

**UPSC**  
**NCERT Summary**  
**Center-State Relation- 1**

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## **Introduction**

The Constitution of India provides a dual polity with a clear division of powers between the Union and the States, each being supreme within the sphere allotted to it. The States in India are not the creation of the Centre nor do they draw their authority from the Union Government. On the other hand, like the Union Government, they draw their authority directly from the Constitution and are free to operate in the field allocated to them by the Constitution. At the outset, it may be noted that the Constitution of India has made most elaborate provisions regarding relationship between the Union and the States. This was done with a view to minimize the conflicts between the Centre and the States. But the actual operation of the Centre-State relations for all these years has given rise to a controversy about the wisdom of arrangements made under the Indian Constitution. Critics have expressed doubts about the existing arrangement and demanded reallocation and adjustment of the Centre-State relations. The relations between the Centre and the States can be conveniently studied under the following categories.

## **LEGISLATIVE RELATIONS**

- The Union State relations in the legislative sphere have been dealt by Articles 245 to 254. The Constitution clearly provides that the Parliament shall have exclusive jurisdiction to make law for the whole or any part of the territory of India with regard to subjects mentioned in the Union List. This list contains 97 subjects like defence, foreign affairs, currency, union duties, communication, etc.
- On the other hand, the State enjoys exclusive power over the 66 items enumerated in the State List. This List contains subjects like public order, health, sanitation, agriculture etc. In addition, there is a Concurrent list containing 47 subjects like criminal law and procedure, marriage, contracts, trust, social insurance etc. over which both the Union and the State Governments can legislate.
- The constitution also vests the residuary powers (viz., enumerated in any of the three Lists) with the Central Government. It may be noted that in this distribution of powers, the Union Government has certainly been

given a favoured treatment. It has not only been granted more extensive powers than the States, even the residuary powers have been granted to it contrary to the convention in other federations of the world, where the residuary powers are given to the States.

- If the law of the Union Government and the State Government come into clash with each other the former prevails. However, a State law on the Concurrent List shall prevail over the Central law if the same had been reserved for the consideration of the President and his consent had been received before the enactment of the Central law on the same subject. This clearly gives some leeway to the States.

### **Union's Power to Legislate on States' Subjects**

Though under ordinary circumstances the Central Government does not possess power to legislate on subjects enumerated in the State List, but under certain special conditions the Union Parliament can make laws even on these subjects. In the following cases Union Parliament can legislate on the subject listed in the State List.

- If the Rajya Sabha declares by a 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 the Parliament should make laws with respect to any matter, enumerated in the State List, specified in the resolution. After such a resolution is passed it is lawful for the 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. Such a resolution remains in force for a period of one year and can be further extended by one year by means of a subsequent resolution. It may be observed that this provision has been used only in very few cases and has not added to the powers of the Parliament.
- The Parliament can legislate on the subjects mentioned in the State List when the Proclamation of Emergency has been made by the President on grounds of internal disturbances or external aggression. However, the laws thus made by the Parliament shall cease to have effect on the expiration of a period of six months after the Proclamation has ceased to operate, except as respects things done or omitted to be done before the expiry of the said period. Thus, during emergency the Parliament can legislate on subjects in all the three lists and the Federal Constitution gets converted into unitary one.
- The President can also authorise the Parliament to exercise the powers of the State legislature during the Proclamation of Emergency due to breakdown of constitutional machinery in a state. But all such laws passed by

the Parliament cease to operate six months after the Proclamation of Emergency comes to an end.

- The Parliament can also be authorised to legislate on a state subject if the legislatures of two or more states feel it desirable that any of the matters with respect to which the Parliament has no power to make laws for the states should be regulated in such states by Parliament by law and if resolutions to that effect are passed by legislatures of those states. Thereafter, any act passed by the Parliament 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 house of the legislature of that state. The Parliament also reserves the right to amend or repeal any such act.
- The Parliament can make 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. Any law passed by the Parliament for this purpose cannot be invalidated on the ground that it relates to the subject mentioned in the state list.
- Certain bills passed by the state legislature have to be reserved by the Governor or of the state for the consideration of the President. These bills become law only after the President gives his assent. The bills which the Governor must reserve for the consideration of the President relate to compulsory acquisition of property, or those which adversely affected the Powers of the High Court.

It is quite evident from the above discussion that the Union enjoys a position of superiority in the legislative sphere and at times the states are completely at its mercy.

## **ADMINISTRATIVE RELATIONS**

- The administrative jurisdiction of the Union and the State Governments extends to the subjects in the union list and state list respectively, which clearly establishes the superiority of the Union Government in the administrative sphere as well. In addition, the Constitution contains a number of provisions which accord a position of superiority to the Union Government.
- Article 256 lays down that the executive power of every state shall be so exercised as to ensure compliance with the laws made by Parliament and any existing laws which apply in that State, and the executive power of the Union shall extend to the giving of such directions to a state as may appear to the Government of India to be necessary for that purpose.

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

#### **(i) Union Power to Give Directions to States**

- The Union Government can also give directions to the state with regard to construction and maintenance of the means of communication declared to be of national or military importance. It can also ask the state Governments to construct and maintain means of communication as part of its functions with respect to naval, military and air force works.
- It can also issue them necessary directions regarding the measures to be taken for the protection of the railways within the jurisdiction of the state. It may be noted that the expenses incurred by the state Governments for the discharge of these functions have to be reimbursed by the Union Government.
- It may be noted that the state Governments cannot ignore the directions of the Union Government, otherwise the president can take the plea that the Government of the state cannot be carried on the accordance with the provision of the Constitution and impose President's rule on the state. In such an eventuality the President shall assume to himself all or any of the functions of the state Government.
- The President of India can also entrust to the officers of the State certain functions of the Union Government. However, before doing so the President has to take the consent of the state Government. Further, the extra cost incurred by the states in the discharge of these obligations has to be reimbursed by the Union Government.

#### **(ii) All-India Services**

- The presence of the All India Services like the Indian Administrative Services, and the Indian police Services etc. further accords a predominant position to the Union Government. The members of these services are recruited and appointment held by the Union Public Service Commission.

- The members of these services are posted on key posts in the states, but remain loyal to the Union Government. The right to create new All India Services also rests with the Union Parliament.
- The Union Parliament can create a new All India Service only if the Rajya Sabha passes a resolution by two thirds majority of the members present and voting that it is necessary in the national interest to do so.

### **(iii) Water Disputes**

The Parliament has been vested with power to adjudicate any dispute or complaint with respect to the use, distribution or control of the waters of, or in any interstate river or river valley. In this regard, the Parliament also reserves the right to exclude such disputes from the jurisdiction of the Supreme Court or other Courts.

### **(iv) Responsibility of the Union**

- Under the Constitution, it is the responsibility of the Union Government to protect the states from external aggression and internal disturbances. This leaves much scope for Centre's interference in the spheres of the state.
- The President can declare national emergency in case of war or possible threat of war as well as armed rebellion. During this emergency the Centre can give directions to the states as to the manner in which their executive power is to be exercised.
- The President can authorise the Parliament to make laws with respect to any matter including power to make laws conferring powers and imposing duties or authorising the conferring of power and the imposition of duties upon the Union officers and authorities of the Union as respects that matter unmindful of the fact, that the matter does not belong to the Union list. Similarly, it is the duty of the President to ensure that the government of the state is carried on in accordance with provisions of the Constitution.
- If the President is satisfied that the government of the state cannot run along constitutional lines, he can declare constitutional emergency in the state and assume to himself all or any of the functions of the Government of the state and all powers of the State other than those exercised by the legislature and High Court of the State.
- The President can also declare that the powers of the state legislature shall be exercised under the authority of the Parliament and make such incidental and consequential provisions as appear to him to be necessary or desirable for giving effect to the objects of the Proclamation.

### **(v) Role of Governors**

- The Central Government exercises effective administrative control over states through the Governors of State who are appointed by the President and hold office during his pleasure. The Governors can reserve certain bills passed by the State legislatures for the consideration of the President.
- President can also issue directions and orders to the Govern or which are binding on him. Thus, the Centre can exercise effective control over the States through the Government to topple State Governments which are irksome to the Central Government.

### **(vi) Judicial System**

- As the Constitution of India provides for a single judicial system both the Union and the State Governments are duty bound to give full faith and credit to public acts, records, proceedings and judicial decisions of the Supreme Court and the High Court. The manner in which these acts, records and proceedings have to be preserved is determined by Parliament by law and the slates do not have any say in this regard.
- In the matter of appointment of the Chief Justice and the Judges of the Supreme Court as well as the High Courts, the states have no say. They are appointed by the President in consultation with the Chief Justice of India and such other judges of the supreme courts and the High Court as he deems fit to consult.
- The initiative for the removal of these judges also rests with the Parliament which can pass necessary resolution for their impeachment and recommend to the President to take necessary action. The States are in no way connected with the appointment or removal of the judges of the Supreme Court or High Court.

### **(vii) State Government's Power**

- The State Governor can entrust conditionally or unconditionally certain functions with respect to the executive powers of the state to the officers of the Union with the consent of the Union Government (Article 258A).
- It may be observed that the original Constitution did not contain this provision. This provision was added through Seventh Amendment in 1956 in view of the objections by the Comptroller and Auditor-General over construction of Hirakund Dam by the Central Government on behalf of the Orissa Government and debiting of cost to the state accounts.

#### **(viii) Impact of the 42nd Amendment Act**

- A new turn was given to the Centre State Relations in the administrative sphere by the Forty-Second amendment of 1976, which empowered the Central Government to deploy armed forces for dealing with any grave situation of law and order in the States.
- The contingents so employed were to act in accordance with the instructions of the Central Government and not to work under the direction, superintendence and control of the state government concerned, unless specifically directed by the Central Government. This change naturally greatly restricted the autonomy of the states and was resented by the states. Ultimately this provision was nullified by the 44th Amendment.
- It is thus, evident that in the administrative sphere the states cannot act in complete isolation and have to work under the directions and in cooperation with others of the federation.