

Administrative and Legislative Relationship between States and Union

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ABSTRACT: *The Indian Constitution of 1950 is the country's constitutional standard. It primarily lays down the structure that describes the constitutional values, structures, powers and obligations of different governmental institutions and lays down the citizens' fundamental rights and responsibilities, etc. A legislative form of government is followed by the Constitution. In addition, the theory of the separation of powers follows. Neither solely federal nor purely unitary is the Constitution. Scholars have also described it as 'quasi-federal.' India has changed over a period of time from competitive federalism to cooperative federalism. Certain subject matters are to be dealt with by the Government of the Union, i.e. within the Union List. Again, such subject matters, i.e. the State List, are required for the States to deal with. Then there is a parallel list where there is the existence of subject matters that both the Union and the State are capable of dealing with. If any kind of conflict exists between the Union and the State concerning the treatment of subjects in the concurrent list, the judgment of the Center shall prevail over that of the State. Our focus in this paper will be on the Indian Constitution's administrative and legislative relationship between states and unions.*

KEYWORDS: *Constitution, Division of Powers, Federalism, Parliamentary, Unitary.*

INTRODUCTION

Dr. B.R. Ambedkar once said that the fundamental principle of the federations is that the legislative and executive power is not separated by any legislation to be created by the Centre, but by the constitution itself, between the Centre and the states. Member States do not rely on the center for their legislative or executive authority in any way[1]. In this matter, the States and the Center are the same. The above statement makes it very clear that a federal system is defined by the Constitution of India as the basic structure of the country's government. The union and states derive their authority from the Constitution, which divides all powers- legislative, executive and financial-. As a result, the states do not delegate to the Union yet, as provided for in the Constitution, are autonomous within their spheres[2].

Administrative relationship between the Union and the States

In accordance with Article 256 to Article 263 of the Constitution of India, the administrative ties between the Centre and the States are specified. In 2007, the Punchhi Commission was also set up by the Government of India to assess Centre-state ties. Article 246 of the Constitution deals with the subject-matter of the legislation to be enacted by the Parliament and the Legislatures of the State. Three lists are set down by the Constitution, under Schedule VII. The issues between the Centre and the States are separated by these lists. List I is the Union List, the State List is List II, and the Concurrent List is List III[3].

The central government, as a fixed rule, has administrative control over the issues on which the Parliament is empowered to make laws. The administrative authority of the state governments shall be exercised in respect of the matters stated in the State List. It is possible to briefly address the related articles under the Indian Constitution as follows:

- i. *The obligation of the Union and the States:* Pursuant to Article 256; the executive powers of the State shall be exercised in accordance with the rules of Parliamentary law and the executive powers of the Union shall be applied to the executive powers of the State which it may deem appropriate for that reason[4].

- ii. *Control of the Union over the States in certain matters:* Article 257 provides that the exercise of the executive powers of the States shall not hinder or prejudice the exercise of the executive powers of the Union, and the executive powers of the Union shall apply to the executive powers of a State which it may deem appropriate for that purpose. Such directives can also be applied by the Government of the Union to a State on 2 particular issues—
- Building and sustaining contact ensures that it has national and military importance.
 - Measures to be taken by the States for the safety of railroads within the perimeter of the States[5].
- iii. *Power of the Union to confer powers, etc. on the State in certain matters:* Under Article 258, with the consent of the State Government, Parliament can, either conditionally or unconditionally, entrust the functions relating to the executive power of the Union to the State or to its officers.
- iv. *Powers of the States to entrust functions on the Union:* Pursuant to Article 258(A), the Governor of a State can, with the consent of the Government of the Union, entrust to it or to its officer's functions relating to any matter within the framework of the executive power of the Union.
- v. *Disputes relating to Water:* Article 262 specifies that the Parliament is allowed to legitimately grant adjudication of any dispute or complaint in respect of any dispute or complaint—
- The uses;
 - Control or distribution of every interstate river or river valley over its waters.
- Parliament can legislate to deprive the Supreme Court or any other Court of Justice of jurisdiction over inter-state river and river valley water disputes[6].

Legislative relationship between the Union and the States

Articles 245 to 255 of Part XI of the Constitution regulate the constitutional relations between the Centre and the state. It allows for a double separation between the Union and the States having legislative powers, i.e. in terms of territorial recognition and subject-matter.

(i) Territory jurisdiction:

With regard to the territory, Article 245(1) allows the State Legislature, according to the provisions of this Constitution, to make laws in respect of the whole or any part of the State to which it belongs. Unless the borders of the state itself are broadened by an act of Parliament, in no circumstances can a state legislature expand territorial authority. On the other hand, Parliament has the power to legislate "on all or part of the territory of India, which includes not only the states, but also the territory of the Indian Union." It also has the force of extra-territorial legislation that no state legislature has. This implies that Parliament's legislation will apply not only to individuals and territories, but also to Indian individuals living anywhere in the world. There are, however, other limits to the geographical competence of Parliament. However, some specific provisions of the Constitution are subject to Parliament's plenary territorial competence[7].

In the instance of *A.H. Wadia v. CIT*[8], the court held that the State legislature should not make extraterritorial law if there is an acceptable relationship or connection between the State and the object, i.e. subject matter of law (objects cannot be located physically within territorial limits of the State). A licensed company in England was a partner in an Indian enterprise, in the case of *Wallace Bros, v. CIT*[9]. The goal of the Indian revenue tax authorities was to tax the entire income of the company. The Court claimed that the derivation of a significant part of its income from British India for a year provided a company with a sufficient territorial relationship to justify its domestic consideration in India for all income tax purposes.

(ii) Subject Matter:

As far as the subjects of law are concerned, the Constitution uses as its basis the Government of India Act of 1935 and subdivides jurisdiction between the Union and the States into three lists. These are: (a) the list of the Union, (b) the list of States, and (c) the list of the Concurrent.

On the Union List, there are 98 subjects over which the Union has exclusive jurisdiction. Topics on the agenda of the Union, such as defense and foreign affairs, are of national importance, etc. In the State List, there are 59 topics over which nations have exclusive jurisdiction.

The problems referred to in the list of States, such as public order, police and public protection, are of local or national significance. The Concurrent List includes 52 topics, such as criminal and civil cases, marriage and divorce, economic and special planning unions, money, media, magazines, jobs, population control and family readiness, etc., and the Union and States can pass laws on this list, but in the case of a conflict between the Central Law and the Central Law, the federal rule prevails over state law.

The aim of the list's constitutional inclusion was to ensure consistency across the country of the main legal principles. Legislatures in both the parliament and the state may make laws on the above-mentioned matters, but the center has a preliminary and ultimate right to legislate on existing matters. In the event of a dispute in the Concurrent List between the law of the State and the law of the Union relating to the subject matter, the law of Parliament shall prevail.

Residuary powers of legislation

The constitution also confers residual powers on the Union Parliament (subjects not mentioned on any of the three lists). Article 248 states that, in respect of anything which is not included in any of the three lists, the legislature has exclusive power to make laws. It reflects the inclinations of constitutionalism to a strong heart. Another distinctive characteristic of the residual powers is that the definitive decision about whether or not a specific matter falls under the court's residual powers[10]. Residual rights have been given to the Union, where residual powers are delegated to the Governments, contrary to the conventions of other federations around the world. However, it is up to the judge in the case of a dispute to decide whether or not a specific issue comes under the residual control. Consequently, Parliament is empowered to pass any legislation on any topic not referred to in List II or III.

CONCLUSION

The ties of the Center-States are the central elements of federalism in India. For the well-being and protection of the people of India, the central government and the state government work together. Working together in the fields of protection of the environment, control of violence, family control and socio-economic planning. The Indian Constitution aims at reconciling national unity while granting the state governments the right to retain state power. It is true that greater powers than state governments have been delegated to the union, but this is a matter of degree and not quality, as the Indian constitution includes all the basic features of a federation. It is also defined in nature to be quasi-federal. Therefore, it can be safely said that the Indian Constitution is predominantly federal in nature, although it has distinctive characteristics that allow it to assume unitary characteristics when needed. Federal, but unitary in its spirit.

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