

Inter – State Relations

- Ensuring harmonious relations and close cooperation between the Centre and the states the Constitution makes the following provisions with regard to inter-state relations.
- Adjudication of inter-state water disputes
- Coordination through inter-state councils
- Mutual recognition of public acts, records and judicial proceedings.
- Freedom of inter-state trade, commerce and intercourse
- In addition to above arrangement, the zonal councils have been established by the Parliament to promote inter-state cooperation and coordination.

Inter-State Water Disputes – Art. 262

- Water sharing is one of the most contentious issues in Indian federal political setup which has time and again challenged the principle of cooperative federalism.
- Water is in the State List, however Central government has the power to regulate and develop inter-state rivers and river valleys.
- 262 for the adjudication of inter-state water disputes makes two provisions:
- Parliament may by law 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.
- Parliament may also provide that neither the Supreme Court nor any other court is to exercise jurisdiction in respect of any such dispute or complaint.

River Boards Act (1956)

- Provides for the establishment of river boards for the regulation and development of inter-state river and river valleys.
- A river board is established by the Central government on the request of the state governments concerned to advise them.

Inter-State Water Disputes Act (1956)

- Empowers the Central government to set up an adhoc tribunal for the adjudication of a dispute between two or more states in relation to the waters of an inter-state river or river valley.
- The decision of the tribunal would be final and binding.
- Moreover, neither the Supreme Court nor any other court is to have jurisdiction in respect of any water dispute which may be referred to such a tribunal under this Act.

Constitutional Provisions to Solve Water Disputes

Schedule VII (Art. 246)

- **State list (Entry 17):** States have power to legislate (under State list) with respect to water (water supplies, irrigation and canals, drainage and embankments, water storage and water power)
- **Union List (Entry 56):** Regulation & development of inter-State rivers and river valleys.

Article 262

- Adjudication of disputes relating to waters of inter-State rivers or river valleys.

Article 263

- Establishment of an Inter-State Council to effect coordination between the states and between Centre and states.

Article 131

- Provides original jurisdiction to the Supreme Court to resolve dispute between the Union and states and inter-State.

Article 136

- Empowers the Supreme Court to adjudicate on the earlier ruling by the other courts or any other Tribunal can be challenged.

Tribunal Established States Involved

- **Krishna Water Disputes Tribunal-I**, 1969 - Maharashtra, Karnataka and Andhra Pradesh
- **Godavari Water Disputes Tribunal**, 1969 - Maharashtra, Andhra Pradesh, Karnataka, Madhya Pradesh and Odisha
- **Narmada Water Disputes Tribunal**, 1969 - Rajasthan, Gujarat, Madhya Pradesh and Maharashtra
- **Ravi and Beas Water Disputes Tribunal**, 1986 - Punjab, Haryana and Rajasthan
- **Cauvery Water Disputes Tribunal**, 1990 - Karnataka, Kerala, Tamil Nadu and Puducherry
- **Krishna Water Disputes Tribunal II**, 2004 - Maharashtra, Karnataka and Andhra Pradesh
- **Vansadhara Water Disputes Tribunal**, 2010 - Odisha and Andhra Pradesh
- **Mahadayi Water Disputes Tribunal**, 2010 - Goa, Karnataka and Maharashtra
- **Mahanadi Water Disputes Tribunal**, 2018 - Odisha and Chhattisgarh

Reasons for Rising River Disputes:

- **Demographic factor**– Increasing population in the river basin.
- **Changes in agriculture patterns as farmers are now shifting towards water-intensive crops** such as paddy and sugarcane.
- **Climate and geographical factors** – A study in 2011 had predicted that climate change might cause a reduction of up to 50 per cent in the waters of the Cauvery sub-basins by 2080.
- Uneven distribution of water resources along with increasing Rainfall variability and frequent droughts.

- **Disputes due to bifurcation of states** – Once Telangana came into existence in 2014, the Godavari water and the Polavaram project became the bone of contention.
- **Political factors**– Regional political forces have grown stronger and assertive with the growing nexus between water and politics have transformed the disputes into turfs of vote bank politics.

Issues in Inter-State Water Disputes:

Issues in Resolution of Water dispute

- Historical – The dispute over sharing Cauvery's water is over a century old. It first cropped up between the princely state of Mysore (now Karnataka) and the Madras Presidency (now Tamil Nadu).
- Article 262, bars the jurisdiction of the Supreme Court or any other court over interstate water disputes.
- However, SC using its power of Special Leave Petition (Art. 136) accepts the petitions hence resulting in pending litigations.
- In the times of coalition politics and assertive regional political forces, the Central government's mediation for resolution becomes difficult.
- Non-compliance of tribunal awards by States is the critical weak link in dispute resolution, which may persist even when a permanent tribunal exists.

Issues with the present Inter State River Water Dispute Act, 1956:

- A separate Tribunal has to be established for each Inter State River Water Dispute.
- Inordinate delay in securing settlement of such disputes.
- Tribunals like Cauvery and Ravi-Beas have been in existence for over 26 and 30 years respectively without any award.
- There is no time limit for adjudication.
- In fact, delay happens at the stage of constitution of tribunals as well.

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- No provision for an adequate machinery to enforce the award of the Tribunal.
- Issue of finality – In the event of the Tribunal holding against any Party, that Party is quick to seek redressal in the Supreme Court.
- Only three out of eight Tribunals have given awards accepted by the States.
- Control over water is considered a right which has to be jealously guarded. Compromise is considered a weakness which can prove politically fatal.
- The Act gives no indication of the principles that have to be applied by the tribunal in deciding water disputes.
- There is no age limit for the chairperson or members of the tribunals.

Cauvery Water Management Scheme (2018)

- Under the scheme, the Centre established Cauvery Water Management Authority (CWMA) and the Cauvery Water Regulation Committee (CWRC).

Functions of CWMA:

- To monitor the storage, apportion shares, supervise operation of reservoirs and regulate and control Cauvery water releases with the assistance of the CWRC.
- To regulate release of water by Karnataka, at the inter-state contact point at Billigundulu gauge.
- To determine the total residual storage in the specified reservoirs at the beginning of the water year (June 1 each year).
- Advise the states to take suitable measures to improve water use efficiency, by promoting micro-irrigation (drip and sprinkler), change in cropping pattern, improved agronomic practices, system deficiency correction and command area development.
- To take appropriate actions in case any party state defaults, it can also seek the help of the central government for implementation of the award.

Significance of CWMA:

- It is a permanent body under the Union Ministry of Water Resources and its decisions are final and binding on all the party States.
- The share of each state will be determined on the basis of the flows so assumed together with the available carry-over storage in the reservoirs.
- An inter-State River like Cauvery is a 'national asset', and no State can claim exclusive ownership of its waters or deprive other States of their equitable share.
- Supreme Court in Cauvery water dispute judgement

INTER-STATE COUNCIL (Article 263)

- Inter-state council is constitutional body as Art. 263 implies the establishment of an Inter-State Council to effect coordination between the states and between Centre and states.
- The PRESIDENT OF INDIA can establish such a council if at any time it appears to him that the public interest would be served by its establishment.
- President also can define the nature of duties to be performed by such a council and its organisation and procedure.
- It was set up for first time in 1990 through a Presidential order as per the recommendations of the Sarkaria Commission under the Ministry of Home affairs.
- The council is a recommendatory body on issues relating to inter- state, Centre-State and Centre–Union Territories
- The Council may meet at least thrice in a year.
- All questions are decided by consensus.
- But in 26 years, it has met only 11 times.
- Recently the meeting was held after a gap of 10 years in Delhi in July 2016.
- Council is the most dynamic platform to discuss policies, strengthen the Centre-State relations and act as a bridge to the trust deficit between the Centre and the States.

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- The functions of the council to enquire and advice upon inter-state disputes is complementary to the Supreme Court's jurisdiction (Art. 131) to decide a legal controversy between the governments.
- Art. 131 – vests the SC with original jurisdiction over any dispute arising between the states or between the centre and state.

Significance of the ISC:

- **Constitutional Backing** – Unlike other platforms for Centre State cooperation, ISC has constitutional backing which puts the states on more solid footing.
- **Cooperative federalism** – In times of Different political parties heading the Centre and various states, the need for Dialogue assumes a greater importance.
- Resolving disputes linked to state-state & centre-state.
- **Decentralized decision making** – If the goal of a more decentralised polity, which needs interaction between various levels of government, is to be achieved, Interstate Council is a crucial first step.
- **Makes governments more accountable** – Given its status as a platform for dialogue and discussion, it makes the governments, both at centre and state level, more accountable for their actions.
- **A safety valve** – The council helps to bridge the trust deficit between the centre and the states. If not always a problem solver, it at least acted as a safety valve.
- **Lack of other avenues** – Another constitutional avenue

Sarkaria Commission and ISC

- The Sarkaria Commission on Centre-State Relations (1983–88) made a pitch for the establishment of a permanent Inter-State Council (under Art. 263) of the Constitution.

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- Commission recommended Inter-State Council must be called as the Inter-Governmental Council in order to differentiate from other bodies established under the same Art. 263.
- It recommended that the Council should be charged with the duties laid down in 263 (b) and (c).

Duties assigned to Inter-state council under Art. 263

- Enquiring into and advising upon disputes which may arise between states
- Investigating and discussing subjects in which the states or the Centre and the states have a common interest
- Making recommendations upon any such subject, and particularly for the better co-ordination of policy and action on it.
- Deliberating upon such other matters of general interest to the states as may be referred to it by the chairperson (i.e. Prime Minister)

Members of Inter – State Council

- The Janata Dal Government headed by V. P. Singh established the Inter-State Council in 1990.
- **Prime minister:** Chairperson
- Chief Ministers of all the states
- **Chief Ministers of UTs having legislative assemblies:** Delhi + Puducherry + J&K
- Administrators of UTs not having legislative assemblies
- Governors of States under President's rule (Art. 356)
- Six Central cabinet ministers, (to be nominated by the Prime Minister).
- Five Ministers of Cabinet rank / Minister of State (independent charge) nominated by the Chairman are permanent invitees to the Council.

Standing Committee of ISC:

- Standing Committee of the Council was set up in 1996 for continuous consultation and processing of matters for the consideration of the Council.

Members of standing committee:

- **Chairmanship** – Union Home minister
- **Five Union Cabinet Ministers**
- Nine Chief Ministers

Functions of standing committee:

- To monitor the implementation of decisions taken on the recommendations of the Inter-state Council
- To process all matters relating to Centre-State Relations before they are taken up for consideration in the Inter-State Council.
- To consider any other matter referred to it by the Chairman/Inter-state Council.
- The Council is assisted by a secretariat (set-up in 1991) called the Inter-State Council Secretariat.
- It is headed by a secretary to the GoI. Since 2011, it is also functioning as the secretariat of the Zonal Councils.

Issues With Inter-State Council:

- Non-binding nature of advice of the council
- Lack of regular meetings among members states – recently Inter-State Council met after a gap of 10 years.
- Council lacks deliberation on socio-economically important topics such as poverty alleviation, health, education, SDG implementation at states level.
- No representation to the civil society, NGOs and experts from corporate and academic streams in the Council.
- Secretariat at Union Home Ministry and chairmanship of Union Home Minister gives perception of biasness.
- It is seen as a mere arm-chair discussions without any substantial outcome.
- Despite the constitutional backing to ISC (unlike the NITI Aayog) its potential is unutilized and importance is underrated.

Ways to Strengthen ISC:

- It should be strengthened as a forum for not just administrative but also political and legislative give and take between centre and states.
- ISC should provide wider representation to civil society institutions, NGOs, corporate sector and domain experts to make their representations.
- Council should have experts in its organizational set up drawn from the disciplines of Laws, Management, finance and economics, political Science besides the All India Services cadre.
- Exploring possibility of shifting its secretariat from the Union Home Ministry to the Rajya Sabha secretariat to impart neutral federal character to the ISC.
- The Vice-President of India should be made chairperson of council rather than the Union home minister.
- The ISC must meet at least thrice in a year on an agenda evolved after proper consultation with States – Punchhi commission
- Suitable amendments to Article 263 are required to make the Inter-State Council a credible, powerful and fair mechanism for management of interstate and Centre-state differences – Punchhi commission on Centre-State relation (2007)

Public Acts, Records and Judicial Proceedings:

- Under the Indian Constitution, the jurisdiction of each state is confined to its own territory.
- It is possible that the acts and records of one state may not be recognised in another state.
- To remove any such difficulty, the Constitution contains the “Full Faith and Credit” clause which lays down the following:
 - Full faith and credit is to be given throughout the territory of India to public acts (both legislative and executive acts), public records (any official book, register or record made) and judicial proceedings of the Centre and every state.

- Parliament by laws, will determine the manner in which and the conditions under which such acts, records and proceedings are to be proved and their effect determined.
- Final judgements and orders of civil courts in any part of India are capable of execution anywhere within India.
- The rule applies only to civil judgements and not to criminal judgements.

Inter-State Trade and Commerce (Art. 301)

- Spanning from Article 301 to 307 (Part XIII) of the Constitution deal with the trade, commerce and intercourse within the territory of India.
- **Article 301:** declares that trade, commerce and intercourse throughout the territory of India shall be free.
- Article 301 aimed at breaking down the border barriers between the states and to create one unit with a view to encourage the free flow of trade, commerce and intercourse in the country.
- The freedom under Art. 301 also extends to intra-state trade, commerce and intercourse.
- Imposing restrictions at the frontier of any state or at any prior or subsequent stage will amount to violation of Art. 301

Limitations to the freedom guaranteed under Art. 301

- Parliament can impose restrictions on the freedom of trade, commerce and intercourse between the states or within a state in public interest.
- Parliament cannot give preference to one state over another or discriminate between the states except in the case of scarcity of goods in any part of India.
- For example, the Parliament has made the Essential Commodities Act (1955) which enables the Central government to control the production, supply and distribution of certain essential commodities like petroleum, coal, iron and steel and so on.

- The legislature of a state can impose reasonable restrictions on the freedom of trade, commerce and intercourse with that state or within that state in public interest. Such a bill can be introduced in the legislature only with the previous sanction of the President.
- Further, the state legislature can give preference to one state over another or discriminate between the states.
- The state legislature can impose any tax on goods imported from other states or the UTs to which similar goods manufactured in that state are subject. This provision prohibits the imposition of discriminatory taxes by the state.
- The freedom (under Art.301) is subject to the nationalisation laws (Laws providing for monopolies in favour of the Centre or the states).
- The Parliament or the state legislature can make laws for the carrying on by the respective government any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.
- The Parliament can appoint an appropriate authority for carrying out the purposes of the above provisions relating to the freedom of trade, commerce and intercourse and restrictions on it.
- The Parliament can also confer on that authority the necessary powers and duties. However, no such authority has been appointed so far.
- In USA such authority is known as the Inter-State Commerce Commission.
- Steps should be taken for the setting up of an Inter-State Trade and Commerce Commission (under Art. 307) (Entry 42 of List-I). This Commission should be vested with both advisory and executive roles with decision making powers. As a Constitutional body, the decisions of the Commission should be final and binding on all states as well as the Union of India. Any party aggrieved with the decision of the Commission may prefer an appeal to the Supreme Court — Punchhi commission on Centre-State relation (2007)

Zonal Councils:

- The Zonal Councils are the statutory (Extra-constitutional) bodies and are established under States Reorganisation Act (1956)
- Seventh Constitutional Amendment Act (1956)
- The act divided the country into five zones
- Northern, Central, Eastern, Western and Southern and provided a zonal council for each zone.
- The zonal councils aim at promoting cooperation and coordination between states, UTs and the Centre.
- They are only deliberative and advisory bodies, recommendations are not binding.
- The Seventh Amendment was needed to implement the recommendations of the States Reorganisation Commission (Constituted in 1953 and headed by Fazal Ali) regarding the reorganization of the states on a linguistic basis.
- It paved way for doing away with classification of states in A, B, C and D categories and introduced Union Territories.
- Andhra Pradesh (1 Oct. 1953) was the first state of Independent India formed on linguistic basis.

Factors Considered During Formation of Zonal Councils

- Natural divisions of the country
- River systems
- Means of communication
- Cultural and linguistic affinity
- Requirements of economic development
- Security
- Law and order.

Composition of Zonal Councils

- Home minister of Union government – common chairperson of the five zonal councils

- Chief ministers of all the States in the zone – each chief minister acts as a vice-chairman of the council by rotation, holding office for a period of one year at a time.
- Two other ministers from each state in the zone.
- Administrator of each UT in the zone.

Following Persons Can Be Associated with the Zonal Council as Advisors (Without the Right to Vote)

- A person nominated by the Planning Commission (Now NITI Aayog)
- Chief secretary of the government of each state in the zone
- Development commissioner of each state in the zone.

The Objectives of the Zonal Councils

- To achieve an emotional integration of the country.
- To help in arresting the growth of acute state-consciousness, regionalism, linguism and particularistic trends.
- To help in removing the after-effects of separation in some cases so that the process of reorganisation, integration and economic advancement may synchronise.
- To enable the Centre and states to cooperate with each other in social and economic matters and exchange ideas and experience in order to evolve uniform policies.
- To cooperate with each other in the successful and speedy execution of major development projects.
- To secure some kind of political equilibrium between different regions of the country.
- To discuss and make recommendations regarding matters like economic and social planning, linguistic minorities, border disputes, interstate transport, and so on.

- The Zonal Councils should meet at least twice a year with an agenda proposed by states concerned to maximise co-ordination and promote harmonisation of policies and action having inter- state ramification.
- The Secretariat of a strengthened Inter-State Council can function as the Secretariat of the Zonal Councils as well.
- Punchhi commission on Centre-State relation (2007)
- The zonal councils should be constituted afresh and reactivated to promote the spirit of federalism.
- Sarkaria commission on Centre-state relations (1983)

Zonal Councils in India:

Council Member States HQ

Northern Zonal Council

- Himachal Pradesh, Haryana, Punjab, Rajasthan, Delhi, Chandigarh, Jammu and Kashmir, Ladakh and New Delhi

Central Zonal Council

- Uttar Pradesh, Uttarakhand, Chhattisgarh, Madhya Pradesh, and Allahabad

Eastern Zonal Council

- Bihar, Jharkhand, West Bengal and Odisha – Kolkata

Western Zonal Council

- Gujarat, Maharashtra, Goa, Dadra, Nagar Haveli, Daman and Diu, Mumbai

Southern Zonal Council

- Andhra Pradesh, Telangana Karnataka, Tamil Nadu, Kerala, Puducherry and Chennai

North-Eastern Council

- North-Eastern Council is a non-constitutional institution created by a separate statute of Parliament – North-Eastern Council Act of 1971.

Functions of North-Eastern Council

- To formulate a unified and coordinated regional plan covering matters of common importance.
- To review from time to time the measures taken by the member states for the maintenance of security and public order in the region.
- It is the nodal agency for economic and social development of 8 North Eastern Region States.
- It is mandated to function as a Regional Planning Body for the North Eastern Region.
- While formulating the regional plans, it needs to give priority to schemes and projects, benefitting two or more States, provided that in case of Sikkim, the Council shall formulate specific projects and schemes for that State.

Composition of North-Eastern Council

- Ex-officio Chairperson – Union Home Minister
- Vice-Chairperson – Minister of State (Independent Charge), Ministry of DoNER
- Members – Governors and Chief Ministers of all the eight States and 3 members nominated by President.