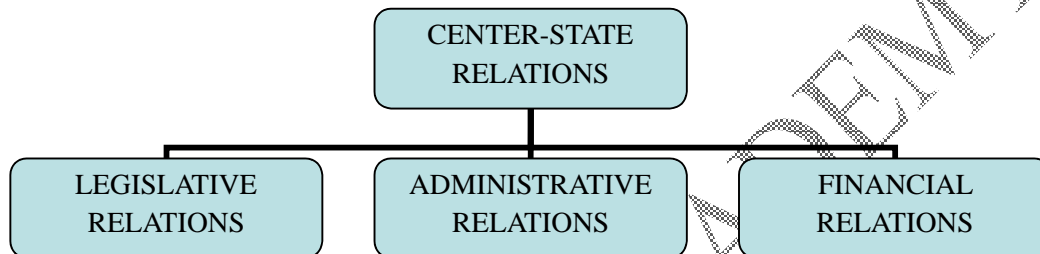


CENTRE-STATE AND INTER -STATE RELATIONS

Center -state relation

- ❖ The Constitution of India ,being federal in structure, divides all power(legislative ,executive and financial) between the center and the states. However, there is no division of judicial power as the constitution has established an integrated judicial system to enforce both the central laws as well as state law.
- ❖ **PART XI** of the constitution contains concepts relating to CENTER-STATE RELATIONSHIP



LEGISLATIVE RELATIONS:

- ❖ **ARTICLES:** A245 - A255
- ❖ **ASPECTS IN LEGISLATIVE RELATIONS**
 - 1.Territorial extent of central and state legislation.
 - 2.Distribution of legislative subjects.
 - 3.Parliamentary legislation in state field.
 - 4.Centre`s control over state legislation.

1.TERRITORIAL EXTENT OF CENTRAL AND STATE LEGISLATION:

- ❖ **ARTICLE 245**
- ❖ **Parliament:** whole of the country[including sea border] (or)part of the territory+ **Extra territorial legislation** ~to make laws applicable to the Indian citizens and their property in any part of the world.
- ❖ **State:** within the border of state(except:nexus in object between states).
- ❖ **Exceptions:**
 - 1.**President:**regulations relating peace and development in 4U.T`s (A&&N,laksh,D&NH,D&D).modify laws in tribal areas.
 - 2.**Governor:**not to apply (or) modify parliamentary laws in scheduled and tribal areas.

2.DISTRIBUTION OF LEGISLATIVE SUBJECTS:

❖ ARTICLE 246,247,248,254,255.

❖ SCHEDULE 7(A246~3 LISTS)

List I: Union list~ original:97 subjects,At present:100 subjects

List II:State list~Original:66 subjects,At present:61 subjects

List III:Concurrent List~Original:47 subjects,At present:52 subjects

42nd Amendment: 5 subjects from **state to concurrent list**

1.education

2.forests

3.weights and measures

4.protection of wild animals and birds

5.administration of justice(all courts)~except supreme and high courts.

❖ POWER OF PARLIAMENT (A247): To provide for establishment of additional courts for better administration of parliamentary laws(Union list).

❖ RESIDUARY POWER(A248):Subjects not mentioned in any of the list in Seventh schedule-→parliament has the power to make law(includes new tax imposition).

❖ CONFLICT BETWEEN STATE AND UNION LAWS(A254).

1.In case of conflict between the central law and the state law on a subject enumerated in the concurrent list, **the Central law prevails over the state law.**

2.**Exception**:If the state law has been reserved for the consideration of the president and has received his assent,the the state law prevails in that state.(but::parliament can override it by making a law by **subsequently making a law** on the same matter).

3.PARLIMENTARY LEGISLATION IN THE STATE FIELD:

❖ ARTICLES 249,250,251,252,253.

❖ NATIONAL INTEREST(A249):Rajya sabha must pass resolution(2/3rd majority)~force for 1 year~can be renewed any no of time ~ ceases 6 months after resolution ceases(with out renewing) ~ state can make law but union law prevails over it.

❖ NATIONAL EMERGENCY(A250):proclamation of national Emergency by President of India ~ moperative after ^months (emergency ceases). ~state can make law but Union law prevails over it.

❖ **A251**:the law made by parliament in state list (under A249 and A250),whether passed before or after the law made by state legislature of the state,prevails over the law made by state legislature made under the same subject.

❖ WHEN STATES MAKE REQUEST(A252):When 2 or more states request parliament to make law in prescribed subject(surrender of power of states to union).

Other states can pass resolution to enact the law(same).

Examples:

1.wild life act,1972

2.transplantation of human organs,1994.

3.water(prevention and control of pollution)act,1974

- ❖ INTERNATIONAL AGREEMENTS(A253):parliament has the power to enact laws in state list for implementing international treaties,agreements,conventions.(to fulfill international obligations).

Examples:

1.TRIPS

2.Environment related acts

3.Anti hijacking act,1982

4. UN Act,1947

5.Geneva convention,1960.

- ❖ President`s Rule(A356):Parliament empowered to make laws in state list. ~ law made is operative even after the ceasure of president`s rule ~ But can be revealed or altered or re-enacted by state legislature.

4.CENTRE`S CONTROL OVER STATE LEGISLATION:

- ❖ Governor can reserve certain types of Bills passed by state legislature for the consideration of President.(President enjoys **ABSOLUTE VETO** over them).
- ❖ Certain bills can be introduced in state legislature with previous permission from President(matters relating to freedom of trade and commerce).
- ❖ FINANCIAL EMERGENCY(A360):President can direct the states to reserve (money,financial)bills for his consideration.

ADMINISTRATIVE RELATIONS:

ARTICLES:256-263

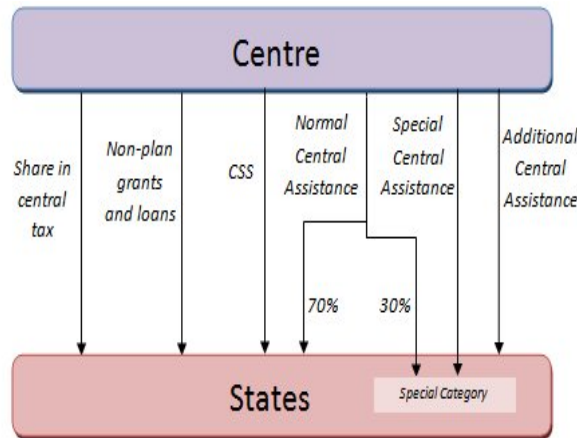
- ❖ **A256**:The states are expected to comply with the laws of the parliament and not impede the exercise of the executive powers of the union.
- ❖ **A257**:Center can issue direction regarding the construction and maintenance of communications of national or military importance.It can also give instructions to state for protection of railways.Expenses incurred by the states on this account are reimbursed by the Union.
- ❖ **A258**:The president can entrust officers of the states (with [agreement]or without [legislation under union list]the consent of state) certain functions of the Union,but the extra costs have to be met by the Union.
- ❖ **A258A**:Governor of the state may, with[agreement] the consent of the central government,entrust to that government any of the executive functions of the state.(no legislative delegation possible for state).
- ❖ **A260**:Gov. of India can (by agreement) make law to territories outside India.
- ❖ **A261**: 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.

OTHER MEANS OF CONTROL:

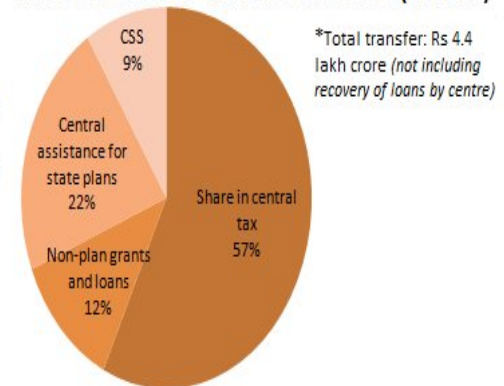
- ❖ **A262:** Parliament can provide for the adjudication of any dispute or complaint with respect to the use, distribution and control of waters of any inter-state river and river valley.
- ❖ **A263:** The President can Establish an Inter –State council to investigate and discuss subject of common interest between the center and the states.
- ❖ Parliament can appoint a body to regulate interstate free commerce and trade.(no body yet).
- ❖ **ALL INDIA SERVICE:** Recruited and trained by Center.
ICS----→ IAS and IP-----→IPS in 1947;1966-→ IFS was created
A312:Parliament can create AIS on the basis of resolution passed by Rajya sabha(2/3rd majority)
- ❖ **PUBLIC SERVICE COMMISSION:**
UPSC: Members and chairman selected by center.can serve state needs on request of governor (with president approval).
SPSC:Though members appointed by governor,can be removed only by president.
JPSC:For two or more states.chairman appointed by president.
- ❖ **INTEGRAL JUDICIAL SYSTEM:** Judges of Supreme court and high court is appointed by President Of India.Can be removed and transferred only by President of India. Parliament can constitute Common High Court.
- ❖ **RELATIONS DURING EMERGENCIES:**
A352:National emergency
A356:President`s rule
A360:Financial Emergencies.
- ❖ A355:Duties of Center:to protect every state against external aggression and internal disturbances,to ensure gov carried out in accordance with constitution.
- ❖ The Governor is appointed by President of India
- ❖ The state election commissioner ,though appointed by Governor of the state, can be removed only by President.
- ❖ **EXTRA CONSTITUTIONAL DEVICES:**
Planning commission
National development council
Zonal council
University Grants commission
Transport development council

Financial relations:

- ❖ A268-A293 Part XII of the Constitution.
- ❖ The states are greatly dependent on the Center in this sphere as well.Though the constitution provides independent sources of revenue to states(levy taxes on item nos 45-63of the state list),these are not adequate.Therefore,the states have to depend on the center for subsidies and contributions.



Value of resources* transferred to states (2011-12)



1. DISTRIBUTION OF TAXES

- ❖ The 80th Amendment of 2000 was enacted to give effect to the recommendations of the 10th Finance Commission. The commission recommended that out of central taxes and duties 29% should go to the states. ~~ALTERNATIVE SCHEME OF DEVOLUTION.----- came into effect RETROSPECTIVELY from apr1,1996.
- ❖ The 88th Amendment added new article 268-A dealing with service tax. Also inserted new subject to union list Service tax(92-C). Levied by center but collected and appropriated by both union and state.

A. TAXES LEVIED BY CENTER BUT COLLECTED AND APPROPRIATED BY STATE(A 268):

The proceeds of these duties levied within any state do not form part of the consolidated fund of India but are assigned to that state. (Stamp duties~bills of exchange, cheques, promissory notes, policies of insurance, transfer of shares, Excise duties~containing alcohol and narcotics).

B. SERVICE TAX LEVIED BY THE CENTRAL GOVERNMENT BUT COLLECTED AND APPROPRIATED BY CENTER AND STATES(A 268-A): The principles of appropriation are formulated by Parliament.

C. TAXES LEVIED AND COLLECTED BY THE CENTER BUT ASSIGNED TO THE STATES (A 269): Taxes on sale of purchase of goods in course of inter-state trade and commerce. Taxes on the consignment of goods in the course of inter-state trade or commerce. Principles laid down by Parliament.

D. TAXES LEVIED AND COLLECTED BY THE CENTER BUT DISTRIBUTED BETWEEN THE CENTER AND THE STATE (A 270): All taxes in the union list except: Duties and taxes referred in A268, A268-A, A269, A271 and any cess levied for special purpose. distribution is prescribed by President of India On the advice of Finance commission.

E. SURCHARGE ON CERTAIN TAXES AND DUTIES FOR THE PURPOSE OF CENTER (A 271): Parliament can levy surcharges and duties as mentioned in A269 and A270. Goes fully to union.

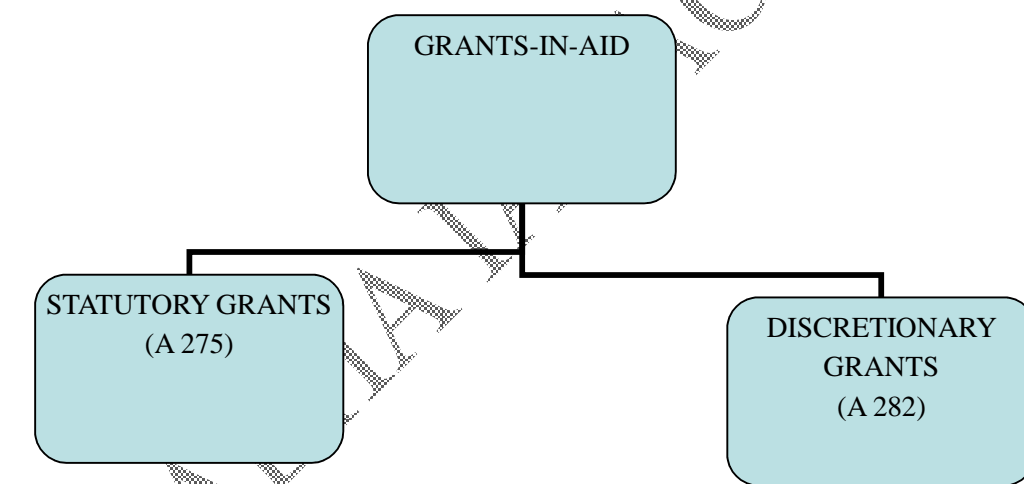
F. TAXES LEVIED AND COLLECTED AND RETAINED BY THE STATES:
Enumerated in state list~20 in number. **tolls, capitation, fees, sales tax, land revenue, excise duties, tax on agri income etc.**

2. DISTRIBUTION OF NON-TAX REVENUE:

CENTER: posts, telegraph, banking, broadcasting, railways, coinage currency, psu's, escheat and lapse.

STATE: irrigation, forests, fisheries, psu's (state), escheat and lapse.

3. GRANTS-IN-AID TO THE STATES:



STATUTORY GRANTS: (A 275)

- ❖ A275~Parliament -> financial assistance to state.
- ❖ Charged from consolidated fund of India
- ❖ Both **general and special purpose**.
- ❖ On the recommendations of Finance commission.

DISCRETIONARY GRANTS: (A 282)

- ❖ On the advice of Planning commission (to help states fulfill plan targets, influence state and

effectuate the national plan).

- ❖ Not necessary to give.
- ❖ Both center and state can make grants for **special purpose**.
- ❖ Largest part of the grant (C-→S) hence P.C gained significance.

OTHER GRANTS:

- ❖ For temporary period
- ❖ Export duties **on jute and jute products**
- ❖ Charged from consolidated fund of India
- ❖ Recommended by **Finance commission**.

FINANCE COMMISSION(A 280):

- ❖ govern grants-in aid
- ❖ distribution of taxes between center and state
- ❖ fund for local government from CFI
- ❖ Any other matter referred by President of India.

PROTECTION OF THE STATES` INTEREST:

To protect the interest of states in the financial matters,the constitution lays down the bills(varies state tax,agri income,surcharge,distribution of taxes) can be introduced in the Parliament only on the recommendation of the President.

INTER –GOVERNMENTAL TAX IMMUNITIES:

- ❖ Exemption of central property from state taxation
- ❖ Exemption of state property or Income from central Taxation.
- ❖ Decided by Parliament.
- ❖ S.C ADVICE:center can impose custom duties for import/export of state.

TRENDS IN CENTER-STATE RELATIONS

- ❖ Till 1967,One party rule in Center and states~ smooth relationship.
- ❖ 1967-1989~Centres domination over state.
- ❖ 1989—coalition era. State influences centres decisions.
- ❖ **TENSION AREAS IN STATE-CENTER RELATIONS:**
 - 1.Appointment/dismissal of Governor
 - 2.Discriminatory role of governors
 - 3.Imposition of presidents rule
 - 4.Deployment of central forces

- 5.Reservation of state bill to president~ Absolute VETO
- 6.Discrimination in financial allocation
- 7.P.C approving in state projects
- 8.All India service~ management
- 9.Use of electronic media~ political purpose
- 10.Sharing of finance
- 11.Encroachment of center on state list.
- 12.Enquiry/Disciplinary commissions.

RECOMMENDATIONS/SUGGESTIONS OF VARIOUS COMMISSIONS REGARDING CENTER-STATE RELATION

1.ADMINISTRATIVE REFORMS COMMISSION(1966):

- ❖ Establishment of Inter-state Council under Article 263
- ❖ Governors ~ long experience,non-partisan
- ❖ Delegation of powers(maxim. Possible) to the states
- ❖ To reduce dependency of states ~ more financial resource to state
- ❖ Deployment of central forces ~ only on request of state

2.rajamannar commission(tamil nadu)(1969):

- ❖ Establishment of Inter-state Council under Article 263
- ❖ A356,357,360 must be repealed
- ❖ All India services should be abolished
- ❖ Certain subjects from union and concurrent list----→state list
- ❖ Residuary powers ----→states
- ❖ Planning commission must be disbanded(a statutory body must be appointed).
- ❖ Financial commission-→made permanent body

3.anandpu sahib resolut ion(1973):

- ❖ Akali Dal resolution ~ Punjab
- ❖ Center`s Jurisdiction must be restricted to defence ,foreign affairs,communication and currency.
- ❖ Constitution should be made Federal(purely)
- ❖ Equal representation/authority of all states.

4. west Bengal`s memorandum(1977):

- ❖ Union -----→ federal (constitution).
- ❖ Center`s Jurisdiction must be restricted to defence ,foreign affairs,communication and currency.
- ❖ Residuary powers-----→ states
- ❖ A356,357,360 must be repealed
- ❖ On reorganization of states ----→ states consent is must.
- ❖ Total revenue ~ 75% must be allocated to states
- ❖ Rajya shaba ~ equal power/representation to all states
- ❖ All India services should be abolished

5.Sarkaria commission(1983): 247 recommendations made

- ❖ Formation of inter -governmental council ~ P.M + C.M
- ❖ A356 ~ sparing use; alternative government must be explored;must be approved by parliament
- ❖ Governor ~ different political party of center
- ❖ Judges of high court ~ should not be transferred without their consent.
- ❖ 3 language formula
- ❖ Work affecting local government ~ local language
- ❖ Central`s control over radio and television ~ relaxed
- ❖ Favoured new All India service
- ❖ A263-interstate council.
- ❖ NDC and Zonal council ~ active

124 recommendations accepted; 2001 BJP

6.punchhi commission: (2007)

- ❖ Amendment A355/A356 ~ limited period
- ❖ Localizing Emergency Provision ~ confined to districts and blocks : for a short period (<3 months)
- ❖ Communal violence Bill (Amendment) ~ deployment of central forces ~ short period ~ with consent from state.
- ❖ Guidelines for appointment of Chief minister
- ❖ Governor ~ not active in politics (atleast 2 yrs),eminent person ,not belong to the state,fixed five year tenure,impeachment by state assembly, C.M say in appointment,appointment by committee- p.m, speaker ,v.p, home minister.

inter -state relation

The successful functioning of the Indian federal system depends not only on the harmonious relations and close co-operation between the center and the state but also between the states *inter se*.

1.inter-state water disputes(A 262):

- ❖ Parliament ~ by law ~ distribution/control of water resources.
- ❖ Parliament ~ No courts in India to exercise jurisdiction in respect of dispute.
- ❖ Parliament enacted two laws : The river Boards Act(1956)~ request of state governments~ for regulation of river valley, The Inter-State Disputes Act (1956)~ ad-hoc tribunal ~decision will be final ~ no judicial review.

SNO	TRIBUNAL NAME	SET-UP IN	STATE INVOLVED
1.	Krishna water disputes tribunal	1969	Maha,kar,A.P
2.	Godavari water dispute tribunal	1969	Maha,kar,A.P,M.P,ori
3.	Narmada water dispute tribunal	1969	Raj,guj,M.P,mah
4.	Ravi and Beas water dispute tribunal	1986	Punjab,har
5.	Cauvery water dispute tribunal	1990	Kar,ker,T.N,pud
6.	Second Krishna water disputes tribunal	2004	Maha,kar,A.P

2.Inter-states council s (a 263):

- ❖ To effect co-ordination between the states and C-S.
- ❖ President can establish councils –public interest.
- ❖ Duties assigned ~ enquire/advice –disputes, investigate/discuss ~ common interest, recommendations for better co-ordination
- ❖ A131(S.C to solve inter -state disputes) Vs A263 :: S.C (only legal disputes, binding),Council(legal/non-legal ,only advisory).
- ❖ **Special Councils formed:** (first 3 ~ president,other 2 ~ parliamentary act).Related subjects.
 - 1.Central council of health
 - 2.central council of local government and urban development.
 - 3,4 regional councils for sales tax for N,E,W,S zones.
 - 4.Central council for Indian medicine
 - 5.Central council of Homeopathy.

ESTABLISHMENT OF INTER-STATE COUNCIL:

- ❖ 1990 ~ V.P.Singh Government ~ On Sarkaria commission recommendations.
- ❖ Members: P.M , C.M ,Administrators of U.T, 6 central Cabinet ministers(by P.M) including Home minister
- ❖ State minister can be invited
- ❖ Duties assigned ~ enquire/advice –disputes, investigate/discuss ~ common interest,

recommendations for better co-ordination.

- ❖ Meet thrice in a year.

3.inter-state trade and commerce(a301-307):

- ❖ Article 301 – 307 ; Part XIII

- ❖ PROVISIONS:

1. A301 – Declares that trade, commerce and intercourse throughout the territory of India shall be free ~ No restrictions b/w states . Exceptions A 302-305.
2. A302 ~ Parliament can impose restrictions. should not discriminate. only in case of scarcity of goods.
3. A303 ~ S.L can restrict(reasonable) ~ previous sanction from president ~ should not give preference.
4. A304 ~ S.L can impose tax on goods(but no discrimination) ~ similar goods in state affected.
5. A 305 ~ freedom of trade ~ subject to nationalization laws

- ❖ Parliament ~ can constitute Authority to regulate trade ~ no such authority yet.

4.zonal council s:

- ❖ Statutory body(Act of Parl.) ~ States Reorganisation Act 1956
- ❖ 5 Zones
- ❖ Advisory body
- ❖ MEMBERS: **Home minister** of central government, C.M +2 MINISTERS of member states, Administrators of U.T's
- ❖ ADVISORS: person from P.C,C.S of member states, Development commissioner of states.
- ❖ OBJECTIVES: integration of countries, platform for resolving regional issues, growth of region, remove after effects of reorganization,co-ordination and co-operation, secure political equilibrium.

SNO	NAME	MEMBERS	HQ
1	Northern ZC	J&K,him.P,Har,Pun,Raj,Delhi,Chand	N.Delhi
2	Central ZC	U.P,Uttar,Chhat,M.P	Allahabad
3	Eastern ZC	Bih,Jhar,W.B,Oris	Kolkatta
4	Western ZC	Guj,Maha,Goa,dadra&N,D&D	Mumbai
5	Southern ZC	A.P,kar,T.N,Ker,pud	Chennai

5.north-eastern council :

- ❖ Established by separate act of parliament ~ North Eastern Council Act 1971
- ❖ **Members:** Assam, Manipur, Meghalaya, A. Pradesh, Mizoram, Tripura, Sikkim.
- ❖ **Functions:** coordinated regional planning ~ common importance, Maintenance of security and public order.

CURRENT ISSUES:

1. **Inter- state water disputes** ~ kaveri river water dispute between Karnataka and Tamil nadu, S.C verdict ,River board, Central gov. order (Gazettee). Krishna Water Tribunal, Mullai periyar dam issue, Hogenakkal Project.
2. **Goods and services Tax:** CGST, SGST ~ 13th F.C task force report, Distribution issues.
3. **Smaller states and balance of power:** Telengana bill, other separatists in India, Positive of Smaller states ~ 2nd ARC recommendations
4. **Equal representations of state in rajya sabha:** kildip nayyar vs, union of India case ,2nd Arc recommendations
5. **Maintenance of communal harmony:** prevention of communal and targeted violence (access to justice and reparations) bill, 2011 ~ affecting federal nature ~ State's dissatisfaction.
6. **MIGRATION:** Constitutional provision A19(1)(d) ~ affecting development ~ affecting demographic division ~ over population in urban areas/states.
7. **Naxals:** spread along the underdeveloped states, Deployment of central force, Red corridor, Gov. initiatives.
8. **Mineral distribution:** Constitutional provision ~ Centrelist and state list , Over exploitation, mining scam(iron ore ,coal)
9. **Infrastructure** ~ Sustainable, inclusive growth, SEZ ,Land acquisition by state government.

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