

Inter-State Relations

The successful functioning of the Indian federal system depends not only on the harmonious relations and close cooperation between the Centre and the states but also between the states *inter se*. Hence, the Constitution makes the following provisions with regard to inter-state comity:

1. Adjudication of inter-state water disputes.
2. Coordination through inter-state councils.
3. Mutual recognition of public acts, records and judicial proceedings.
4. Freedom of inter-state trade, commerce and intercourse.

In addition, the zonal councils have been established by the Parliament to promote inter-state cooperation and coordination.

INTER-STATE WATER DISPUTES

Article 262 of the Constitution provides for the adjudication of inter-state water disputes. It makes two provisions:

- (i) Parliament may by law provide for the adjudication of any dispute or complaint with respect to the use, distribution and control of waters of any inter-state river and river valley.
- (ii) Parliament may also provide that neither the Supreme Court nor any other court is to exercise jurisdiction in respect of any such dispute or complaint.

Under this provision, the Parliament has enacted two laws [the River

Boards Act (1956) and the Inter-State Water Disputes Act (1956)]. The River Boards Act provides for the establishment of river boards for the regulation and development of inter-state river and river valleys. A river board is established by the Central government on the request of the state governments concerned to advise them.

The Inter-State Water Disputes Act empowers the Central government to set up an ad hoc tribunal for the adjudication of a dispute between two or more states in relation to the waters of an inter-state river or river valley. The decision of the tribunal would be final and binding on the parties to the dispute. Neither the Supreme Court nor any other court is to have jurisdiction in respect of any water dispute which may be referred to such a tribunal under this Act.

The need for an extra judicial machinery to settle inter-state water disputes is as follows: “The Supreme Court would indeed have jurisdiction to decide any dispute between states in connection with water supplies, if legal rights or interests are concerned; but the experience of most countries has shown that rules of law based upon the analogy of private proprietary interests in water do not afford a satisfactory basis for settling disputes between the states where the interests of the public at large in the proper use of water supplies are involved.”¹

So far (2016), the Central government has set up eight inter-state water dispute tribunals. The name of the tribunals, the years in which they were constituted and the states involved in the dispute are mentioned in [Table 15.1](#).

Table 15.1 *Inter-State Water Dispute Tribunals Set-up So Far*

<i>Sl. No.</i>	<i>Name</i>	<i>Set-up in</i>	<i>States Involved</i>
1.	Krishna Water Disputes Tribunal	1969	Maharashtra, Karnataka and Andhra Pradesh
2.	Godavari Water Disputes Tribunal	1969	Maharashtra, Karnataka, Andhra Pradesh, Madhya Pradesh and Odisha
	Narmada Water		Rajasthan, Gujarat, Madhya Pradesh

3.	Disputes Tribunal	1969	and Maharashtra
4.	Ravi and Beas Water Disputes Tribunal	1986	Punjab, Haryana and Rajasthan
5.	Cauvery Water Disputes Tribunal	1990	Karnataka, Kerala, Tamil Nadu and Puducherry
6.	Second Krishna Water Disputes Tribunal	2004	Maharashtra, Karnataka and Andhra Pradesh
7.	Vansadhara Water Disputes Tribunal	2010	Odisha and Andhra Pradesh
8.	Mahadayi Water Disputes Tribunal	2010	Goa, Karnataka and Maharashtra

INTER-STATE COUNCILS

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

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

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

“The council’s function to enquire and advice upon inter-state disputes is complementary to the Supreme Court’s jurisdiction under Article 131 to decide a legal controversy between the governments. The Council can deal

with any controversy whether legal or non-legal, but its function is advisory unlike that of the court which gives a binding decision.”²

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

- Central Council of Health.
- Central Council of Local Government and Urban Development.³
- Four Regional Councils for Sales Tax for the Northern, Eastern, Western and Southern Zones.

The Central Council of Indian Medicine and the Central Council of Homoeopathy were set up under the Acts of Parliament.⁴

Establishment of Inter-State Council

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

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

- (i) Prime minister as the Chairman
- (ii) Chief ministers of all the states
- (iii) Chief ministers of union territories having legislative assemblies
- (iv) Administrators of union territories not having legislative assemblies
- (v) Governors of States under President’s rule
- (vi) Six Central cabinet ministers, including the home minister, to be nominated by the Prime Minister.

Five Ministers of Cabinet rank / Minister of State (independent charge) nominated by the Chairman of the Council (i.e., Prime Minister) are permanent invitees to the Council.

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

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

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

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

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

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

PUBLIC ACTS, RECORDS AND JUDICIAL PROCEEDINGS

Under the Constitution, the jurisdiction of each state is confined to its own territory. Hence, it is possible that the acts and records of one state may not be recognised in another state. To remove any such difficulty, the Constitution contains the “Full Faith and Credit” clause which lays down the following:

- (i) Full faith and credit is to be given throughout the territory of India to public acts, records and judicial proceedings of the Centre and every state. The expression ‘public acts’ includes both legislative and executive acts of the government. The expression ‘public record’ includes any official book, register or record made by a public servant in the discharge of his official

duties.

- (ii) The manner in which and the conditions under which such acts, records and proceedings are to be proved and their effect determined would be as provided by the laws of Parliament. This means that the general rule mentioned above is subject to the power of Parliament to lay down the mode of proof as well as the effect of such acts, records and proceedings of one state in another state.
- (iii) Final judgements and orders of civil courts in any part of India are capable of execution anywhere within India (without the necessity of a fresh suit upon the judgement). The rule applies only to civil judgements and not to criminal judgements. In other words, it does not require the courts of a state to enforce the penal laws of another state.

INTER-STATE TRADE AND COMMERCE

Articles 301 to 307 in Part XIII of the Constitution deal with the trade, commerce and intercourse within the territory of India.

Article 301 declares that trade, commerce and intercourse throughout the territory of India shall be free. The object of this provision is to break down the border barriers between the states and to create one unit with a view to encourage the free flow of trade, commerce and intercourse in the country. The freedom under this provision is not confined to inter-state trade, commerce and intercourse but also extends to intra-state trade, commerce and intercourse. Thus, Article 301 will be violated whether restrictions are imposed at the frontier of any state or at any prior or subsequent stage.

The freedom guaranteed by Article 301 is a freedom from all restrictions, except those which are provided for in the other provisions (Articles 302 to 305) of Part XIII of the Constitution itself. These are explained below:

- (i) Parliament can impose restrictions on the freedom of trade, commerce and intercourse between the states or within a state in public interest.⁶ But, the Parliament cannot give preference to one state over another or discriminate between the states except in the case of scarcity of goods in any part of India.
- (ii) The legislature of a state can impose reasonable restrictions on the freedom of trade, commerce and intercourse with that state or within that

state in public interest. But, a bill for this purpose can be introduced in the legislature only with the previous sanction of the president. Further, the state legislature cannot give preference to one state over another or discriminate between the states.

- (iii) The legislature of a state can impose on goods imported from other states or the union territories any tax to which similar goods manufactured in that state are subject. This provision prohibits the imposition of discriminatory taxes by the state.
- (iv) The freedom (under Article 301) is subject to the nationalisation laws (i.e., laws providing for monopolies in favour of the Centre or the states). Thus, the Parliament or the state legislature can make laws for the carrying on by the respective government of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.

The Parliament can appoint an appropriate authority for carrying out the purposes of the above provisions relating to the freedom of trade, commerce and intercourse and restrictions on it. The Parliament can also confer on that authority the necessary powers and duties. But, no such authority has been appointed so far.⁷

ZONAL COUNCILS

The Zonal Councils are the statutory (and not the constitutional) bodies. They are established by an Act of the Parliament, that is, States Reorganisation Act of 1956. The act divided the country into five zones (Northern, Central, Eastern, Western and Southern) and provided a zonal council for each zone.

While forming these zones, several factors have been taken into account which include: the natural divisions of the country, the river systems and means of communication, the cultural and linguistic affinity and the requirements of economic development, security and law and order.

Each zonal council consists of the following members: **(a)** home minister of Central government. **(b)** chief ministers of all the States in the zone. **(c)** Two other ministers from each state in the zone. **(d)** Administrator of each union territory in the zone.

Besides, the following persons can be associated with the zonal council as

advisors (i.e., without the right to vote in the meetings):

(i) a person nominated by the Planning Commission; (ii) chief secretary of the government of each state in the zone; and (iii) development commissioner of each state in the zone.

The home minister of Central government is the common chairman of the five zonal councils. Each chief minister acts as a vice-chairman of the council by rotation, holding office for a period of one year at a time.

The zonal councils aim at promoting cooperation and coordination between states, union territories and the Centre. They discuss and make recommendations regarding matters like economic and social planning, linguistic minorities, border disputes, inter-state transport, and so on. They are only deliberative and advisory bodies.

The objectives (or the functions) of the zonal councils, in detail, are as follows:

- To achieve an emotional integration of the country.
- To help in arresting the growth of acute state-consciousness, regionalism, linguism and particularistic trends.
- To help in removing the after-effects of separation in some cases so that the process of reorganisation, integration and economic advancement may synchronise.
- To enable the Centre and states to cooperate with each other in social and economic matters and exchange ideas and experience in order to evolve uniform policies.
- To cooperate with each other in the successful and speedy execution of major development projects.
- To secure some kind of political equilibrium between different regions of the country.

North-Eastern Council In addition to the above Zonal Councils, a North-Eastern Council was created by a separate Act of Parliament—the North-Eastern Council Act of 1971.⁸ Its members include Assam, Manipur, Mizoram, Arunchal Pradesh, Nagaland, Meghalaya, Tripura and Sikkim.⁹ Its functions are similar to those of the zonal councils, but with few additions. It has to formulate a unified and coordinated regional plan covering matters of

common importance. It has to review from time to time the measures taken by the member states for the maintenance of security and public order in the region.

Table 15.2 Zonal Councils at a Glance

<i>Name</i>	<i>Members</i>	<i>Headquarters</i>
1. Northern Zonal Council	Jammu and Kashmir, Himachal Pradesh, Haryana, Punjab, Rajasthan, Delhi, and Chandigarh	New Delhi
2. Central Zonal Council	Uttar Pradesh, Uttarakhand, Chhattisgarh, and Madhya Pradesh	Allahabad
3. Eastern Zonal Council	Bihar, Jharkhand, West Bengal and Odisha	Kolkata
4. Western Zonal Council	Gujarat, Maharashtra, Goa, Dadra and Nagar Haveli and Daman and Diu	Mumbai
5. Southern Zonal Council	Andhra Pradesh, Telangana, Karnataka, Tamil Nadu, Kerala and Puducherry	Chennai

Table 15.3 Articles Related to Inter-State Relations at a Glance

<i>Article No.</i>	<i>Subject Matter</i>
Mutual Recognition of Public Acts, etc.	
261.	Public acts, records and judicial proceedings
Disputes Relating to Waters	
262.	Adjudication of disputes relating to waters of inter-state rivers or

	river valleys
Co-ordination between States	
263.	Provisions with respect to an inter-state council
Inter-State Trade and Commerce	
301.	Freedom of trade, commerce and intercourse
302.	Power of Parliament to impose restrictions on trade, commerce and intercourse
303.	Restrictions on the legislative powers of the Union and of the states with regard to trade and commerce
304.	Restrictions on trade, commerce and intercourse among states
305.	Saving of existing laws and laws providing for state monopolies
306.	Power of certain states in Part B of the First Schedule to impose restrictions on trade and commerce (Repealed)
307.	Appointment of authority for carrying out the purposes of Articles 301 to 304

NOTES AND REFERENCES

1. Report of the Joint Parliamentary Committee. Select Committee of the House of Lords appointed to join with a Committee of the House of Commons to consider the future Government of India.
2. M P Jain: *Indian Constitutional Law*, Wadhwa, Fourth Edition, P. 382.
3. It was originally known as the Central Council of Local Self-Government (1954).
4. India 2003, P. 242.
5. The Inter-State Council Order dated May 28, 1990.
6. For example, the Parliament has made the Essential Commodities Act (1955). This Act enables the Central government to control the production, supply and distribution of certain essential commodities like petroleum, coal, iron and steel and so on.
7. In USA such authority is known as the Inter-State Commerce

Commission.

8. It came into existence on August 8, 1972.
9. In 2002, Sikkim was added as the eighth member of the North-Eastern Council.