

Centre State Relations in India

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Week 01: Centre-State Relations: Nature of Indian Constitution

Lecture 03: Constitutional Provisions Relating to Centre-State Relations

Welcome learners. Today, we will discuss how Centre-State Relations are described in different constitutional provisions. So, these are the points which we will cover today. We will cover constitutional provisions how assembly debates have discussed it, how the framers have deliberated on the Centre-State Relations. Along with that we will also discuss the legislative relations, administrative relations and financial relations. Here at this stage we will be just giving you a snapshot because these are going to be discussed in detail at the later point of time.

Now, when I look at the Constituent Assembly Debates, we observe that there has been an intense discussion on the structuring of Centre-State Relations in India. You find that more than 75 times the framers they have used it. They have used this term while deliberating on the possible structuring which the new country should have adopted or new country should have you know looked into. So, in this what you find that 75 time it has been mentioned by 13 people in the 299 member body and where you find that one of them Mr. Brijeshwar Prashad who is a member from Gaya, he used this word federalism for good 35 times. So, they discussed it they discussed the term federalism, but then they avoided using this term in the Indian Constitution and the reason why they have avoided they were not very willing to adopt the traditional understanding, traditional meaning of federalism as it has been understood in United States or other classic federal country. That is what when you look at the statement of Dr. Ambedkar, he made the point that the Constitution should avoid using the term federalism. So, that conceptual understanding should be brought in from the functioning of the Indian Constitution and from the experience of the Centre-State relation which is very country specific which is

very connected with the people of this country and should not be seen from what kind of model prevalent in other jurisdictions of the world.

Now, there was a discussion that how the Centre-State relationship should go in India. What shall be the power structuring done and it is a known fact that when they started debating on the Centre-State relations they were of the opinion that sufficient autonomy is to be given to the States. So, that they do governed on the subject matters which are exclusively assigned to them and on those subject matters there shall be minimal interference by the State. But then literature indicates that partition played a very significant role in changing the approach of the framers of the Constitution on the matter of Centre-State relation and how it was done what kind of influence it played that it gave prominence to the idea of maintaining unity and integrity of the country and it placed a prime responsibility upon the Centre to maintains unity and integrity. And that is how you find a provisions are there where the State, the federal structuring, the division of power between the Centre-State all this takes a shape of unitary structuring where the sole responsibility to govern the territory is given to the State government during emergency rule. So, though the framers started discussing and debating on this aspect with the idea of giving more autonomy to the State, but they were careful of one fact they were very much concerned of this very fact that when it comes to maintaining the Constitution when it comes to ensuring that the country runs as per the Constitution the prime responsibility shall be there with the Central government and that is how you find the language of Article 355 which says that it shall be the responsibility of the Central government to see that the provinces are being run as per the Constitution.

And that is how you find the leading members of the Constitutional Assembly for example K.M Munshi he advocated that let the Constitution be in the form of quasi federal and we should have a kind of significant provisions of making unitary government as and when it is required. K.M Panikkar proposed the basic principles of the Constitution should be unitary, but devolution of large powers to the provincial government. So, the statements of the members of the Constitutional Assembly clearly indicate that what kind of thought process was going on in the mind of the framers of the Constitution when they were discussing the power between the Centre and the States.

They were of the opinion that there should be autonomy given to the provinces, but then when the matter comes of unity, when the matter comes of integrity, when the matter comes of maladministration in the province, maladministration in a sense of not following the constitutional values then the Centre should step in and take over the governance of that State. That is how you find the Constitutional Assembly they have discussed it. Now, as I have discussed in the last session that when we start describing the federal or Centre-State relation in India, Article 1 plays a significant role where Union of a State has been described and it says Union of a States and obviously the term Union of States symbolizes that States they do have their identity, but their identity is not sacrosanct and they cannot decide on their territorial autonomy it is the Parliament which has been given the power and given the necessary you know provisioning where they can very well alter the boundaries, they can add to the boundary all these powers are there. And then at the beginning you would find that the country was divided into not purely on States and the Union government structuring. There is a Part A government, Part B government and Part C government which was based on the way this territory was being ruled by the British where territories which were directly ruled by the British, territories where the Commissionerate was you know defined by the British or the Princely States which were given a kind of autonomy to rule the territory or tribal areas which were given a kind of special status that is how it was done.

But then in 1954 reorganization was done of the States and those reorganization was done based on largely based on the factor of language, language became a prominent reason for reorganizing the boundaries of the State and that is how you find that the constitutional provisions which are there in the Indian Constitution they provide for two set of governments, one set of government for the entire country and then you do have a regional government for the province. And then there is a clear demarcation of power between the Centre and the State, List I describes the subject matters on which Centre can make law, List II describes the subject matter on which State can make law as I said and this division is there in all the domains legislative domain, executive domain and the financial domain. Obviously, when it comes to judiciary we have a unitary structure in the judiciary that is how you find. On the matter of Centre and State relations the

responsibility is given upon the judiciary to resolve the dispute there is an original jurisdiction with the judiciary where any matter related to the dispute within Centre in the States or inter State should be directly taken up before the Supreme Court for resolution. So, this is how you find the Centre-State relations which is been governed in India where we have divided into three parts legislative relations, administrative relations and financial relations.

We will be discussing all these three relations separately as we move on with the course. Here I am going to give you a snapshot that how these relationships are governed in different provisions of the Constitution. For example, Part IX of the Constitution it is basically related with you know legislative and administrative relations where you find Chapter I deals with legislative relations from Article 245 to Article 255 and then you have administrative relations and Chapter II we deals with Article 256 to Article 263. Now in India you would find very unique kind of set up where all legislative relationship you find that the Centre has been given a kind of supremacy or upper hand when it comes to conflict between the central law and the State Law on the matter of Concurrent List. But when you look at the administrative relation you would find that in India there is a no parallel bureaucracy to implement the Central law in the States.

So, for that matter the Central government heavily depends upon the State bureaucracy for the implementation of the Central Laws because in India we do not have like other federal countries where there is a parallel bureaucracy one for the Centre other for the State. In India either we have all India Service or we have a State Service or we have a Central Service, but then we do not have a separate kind of Services where central bureaucracy is been created for implementing Central Laws at the State level. So, that is what kind of structuring which is there then we have Part XII of the Constitution which deals with financial relations and how the distribution of revenue takes place. Then there is a provision also on Services under the Indian Constitution which is Part XIV of the Constitution and this provisions they affect the Centre-State relationship they deal with the Centre-State relationship in detail which will be discussing. When we discuss when we look at the how the legislative relationship are structured Article 245 talks about the

extent of laws made by the Parliament and State Legislature that what shall be the applicability of such laws.

Article 246 talks about the subject specific limitations of the Central government and the State government or the Parliament and the State Legislature where what is the subject matter jurisdiction of the Parliament to make law and the State Legislature to make the law. And then we also have a provision of a residue power there again an experiment has been done under the Indian Constitution where you would find that residue power unlike traditional federal set up where residue power is been left on the State to exercise in India it is the Union government it is the Parliament which exercise the residue power. And then there is a formula given of resolving the conflict between the Central Law and the State Law on a matter of Concurrent list which is there under Article 254 which talks about giving prominence or precedence to Central Law unless and until the State Law has got a prior sanction from the President. Now, we have administrative relation which is dealt under again Part XI from Article 256 to Article 263. Article 256 mandates that the executive actions of the State must comply with the laws made by the Parliament there where you find that there is an obligation on the State that they do have an obligation to comply with adhere with the laws made by the Centre they cannot overlook it they cannot you know ignore it they cannot defile such laws and then Article 257 talks about the control of the Union over the State in military railways national highways and national waterways matter particularly it relates to the issues subject matters which are of national importance where pan India kind of supervision is required and that is why very aptly this power has been given to the Central government. Then you have Article 258 which grants the power to the Union government to give necessary power to the Union executive on the matters where there is a kind of monitoring is required by the Union government on uncertain subject matters that is what Article 258 says.

Then you have financial relations which is given in Part XII of the Constitution where there is a clear distribution of power on the financial matter between the Centre and the States. Obviously, this has got a newer framework under GST framework prior to GST framework there was a clear division on revenue generation power between the Centre and the State which again as I said we will be discussing in detail when we will discuss

financial relation in detail. So, you have Article 269A where it says that levy and collection of goods and service tax by the Union of India and then you have Article 279A which establishes GST Council which decides on what kind of tax law should be made applicable on goods and services and this is been done through 101st Constitutional Amendment. Article 266 talks about Consolidated Fund of India and these are the references for this lecture. Thank you very much.