



## Federalism towards administrative and legislative relationships in India

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### Abstract

The legal framework of the nation is the 1950 Indian Constitution. It basically gives forth the framework for describing the constitutional principles, structures, authorities, and duties of various governmental institutions, as well as outlining the fundamental rights and obligations of individuals, etc. The Constitution establishes a legislative system of governance. The theory of the separation of powers is also included. The Constitution is neither entirely federal nor purely unitary. It has also been referred to as "quasi-federal" by academics. Throughout time, India transitioned from a competitive to a cooperative federalism. The Union List specifies specific topics that must be handled by the Union Government. Similarly, the States are compelled to deal with such topics, in this case, the State List. The existence of topics that both the Union and the State are capable of handling is then listed in a parallel list. If there is a disagreement of any type regarding how subjects on the concurrent list should be handled between the Union and the State, the Center's decision shall take precedence. This presentation will concentrate on the administrative and legislative relationships between states and unions under the Indian Constitution.

**Keywords:** federalism, legislative, administrative, centre-state relations, federal laws

### Introduction

A system known as federalism divides authority between the federal government and the states. Both have their own spheres where they are free to use their powers without the other interfering. The oldest federation in the world is the United States of America. India has a federal government structure, although it is different from the one in the USA. In India, there is a division of authority between the national and local governments, but there is no clear line between them. Instead, the Union and the states work in unison, and occasionally the federation is transformed into a unitary one. India is said to as a quasi-federal country as a result.

Indian government structure, including the connection between the federal and state administrations, is outlined in the country's constitution. The allocation of legislative, administrative, and executive functions between the Union government and the States of India is outlined in Part XI of the Indian Constitution. A Union List, a State List, and a Concurrent List, which represent, respectively, the powers given upon the Union government, those conferred onto the State governments, and the powers shared among them, are used to categorise the legislative powers.

The delegated powers of the constituent units are expected to be equal under this symmetrical federalism. Jammu and Kashmir's state status has historically been different from other states due to Article 370 of the Indian Constitution, which is an intentionally transitory clause (which was revoked by the Parliament in 2019). Union territories are unitary in nature and are under the direct control of the Union government. The constitution's Article 1 (1) establishes a two-tier system of government with a separate local elected government. Under Articles 239AA and 239A, respectively, legislatures were granted to Delhi and Puducherry.

### Analyzing the federal system in India

India is a federal nation with authorities split between Unions and States, yet with some unitary characteristics. It is referred to as a quasi-federal system since it combines elements of unitary and federal states. The constitution reflects these characteristics.

### Legislative relations

The Constitution divides authority into three different categories with respect to legislative relationships. We have used a system where there are two lists of legislative authorities, the Union List and the State List, one for the Center and the other for the State. The Concurrent List is a new list that has also been added.

The largest of the three lists is the Union List, which includes 97 topics of national importance. These are just a few of the significant topics on the list: defence, railroads, post and telegraph, income tax, custom duties, etc. For the entire nation, only the Parliament has the authority to pass legislation on the topics included in the Union List.

The State List includes 66 topics of regional importance. This list of major topics includes such like police, fisheries, forests, industries, and trade and commerce within the state. On the issues on the State List, the State Legislatures have the authority to pass laws.

The Simultaneous Rundown comprises 47 subjects of normal interest to both the Union and the States. A portion of the subjects remembered for this rundown is Stamp Obligations, Medications and Toxins, Power, Papers and so on. Both the Parliament and the State Lawmaking bodies can make laws regarding the matters remembered for this rundown. However, in the event of a contention between the Union and the State law connecting with a similar subject, the Union law beats the State law. Ability to enact regarding all matters excluded from any of the three records vests with the Parliament.

In specific situations, the Parliament can administer the matters referenced in the State Rounding.

The Constitution's articles 245, 246, 247, 248, 249, 250, 251, 252, 253, 254 and 255 discuss the relationship between the Center and States in terms of legislation. The primary factors used to split the legislative powers are:

- According to Article 245, the Parliament has the authority to enact laws that apply to all or specific Indian territories. A claim of extraterritorial operation cannot be used to challenge a statute passed by the Parliament.
- In contrast, the state has the authority to enact laws in any area of the state.

Laws made by one state and applied to another state may be challenged on the grounds of extraterritorial operation unless there is a linkage between the state and the object. The state legislature may only pass laws that are applicable to their respective states.

The State of Bombay created the Bombay Lotteries and Prize Competitions Control and Tax (Amendment) Act (1958) in the case of the State of Bombay v. RMD (1957) to impose taxes on lotteries and prize competitions; the respondent, whose newspaper was published in Bangalore but distributed in Bombay, also included such crossword puzzles. The respondent corporation was subject to a levy by the state government. With regard to the Act, the respondent argued that it only applied to the state of Bombay. The court ruled that an objective pursued through law cannot be regarded to be extra-territorial if there is a connection between the state and the goal. Since the respondent's newspapers are sold in the State of Bombay, the respondent is therefore required to pay the taxes.

The subject matter on which Parliament and state legislatures may pass laws is covered in Article 246. The seventh schedule divides the subject into three lists:

- The Union list includes topics that the Parliament may legislate on.
- The subjects on which state legislatures may pass laws are listed in the state list.
- The concurrent list comprises the topics on which both the Parliament and state legislatures may pass laws, but in the event of a tie, the former will take precedence.

### **Administrative relations**

As was already mentioned, the Constitution clearly defines the union's and the states' respective legislative and executive authority. At the same hand, Article 256 of the Constitution specifically says that the states' executive power "must be so exercised as to assure compliance with the laws of Parliament." The executive authority of the union also includes the ability to direct the states as the Indian government may deem essential. Article 246 of the Constitution additionally provides that the union government may direct the states to comply with any laws approved by the Parliament that fall under their purview if the state government refuses to do so.

The Constitution contains adequate provisions for the division of executive authority between the federal government and the states. The majority of the topics over which Parliament has sole legislative responsibility fall under the purview of the executive branch of government. Similar to this, all subjects that fall under a state's legislative purview are subject to the state's executive authority.

Nonetheless, there are three options for dealing with the Parliament in regards to the application of the law with relation to the items on the concurrent list. It may decide to enforce only a portion of the law, leaving the rest up to the states to do so, or it may decide to take on the full burden of enforcement.

The union's executive authority also includes instructing the states on the development and upkeep of communication infrastructure that has been deemed crucial for national security or military purposes. The federal government has the authority to direct the states on how to safeguard their internal railroads.

According to a constitutional clause, the President may assign duties pertaining to any topic coming under the purview of union executive power to a state or to its officers either conditionally or unconditionally with the permission of the state government. Also, a state may grant administrative responsibilities to the union with the agreement of the union government. The Constitution of India, a federation, defines a dual polity with the union at its centre and the states at its perimeter. The division of powers and the dual government system are important aspects of the federal system. The Constitution specifies a precise distribution of executive, legislative, and financial authorities since cooperation and coordination between the federal and state governments are required for the efficient administration of the federation. The administrative relationships between the union and states can be broken down into two categories: (a) powers that the union exercises over the states as permitted by the Constitution, and (b) powers that are exercised by organisations that are not part of the Constitution.

The Indian Constitution's Articles 256, 257, 258, 259, 260, 261, 262, and 263 address the relationship between the Union and the states in terms of administration.

- The Union may direct the state as the government deems essential in the course of discharging its obligations to those states that require assistance. executive authority.
- The state's executive power must be used in a way that respects the union's executive authority, and the union may instruct the state to maintain and build communications infrastructure that is crucial for the defence of the nation.
- The Union and States share administrative authority, but the Union has additional authority because it can handle water-related issues in any interstate river where Parliament may by law allow for adjudication. The inter-state council may be created by the President. The Rajya Sabha's resolution, which is applicable to the Union and all of the states, gives the Parliament the authority to establish an All-India service.

### **Financial relations**

The Government of India Act, 1935 serves as the foundation for the regulations governing the financial ties between the union and the states. The division of taxing powers between the federal government and the states has been made explicit. States' taxing authority is limited, and they rely primarily on the federal government for financial support. The grants-in-aid from the centre are the main source of funding for the states.

Specific provisions allocated for the union and the states to levy taxes are provided in the seventh schedule of the

Constitution. On the 12 items on the Union List, the union may impose taxes (82 to 92 A). The state list also includes 19 things that states are allowed to impose taxes on. Parliament holds the remaining taxing authority.

Tax collections are divided into four categories for the union and the states. These are:

- a. Union-imposed taxes that the state collects and fully appropriates (Article 270). These are the excise taxes and stamp duties on pharmaceutical and bathroom preparations.
- b. Taxes that are imposed and collected centrally but are entirely delegated to the states (Article 269). They include estate taxes on non-agricultural property, duties on succession to non-agricultural property, terminal taxes on goods and passengers (by rail, sea, or air), taxes on rail fares and freights, etc.
- c. Union-imposed and -collected taxes that are then split between the union and the states (Article 270). Taxes on income that isn't from agriculture are included in this.
- d. Union-imposed taxes that may also be shared with the states. If Parliament has provided for excise taxes by legislation, this also includes customer fees.

### Grants-in-aid and Loans

Together with the devolution of tax revenue, the centre also gives grants-in-aid to the states in accordance with Article 275 in order to advance the welfare of the Scheduled Tribes and improve the standard of administration of the Scheduled Areas. Moreover, grants are given to the states each year based on their selection by the parliament and the Finance Commission's recommendations.

It is obvious that the Center is more prepared in the financial area as well. To cover the costs of development plans, the Center can exercise control over state funds and general and special grants in aid. The President has the authority to suspend the rules governing how taxes are split between the Centre and the State in times of financial emergency. He may also place additional limitations on what the State may spend.

The priorities of the central plan are used to create state plans, and the Planning Commission approves their implementation. Furthermore, the States are required to carry out the Center-sponsored Programs for which the Center Provides Grants and the Requirements for Such Grants. An overly centralised planning system has been established by the Planning Commission. The centrally conceived projects have been improperly and unimaginatively foisted upon the states, leaving no room for state initiative.

The financial interactions between the Center and the states are covered in Articles 264–291.

- The central government imposes the stamp duties listed in the union list, but state governments collect them within their own jurisdictions, and the proceeds from these taxes are distributed to the states.
- The union government has the authority to impose service taxes, which must be collected and allocated by the federal government or the states in accordance with guidelines established by the Parliament. Taxes on the sale and purchase of commodities are imposed and collected by the Union administration, but they are delegated to the states by legislation in the manner outlined by the Parliament.

### The Union provides grants-in-aid

The financial relationship between the Union and states demonstrates that the former has control over the majority of the latter's financial issues, with the latter being financially aided and heavily reliant on the former.

Powers are split between the Union and the States, yet the relationship between them demonstrates that India is federal in nature but unitary in spirit. States are not sovereign, though. The role of the union is supreme when there is a national issue at stake and a confrontation between the union and states. This union's supremacy has been demonstrated repeatedly. The union has always been considered as playing a crucial role over all the states to deal with any threat to the country, whether it be during the Indo-China War, the Indo-Pakistan War, or any internal disturbance. Even if we focus on the present circumstances, the union has played a significant role historically. Due to the extraordinary circumstances, all authority over decisions and directives was transferred to the union. This demonstrates that India is a semi-federal state. Power distribution is dynamic rather than rigid.

### Conclusion

The basic components of federalism in India are the relationships between the Centre and the States. For the welfare and security of India's citizens, the central and state governments work together. They collaborate in the areas of terrorism prevention, family planning, socioeconomic development, and environmental protection.

The Indian constitution aims to balance national unity while allowing state governments the authority to preserve the state. It is true that the union has been given more authority than the state governments, but this is a matter of quantity rather than quality because the Indian constitution contains all the necessary components of a federation. It's frequently described as having a quasi-federal structure. So, it is safe to say that the Indian Constitution is largely federal in nature, despite the fact that it has special elements that allow it to take on unitary qualities when necessary. Although federal, it has a unitary spirit. India's government has a quasi-federal structure with a split of powers between the centre and the states. The topics that the union and state may legislate on are covered by different lists. Despite this separation, there is a powerful centre that has greater authority in some areas, and this federal system may become unitary under certain situations. With such a diverse population, the central government finds it challenging to maintain order. Decentralizing through this federal structure therefore contributes significantly to the efficient operation of the nation. At the same time, the nation's unity and integrity must be preserved, and this can only be done by the centre exercising control over all of the states.

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