, Jharkhand, Orissa, Sikkim and West Bengal;
4. The Western Zonal Council, comprising the States of Goa, Gujarat, Maharashtra and the Union Territories of Daman & Diu and Dadra & Nagar Haveli; and
5. The Southern Zonal Council, comprising the States of Andhra Pradesh, Karnataka, Kerala, Tamil Nadu and the Union Territory of Puducherry.

By North Eastern Council Act, 1972 a sixth Zonal Council was established to address the special problems of the North Eastern States. It is the nodal agency for the economic and social development of the North Eastern Region which consists of the eight States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura. The Council comprises Governors and Chief Ministers of constituent States and three members nominated by the President. (PYQ 2024)

Significance of Zonal Councils: Zonal Councils are advisory bodies that play a crucial role in strengthening cooperative federalism and addressing regional concerns. They provide a valuable forum for resolving issues between the Centre and the states, as well as among the states themselves, through open discussions and consultations. Being compact, high-level bodies focused on the interests of their respective zones, they are well placed to address specific regional issues while keeping the broader national perspective in view. The councils deliberate and make recommendations on matters of common interest such as economic and social planning, border disputes, linguistic minorities, inter-state transport, and challenges arising from the reorganization of states. Unlike other forums of cooperative federalism,

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Zonal Councils function as regional platforms for cooperation among states that are economically, politically, and culturally interconnected. This unique character enables them to respond to the distinct needs and challenges of their regions while contributing to the overall socio-economic development and unity of the nation.

Challenges and Strategies for Improving the Functioning of Zonal Councils:

The zonal councils play a crucial role in fostering cooperation and coordination among states and union territories within a particular geographic zone. However, they face several challenges that impact their effectiveness. One key issue is the role complexity, as the councils have multi-dimensional responsibilities - they must maintain peace and improve coordination among all states, which can be a delicate balancing act.

Another challenge is the diverging policy priorities of different states, especially when they are governed by different political parties. This can lead to communication gaps and misunderstandings, hindering consensus-building. Additionally, border disputes and linguistic minority issues can sometimes escalate into violence, as seen in the Assam-Mizoram border clashes, further complicating the councils' dispute resolution efforts.

To improve the functioning of the zonal councils, several steps are needed. Firstly, states must resolve issues amicably through open dialogue and discussion, seeking time-bound solutions. Secondly, all stakeholders, including the central and state governments, should come together to establish a strong cooperative mechanism focused on development, which is the core purpose of these regional councils. Thirdly, conducting awareness campaigns on different cultures can also help in fostering a greater sense of "Ek Bharat, Shreshth Bharat" (One India, Great India). Fourthly, states and union territories should develop local contingency plans and encourage deeper engagement to address regional challenges effectively.

Recent challenges to Federalism:

In recent years, Centre-State relations in India have been characterized by growing tensions, particularly over legislative interventions by the Centre in areas traditionally reserved for the states. Such interventions have raised concerns regarding the financial burden they impose on state budgets, the limited flexibility afforded to states to adapt laws to their specific needs, and the perceived encroachment on states' constitutional rights. Notable examples include the controversial Farm Laws and the Dam Safety Act, both of which faced strong opposition from several states.

Another contentious area in Centre-State relations relates to the role of the Governor. Disputes have frequently arisen over issues such as the appointment of Chief Ministers, the timing of floor tests to establish legislative majority, and the Governor's demands for information on the day-to-day functioning of state governments, particularly in states like Maharashtra, Madhya Pradesh, and West Bengal. The use of gubernatorial powers in matters such as intervention in the administration of state universities has further deepened these tensions, often being perceived as an encroachment on the autonomy of elected

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state governments.

The involvement of central agencies such as the Central Bureau of Investigation (CBI) in state affairs has further aggravated tensions in Centre-State relations. A notable instance was the attempted arrest of the Kolkata Commissioner of Police without a warrant in 2019, which sparked a confrontation between the state and central authorities and raised concerns about encroachment on state autonomy. Adding to the discord, proposed amendments to the Indian Administrative Service (IAS) Cadre Rules of 1954 have also become a point of contention. These amendments, which are perceived to restrict the states' discretion in withholding consent for deputing civil servants to the Centre, have drawn strong opposition from states such as West Bengal, Tamil Nadu, and Kerala, which view them as undermining the federal balance.

On the administrative front, the trend towards centralization has challenged states' autonomy in governance. Although the NITI Aayog was established in 2015 to promote cooperative federalism and replace the Planning Commission, its effectiveness as a platform for genuine dialogue between the Centre and states remains limited. States often find themselves constrained by centrally sponsored schemes and conditional funding, which restrict their policy space and undermine their ability to innovate in welfare delivery.

The Covid-19 pandemic placed additional strain on Centre-State relations, particularly regarding the centralization of executive powers. Although "public health and sanitation" is a state subject, the Centre invoked the Disaster Management Act, 2005, to impose a nationwide lockdown without prior consultation with the states. This enabled the Centre to assume key powers traditionally under state jurisdiction, such as regulating public transportation and deploying supervisory teams to oversee state-level measures. Critics, however, contend that this amounted to an encroachment on state autonomy. Since the term "disaster" is not explicitly mentioned in the Seventh Schedule, the Centre relied on its residuary powers to justify these directives, which many viewed as undermining the federal balance.

Regional disparities and representation issues have also surfaced as flashpoints in recent years. The question of delimitation and parliamentary representation, especially between the northern and southern states, has become contentious. Southern states fear that delimitation based on current population figures could reduce their political influence, given their relatively slower population growth. Language and cultural autonomy concerns have further complicated federal relations, with states like Tamil Nadu resisting perceived attempts by the Centre to impose Hindi or interfere in regional education policies.

Major Committees' Recommendations:

I. First Administrative Reforms Commission: In 1966, the Indian government formed the Administrative Reforms Commission (ARC), led by Morarji Desai. One of its main tasks was to investigate how the central and state governments work together. In 1969, the ARC gave some important suggestions. These are:

- **Establishing Inter-State Council:** This would be a platform where central and state governments could discuss and resolve issues together. It can be imagined as a boardroom where everyone can discuss and find solutions.

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- **Choosing Governors with Experience and Neutral Views:** The ARC suggested that governors, who are like representatives of the central government in states, should be experienced and unbiased. They should be people who have worked in public service for a long time and don't favour any particular political party.
- **Giving More Power to States:** The ARC said that states should have more control over their own affairs. It's like giving more responsibility to someone who knows their area better than anyone else.
- **Sending More Money to States:** To make states less dependent on the central government, the ARC proposed sending more money directly to them. This way, states could decide how to use the funds according to their own priorities.
- **Using Central Armed Forces in States:** The ARC suggested that central armed forces could be deployed in states if needed, either when a state asks for help or in other situations. It is like having backup support available when there is a crisis.

Even though these recommendations were made, the central government did not take any action on them. So, despite the good ideas, they remained just that—ideas. Nevertheless, recognizing the persistent need for reforms, the government took a step forward by establishing the Sarkaria Commission in 1983.

II. Sarkaria Commission: The Sarkaria Commission was a three-member Commission established in 1983 under the chairmanship of R.S. Sarkaria, a retired judge of the Supreme Court. The Commission was tasked with examining the relationship and balance of power between the central and state governments in India. The Commission submitted its report in October 1987 with 247 recommendations. Here are some of the key recommendations:

- **Permanent Inter-State Council:** The Commission recommended setting up a permanent Inter-State Council under Article 263 to promote cooperation and coordination between the Centre and states.
- **Use of Article 356 (President's Rule):** The Commission suggested that Article 356 should be used very sparingly and only in extreme cases as a measure of last resort when all other alternatives fail. It also recommended that the material facts and grounds for invoking Article 356 should be made an integral part of the proclamation to ensure effective parliamentary control.
- **Strengthening of All-India Services:** The Commission recommended further strengthening the institution of All-India Services and creating more such services to ensure efficient administration.
- **Consultation with States:** The Commission emphasized the need for the Centre to consult with the states before making laws on subjects in the concurrent list and to deploy armed forces without state consent, although concurrence is desirable.
- **Appointment of Governors:** The Commission suggested that the procedure for consulting the Chief Minister in the appointment of State Governors should be prescribed in the Constitution itself. It also says that the Governor should be an eminent person from outside the state and should be a detached figure without intense political links or should not have taken part in politics in the recent past. (PYQ 2019)
- **Governor's Term:** The Commission recommended that the Governor's term of five years in a state should not be disrupted except for extremely compelling reasons. Uniform Implementation

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of Three Language Formula: The commission recommended steps to uniformly implement the three-language formula in its true spirit.

- **Commissioner for Linguistic Minorities:** The Commission recommended activating the Commissioner for Linguistic Minorities to promote the rights of linguistic minorities.

After the Sarkaria Commission's efforts, the need for ongoing examination of Centre-State relations became even more evident. Consequently, the Punchhi Commission was appointed to delve deeper into these matters and extend further recommendations.

III. Punchhi Commission:

The Punchhi Commission was a commission on Centre-State relations established by the Government of India in 2007. It was chaired by Justice Madan Mohan Punchhi, a former Chief Justice of India. The Commission was formed to re-examine the issues in Centre-State relations in India, which were previously investigated by the Sarkaria Commission.

- **Strengthening Inter-State Council:** The commission suggested enhancing the role and effectiveness of the Inter-State Council, a platform for dialogue between the Centre and states, by making it more representative and proactive.
- **Clarifying the Governor's Role:** It recommended defining the role of governors more clearly, ensuring that they act impartially and refrain from political bias while upholding the Constitution.
- **Refining President's Rule:** The commission proposed refining the 235 circumstances under which the President's Rule can be imposed in states, ensuring it's only used as a last resort in cases of severe breakdown of governance.
- **Balancing Fiscal Autonomy:** It emphasized the importance of maintaining fiscal autonomy for states by reducing their dependence on central grants and encouraging them to generate revenue independently.
- **Improving Centre-State Consultation:** The commission stressed the need for regular and meaningful consultation between the Centre and states on matters affecting their interests, fostering a spirit of cooperative federalism.
- **Strengthening Local Governance:** It advocated for empowering local bodies like municipalities and panchayats to facilitate grassroots democracy and for efficient delivery of public services.
- **Resolving Boundary Disputes:** The commission recommended establishing mechanisms for resolving interstate boundary disputes in a fair and timely manner, to prevent conflicts and to promote harmony.
- **Strengthening Cooperative Federalism:** The commission proposed enhancing cooperative federalism by encouraging collaboration and partnership between the central and state governments in decision-making processes.
- **Empowering State Legislatures:** It suggested the empowering of state legislatures to exercise their constitutional powers effectively, promoting democratic governance at the state level.
- **Ensuring State Representation in Central Bodies:** The commission recommended ensuring adequate representation of states in central institutions and bodies to reflect diverse regional perspectives and interests.

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- **Enhancing State Participation in Policy Formulation:** It emphasized the importance of involving states in the formulation and implementation of national policies to address regional disparities and to promote inclusive development.
- **Promoting Regional Balance:** The commission advocated for measures to promote balanced regional development, ensuring equitable distribution of resources and opportunities among states.
- **Streamlining Administrative Procedures:** It proposed streamlining administrative procedures and reducing bureaucratic red tape to facilitate smoother coordination between the Centre and states.
- **Strengthening Constitutional Mechanisms:** The commission suggested strengthening existing constitutional mechanisms to resolve disputes and grievances between the Centre and states in a fair and expeditious manner.

PYQs

What changes has the Union Government recently introduced in the domain of Centre-State relations? Suggest measures to be adopted to build the trust between the Centre and the States and for strengthening federalism. [250 words] [15 Marks] [2024]

Elaborate on the key areas of tension in Centre-state relations. MGP 2025

Approach: Introduce your answer by highlighting the unitary bias evident in the Constitution. In the body, list the key areas of tension between the Centre and states. Conclude by highlighting the need for adherence to the spirit of Cooperative federalism.

The **Constitution of India (Part XI)** provides a **dual polity** with a **vertical division of powers** between the Union and the States. However, the **division of power between centre and states is unequal** and largely in favour of the Centre (**Unitary bias**). This creates tensions and conflicts between the Centre and the States.

The **key areas of tension** in centre-state relations are as follows:

1. The **Office of Governor** (use of **Article 356** and **interference in day-to-day administration**) is a perennial source of friction between the Centre and the States. E.g., Tamil Nadu/Kerala Governors withholding assent to bills passed by state legislatures.
2. GST (101st Constitutional amendment) has **taken away the constitutionally guaranteed taxation powers** of the state, **impacting their fiscal position**. The issue of **GST compensation cess** and **delayed GST payment** has increased the **distrust between Union and states**.
3. States argue that **conditional and tied transfers, Centrally Sponsored Schemes** reduces **flexibility to devise state specific welfare schemes**. There are also concerns over **usurpation and repackaging of state schemes as Central schemes**. E.g., PM Kisan Yojna is similar to Telangana's Rythu Bandhu scheme.
4. The **alleged misuse of central investigative agencies** like CBI, ED against leaders of opposition parties and in opposition ruled states. E.g., **the recent Sandeshkhali incident**.

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5. Parliament's **overriding authority on matters of Concurrent List, residuary powers**. E.g., tussle **between** Centre and states **over regulation of online gaming**.
6. Other tension areas include: **control over All India Services**; implementation of **National Register of Citizenship (NRC) and Citizenship Amendment Act (CAA)**; **Abrogation of article 370** and reorganization of state of J&K (States feel their territorial integrity is threatened).

The need of the hour is that the Union and states should work in the spirit of **competitive-cooperative federalism** for promoting **good governance and overall development of the nation**. Implementing the recommendations of **Sarkaria, Punchhi Commissions** and utilizing the fora like **Interstate Council, Zonal Councils, NITI Aayog** for wider consultations can be the way forward. (327 words)

Points to Ponder based on PYQs:

1. The prevention of extension of infectious diseases from one state to another is Entry 29, Concurrent List. Both Parliament and States can make laws. This enabled coordinated responses under both central laws (like Epidemic Diseases Act) and state regulations.
2. The Disaster Management Act, 2005, enacted under Concurrent List entries, allows both central and state authorities to act. It created the National Disaster Management Authority (NDMA) chaired by the PM and State DMAs.
3. The doctrine of colourable legislation prevents misuse of legislative power. Courts strike down laws if the legislature tries to do indirectly what it cannot do directly, violating distribution of powers.
4. The **pith and substance doctrine** helps determine the real subject matter of a law. If the law's core ("pith") is within the legislature's domain, **incidental encroachment** into another list is allowed. This maintains federal balance.