

Centre State Relations in India

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Lecture 34: Inter-State Council

Greetings to all of you. We have started discussing on the fundamental idea on federalism, how the idea of federalism has evolved in our country and how different segments of federalism when discussed under the Constitution. So we have discussed legislative relations, administrative relations and we have also discussed financial relations. Now continuing our discussion on Centre State relation, what we find is that, that Constitution or statutory scheme deals with the issues of Centre State relation on different parameters all together and that different parameter or one such different parameter, we will be discussing today when we will be studying on the significance of Inter-State Council. So today we will be studying on Inter-State Council, the role of Inter-State Council and then what is the origin of this body, what is the nature of this body and what reform is been suggested in this body. Now the discussion on Inter-State Council becomes important because of the fact that when we look at the Constituent Assembly Debate on conferring original jurisdiction on the Supreme Court to decide on Centre State disputes under Article 131, there were discussions in the Assembly that what kind of disputes we are foreseeing which shall be conclusively decided by the Court of law because in federating units disputes may be of different kind and possibly it may not be viable or feasible to resolve the conflict through judicial process.

Inter-State Council is a perfect instance of a visionary approach of the makers of the Constitution, wherein they visualize that every difference between the States or between

the Centre and the States need not be of a legal character and may not require legal intervention and if it does not require legal intervention then possibly alternate way of resolving the differences is to be looked out. Inter-State Council suggests the way of resolving disputes or differences between the States or Centre and the States. The Indian Constitution provides for a cooperative federal model where the Centre and the States they need to come together for guaranteeing quality of life for an individual and thus it is suggested that different layers of the government they shall work together for the larger interest of the people and therefore, it is suggested that there shall be coordination of policies and is required that policies must be implemented in uniform way because quality of life should not differ from or should not depend upon the reason where I stay where individuals stay. Thus it is suggested that the Centre and the State they must work in coordination, they must work mutually with consultation and they need to interact and engage on a regular basis in order to fulfill the goal of good governance. As, we have studied in the administrative relation, that the structuring of the Constitution has been done such that the Centre largely depends upon the State machineries for implementing of the laws and policies. We do not have a parallel bureaucracy in India and when the Centre depends upon the State governmental machineries it is also desirable that any kind of differences taking place between the governments must be resolved through a collective process through a persuasion through a discussion and dialogue between the political executives and that is what Inter-State Council provides for.

So Inter-State Council is basically a body comprises of the Centre and the States representatives and they have been asked to address the issues of differences and under the Constitution it is the President who has been entrusted with the power to establish Inter-State Council. Article 263 mandates that there shall be Inter-State Council and Inter-State Council also plays a very significant role in providing an institutional arrangement for addressing the issue of horizontal federalism because when you read about federalism generally we tend to focus more on vertical federalism - the relationship between the State and the Centre, relationship between the federation and the federating units. By the same time good relationship between the federating units between the provinces are equally important for the success of the Constitution and that is where you

find Inter-State Council plays an important role. Inter-State Council has got its origin under the Government of India Act 1935 where there was a provision similar to it under Section 135 of the Government of India Act 1935. Section 135 empowered the Governor General to establish Inter Provincial Council and which has been identically produced under Article 263 of the Constitution of India. So, one may see that though it has got a colonial legacy but then looking into the wide range of cultural interest, diversified values, the different availability of resources in regions, Inter-State Council certainly fits into the scheme of a good federal Constitution. So, Article 263 which was discussed as Draft Article 246 provided for an establishment Inter-State Council to be established by the President and it shall be established to serve public interest. There was no elaborate discussion on whether we shall need it or drop this kind of body from the Constitution. It was widely accepted and readily accepted and became part of the Constitution.

Now when you look at the role of Inter-State Council, it is stated that the Council has got a role to play when there are possibility of differences between the Centre and the States; when they are being ruled by different political parties. When there is a political party or a coalition ruling both Centre and the States then many of the differences can be resolved by internal processes of dialogue and discussion within a political party. That's what was experienced from independence till 1967 when the country was being run by a single party both at the Centre and the States. A need was never felt to have an Inter-State Council because all disputes between the State and the Centre or between the States were getting resolved with the help of political interventions. So one may see this as resolving the differences through a process which is not categorically acknowledged within the constitutional scheme, but then resolution of the scheme through a political process by a political party may not give a sustainable solution and that is why saying that if a single party governing States and the Centre dispense with the requirement of an Inter-State Council then this understanding may not be correct one because institutional redressal gives always a sustainable way of solving the problem. Article 263 provides for establishment of Inter-State Council and it is the President who shall define the nature of the duties to be performed by this Council and its organization and procedure.

What is the responsibility of the Council given in the Constitution? It says inquire into and advising upon disputes which may have arisen between the States, investigating and discussing subjects in which some or all of the States or the Union or one or more of the States have a common interest, making recommendation upon any such subject and in particular recommendation for the better coordination of policy and action with respect to that subject. So the duties which are provided under the Constitution are very significant responsibilities and many of the differences which may not be of legal character or what we have experience that even though certain resolutions have come from the Court of law it has not been broadly accepted by the States. If such resolution comes from the Inter-State Council there is a possibility of wider acceptance. The only issue is that that what if the direction of the Inter-State Council and the Court of law comes into conflict. For example, Article 263(a) which talks about inquiring into and advising upon disputes. So when you say dispute the literal meaning of dispute would be something which is aggravated form of differences where there is a need to determine a claim.

So can such matter be effectively and efficiently decided by the Council or should it be left to the Court of law. This is the composition of Inter-State Council. Prime Minister is the Chairman, Chief Minister of all the States are members and then Chief Minister of Union Territories which are having Legislative Assembly they are also the members. The six ministers of Cabinet rank they are also the members who are nominated by The Prime Minister and Governor of a State which is under the President rule those Governors also become members. When you look at the nature of the Inter-State Council, it's recommendatory in nature it is not binding in nature.

And the functioning of the Inter-State Council is primarily based on cooperative model. It is not about a hierarchical model where there has to be some instructions and which needs to be followed with. It is all about dialogue and discussion in order to understand the differences and accordingly to look for a solution. So as I said that the Council would play a significant role or plays a significant role on both vertical and horizontal. For example we have got a prohibition law in the State of Bihar. Now for effective implementation of prohibition law there has to be a concrete cooperation from the neighboring States otherwise the prohibition law will not successful.

So Council is helping in stemming political antipathies and resolving them on a national forum. This is the kind of outcome we are expecting from this Council, but then it is recommended it is not binding. Though in the meetings of Inter-State Council always a follow up is been taken that what happened to the recommendation of the Inter-State Council what are the factors which lead to non-implementation. Now when you look at the function which has been entrusted upon the Inter-State Council; it can play a very effective role in ironing out differences between the States and between the Centre and the States because it is a forum comprising of people who are very well aware with the ground reality. They are aware with the constraints, they are aware with the responsibilities, Chief Ministers are there, Ministers are there, and Prime Minister is there.

So they are aware of the constraints and therefore they can come up with an effective solution. The literature indicates that the Inter-State Council has not been entrusted with the task to look into disputes between the States, inquire into the disputes as provided under Article 263(a). Generally they look into generic interest and common interest between the States and the Council has framed the guidelines for identifying and selecting issues which are to be brought up before the Council. So Article 263 has been put in use not very frequently all long 1990. Article 263 has been used to create two important Councils – Central Council of Health and Central Council of Local Self Government and four Regional Councils are established in order to have a better coordination and in order to have kind of regular interaction. As I said that till 1990 it was not been put in use, it was strongly suggested that let the Inter-State Council become a reality.

Sarkaria Commission gave a very strong recommendation that there should be a permanent Inter-State Council Secretariat which shall be responsible of coordinating the meetings of the Council. Finally Government of India has accepted the recommendation of the Commission and notified the establishment of Inter-State Council in the year 1990. In total there are 10 meetings which have happened of the Inter-State Council. First meeting took place in 1990 and the last meeting took place in 2016. Some of the agendas which were being discussed in the Inter-State Council are speedy trial of economic

offenses, offenses under narcotics, drugs and psychotropic substances, blueprint of action plan on good governance, use of Aadhaar as an identifier and use of direct benefit transfer for providing subsidies

So when you look at the minutes you find that discussions have taken place on this forum on an important national issues including role of Governor vis-a-vis the State government. So, important topics were being discussed in the in this forum. So, what we find is that Inter-State Council is a very effective body and it must be utilized to its fullest extent so that many of the differences which graduate to dispute between the Centre and the States or between the States they need not go to the Court of law and they can effectively resolve at this constitutional forum. Very well designed, well thought constitutional body has been has been provided under the Indian Constitution. In a long way it has got a promising approach of strengthening the federal structure.

It can strengthen both horizontal federalism as well as cooperative federalism and the coordination between the States will certainly lead to in general advancement of the States. That's what the idea underlying of this Inter-State Council which has been further given a shape through Regional Councils. So what the government has done is that in order to make it Inter-State Council more effective in its functioning it has made a Standing Committee with Home Minister as head of the Standing Committee. So first the matter goes to the Standing Committee where the members from other States, Chief Minister and other members and other Ministers are also there. Standing Committee looks into the subject matters and then finally the matter is taken up before this larger body of Inter-State Council. So with this layering of a structure one may say that there is an attempt made to give a better institutional framework to the functioning of the Inter-State Council. So that some issues can be filtered out if it does not require discussion at the larger forum firstly.

And secondly if it has been seen that that issues which can be first resolved or a common point to be arrived at by discussing at the Standing Committee level then it can be done accordingly and then let it be further for elaborative discussion taken up by the Council. So this Regional Councils are playing a significant role as is the case with the Standing

Committee and we hope that this Inter-State Council in time to come becomes more vibrant and play proactive role in addressing many issues of the Centre and the States or between the States which are of greater significance for the people of this country. So these are the references of this lecture. Thank you.