CENTRE STATE AND ADMINISTRATIVE RELATION IN INDIA: AN ANALYSIS

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Abstract

The present Research Project is an attempt to analyse the centre state and administration relation as envisaged under the Indian Constitution. The author draws a clear-cut picture of administration relation of centre and during emergency and normal times. During emergencies the Indian federal arrangement can be suspended whereas normal times the Centre can descend upon the state through its powers of delegation, direction and grants in India. Articles like 256, 246, 257 and 263 are potent weapons by which the administrative activities by states can be made to fall in line to the wishes of the Centre. Throughout the course of the research project various Indian cases have been discussed to get understanding of administration relation.

Keywords: Administrative, centre-state, federal arrangement etc.
CHAPTER-1

Introduction

The Constitution of India provides a dual polity with a clear division of powers between the Union and the States, each being supreme within the sphere allotted to it. The Indian federation is not the result of an agreement between independent units, and the units of Indian federation cannot leave the federation. The relation between centre and state are divided as:

- Legislative relation
- Administrative relation
- Financial relation

Indian Constitution is neither purely 'federal' nor purely 'unitary'. The federal form is clearly manifest in the constitutional distribution of powers between the union and the states not only in the legislative field but also in executive and administrative fields. In normal times, the constitutional scheme has to ensure autonomy of the states in regard to the spheres of activities earmarked for the states in the Constitution. Specific subjects have been allocated to the exclusive fields of the centre and the states respectively and certain subjects have been allocated to the 'concurrent field' with the stipulation that in the 'state' and 'concurrent' fields, the states should have the freedom to follow their own policies except to the extent that Parliament itself decides to legislate under the powers given to it under the Constitution. Historically, a highly centralised colonial government had slowly been transformed into a semi-feudal set-up. In post-Independent India, the needs of planned development, national integration and maintenance of law and order resulted in a considerable degree of centralisation of powers in the hands of the centre. Single party rule for a long period of time has also contributed to the increasing preponderance of the centre. Centre-state relationship in reality is a matter of interaction between the two levels of governments in course of discharge of their duties to people. In administering subjects like education, health, agriculture, etc. the two levels of governments have to interact in the interest of efficient management of these functions. Administrative problems assume political colour when the interactions are conditioned by considerations of power and hegemony. As the Administrative Reforms Commission commented "The problem of Centre-State relations has acquired new
dimensions and new importance in recent times due to several political parties being in power at the Centre and in the States."

In the modern administrative age, administration plays a very significant role by way of enforcing the law of promoting socio-economic welfare of the people. The pattern of administrative relationship between the Centre and the State, therefore, assumes a great significance in developing country like India. The Indian Constitution contains more elaborate provisions regarding the administrative relation between the Centre and the States than are to be found in any of the three federations of the U.S.A., Canada and Australia. The Constitution lays down a flexible and permissive and not a rigid scheme of allocation of administrative responsibilities between the Centre and State. The scheme is so designed as to permit all kind of co-operative administrative arrangement between the two levels of Government.

The administrative relations between the Centre and the States have been stated from Article 256 to Article 263 of the Constitution. As a rule, the Central Government exercises administrative authority over all the matters on which the Parliament has the power to make laws, whereas the State Governments exercise authority over the matters included in the State List. The executive function comprises both the determination of policy as well as carrying it into execution, the initiation of legislation, the maintenance of order, the promotion of social and economic welfare, the direction of welfare policy, in fact, the carrying on or supervision of the general administration of the State.¹

CHAPTER-2

Concept of Administrative Relation

The administrative jurisdiction of the union and the state Governments extends to the subjects in the union list and state list respectively, which clearly establishes the superiority of the Union Government in the administrative sphere as well. In addition the Constitution contains a number of provisions which accord a position of superiority to the Union Government.

Any federal scheme involves division of powers between the Union and the States not only in the legislative field but also in executive and administrative fields. Such distribution of administrative powers may have a strong Central bias as it exists in India. However, in India the Union does not have any separate and effective machinery for the administration and execution of central laws or to implement its policies. This is not so in other federations where both the federal and state governments create their own agencies and machinery for the administration of their laws and the subjects allotted to them under the constitution. In India, the Union is dependent on the states to give effect to its programmes and laws. The scheme of distribution of administrative powers had thus, twofold objectives. It arms the Union Government with powers to have effective control over the administrative setup of the State and at the same time it adopts several devices for inter-governmental cooperation and coordination.

In the sphere of administrative relations also the Constitution shows a distinct leaning in favour of the Union. It provides for a dual polity. Each State has its own government and administration which exercises administrative powers in respect of the subjects enumerated in the State List. The Union Government has exclusive administrative jurisdiction over the subjects of the Union List and the residuary subjects. The Constitution provides for concurrent administrative jurisdiction to the Union and the States over the subjects of the Concurrent List.

Part XI, Chapter II of the Constitution, lays down the administrative relations between the Union and States. When we analyse these provisions we find that in the sphere of administrative relations also the Union enjoys a superior position vis-a-vis the States.

The Indian Constitution is based on the principle that the executive power is co-extensive with legislative power, which means that the Union executive/the state executive can deal with all
matters on which Parliament/state legislature can legislate. The executive power over subjects in the Concurrent list is also exercised by the states unless the Union government decides to do so. The Centre can issue directives to the state to ensure compliance with the laws made by Parliament for construction and maintenance of the means of communications declared to be of national or military importance, on the measures to be adopted for protection of the railways, for the welfare of the scheduled tribes and for providing facilities for instruction in mother tongue at primary stage to linguistic minorities. The Centre acquires control over states through All India Services, grants-in-aid and the fact that the Parliament can alone adjudicate in inter-state river disputes. During a proclamation of national emergency as well as emergency due to the failure of constitutional machinery in a state the Union government assumes all the executive powers of the state.

The administrative relations between Union and state operate in a manner that Centre’s supremacy is more than visible. During emergencies the Indian federal arrangement can be suspended and squeezed into a unitary operation. But even during normal times the Centre can descend upon the state through its powers of delegation, direction and grants in India and also the provisions of all India services.

The administrative relations between the Centre and the States have been stated from Article 256 to Article 263 of the Constitution. As a rule, the Central Government exercises administrative authority over all the matters on which the Parliament has the power to make laws, whereas the State Governments exercise authority over the matters included in the State List.²

Article 256 of the Constitution lays down that the executive power of every state shall be so exercised as to ensure compliance with the laws made by Parliament and any existing laws which apply in that State, and the executive power of the Union shall extend to the giving of such directions to a state as may appear to the Government of India to be necessary for that purpose. It is further stipulated under Article 246 of the Constitution that if the state government fails to endorse the laws passed by the Parliament within its jurisdiction, the union government can issue directions to the states to ensure their compliance. This article lays down that it shall be the duty of the states to exercise its executive power so as to ensure that due effect is given within the state

to every act of Parliament and to every existing law which apply in that state. This is a statement of constitutional duty of every state. The government of India is entitled to give directions to the state government regarding the duty which is imposed upon it, by this article.

In order to ensure smooth and proper functioning of the administrative machinery at the two levels, the constitution embodies provisions for meeting all types of eventualities resulting from the working of federal system and also for protecting and maintaining peace and order in the country. The constitution provides for a flexible, permissive and not rigid, scheme of allocation of administrative responsibilities between centre and states.

The scheme of allocating the administrative responsibilities is drawn for the purpose of:

- The administration of law
- Achieving coordination between the centre and states
- The settlement of disputes between centre and States
- For purpose of article 355\(^3\)

\(^3\) Article 355 - Duty of the union to protect states against external aggression and internal disturbance
CHAPTER-3

Distribution of Administrative Powers

In modern times a State has become a welfare State and as a consequence, execution has gained importance even at the cost of legislation and judicial functions. Along with the distribution of legislative power, the executive power has also been divided between the Centre and the States. Subject to few exceptions, the general principle followed in this connection is that executive power is co-terminus with legislative power.

Article 73\(^4\) provides that subject to the provisions of the Constitution, the executive power of the union shall extend –

(a) To the exercise of such rights, authority and jurisdiction as are exercisable by the government of India by virtue of any treaty or agreement.

(b) To the matters with respect to which parliament has power to make laws; subject to the exception that it does not extend in a State with respect to matters regarding which the State Legislature has power to make laws, provided that in a matter with respect to which Parliament and State Legislature have power to make laws, the executive power of a State is subject to, and limited by, the executive power expressly conferred by the Constitution or by any law made by Parliament upon the Union or its authorities.[Article 162] \(^5\)

From the above discussions on provisions, the following propositions emerge:

- The executive power of the Centre extends to the whole of India in respect of matters in List I.
- However, the Centre is not obligated to administer by itself all matters in its executive domain. In case, if it so desires, entrust administrative responsibility in any matter to the States. [Article 154(2)(b)].
- A State's executive power extends to its territory in respect of matters in List II.

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\(^4\) M P Jain, Indian Constitution Law, 7\(^{th}\) ed.2014, p. 718.
\(^5\) Article 162- Extent of Executive Power of State
In respect of matters in which both the Centre and the States have legislative powers (which means List III and List II in cases falling under Article 249, 250, 252, 353 and 356), ordinarily, the executive power rests with the States except when either the Constitution, or a Law of Parliament, expressly confers it on the Centre.\(^6\)

In this area, therefore, there are several alternatives available. If the Centre makes no law, the executive power rests with the States, when the Centre makes a law, it can adopt any of the following alternatives regarding power under that law:

- It can leave it with the states,
- It may take over administrative power itself by making and express opinion in the law to this effect, or
- It may create a concurrent area by taking a part of executive power itself and leaving the rest to the States. E.g. in Industrial Dispute Act enacted by parliament under Entry 22, list III, administrative power rests with both centre and States.\(^7\)

All these patterns may be seen working in actual practice. Under the Electricity (Supply) Act, 1956, enacted by Parliament under entry 38, List III, administrative powers have been left wholly with the State Governments. Under the Industrial Disputes Act, enacted by Parliament under entry 22, List III, administrative powers rest with both the Centre and the States. Under the Essential Commodities Act, enacted by Parliament under entry 33, List III,\(^8\) the whole of the power is vested in the Central Government which, however, delegate power to the States to any extent it deems desirable. In actual practice, Centre has delegated a good deal of power under this Act to the States. Under the Forest (Conservation) Act, 1980, the Centre has assumed the entire responsibility for administration of the Act.

While there may be centralization in the sphere of legislation, there is lot of decentralization in the area of administration. This is because the Centre has not established a separate machinery of its own to execute most of its laws. Only a few subjects in the Union list, such as, defence, foreign affairs, foreign exchange, posts and telegraphs, All India Radio and Television airways, railways, currency, customs, union excises, income-tax, etc. are administered by the Centre directly through

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\(^6\) Supra Note 4 at p. 719


\(^8\) Supra Note 5
its own machinery. Administration of a number of matters in the Union list and most of the matters relating to them is secured through the machinery of the States. As has already been pointed out, the executive power of a modern government is not capable of any precise definition. Art. 73 or 162 do not contain any definition as to what the executive function is, or gives an exhaustive enumeration of the activities which could legitimately come within its scope. A government in exercise of its executive powers is charged with the duty and the responsibility of framing policies and carrying on the general administration. So long as it does not go against any constitutional provision or any law, the width and amplitude of its executive power cannot be circumscribed. If there is no enactment covering a particular aspect, the government can carry on the administration by issuing administrative instructions until the legislature chooses to make a law in that behalf.9

Thus, a State Government can establish a bureau of investigation for investigation of cases of tax evasion,10 or create a new district,11 or prescribe syllabi or text books for schools,12 in the exercise of its executive power.

However, a government cannot in exercise of its executive power infringe the rights of the people. If any governmental action is to operate to the prejudice of any person, it must be supported by law.13

By reason of Article 298 of the Constitution, executive power also includes:

a) Carrying on any trade or business;

b) The acquisition, holding and disposal of property; and

c) The making of Contracts for any purpose.

A special provision has been made in relation to matters included in the Concurrent List of the Constitution. The executive power in relation to matters listed in the Concurrent List vests in the States. But such power may be vested in the Union either by the Constitution or by a law of the

9 Supra Note 2 and 6
Parliament. The Parliament has also vested executive functions in the Union over Concurrent List matters under several Acts.\footnote{The Industrial Disputes Act, 1947; The Essential Commodities Act, 1955, etc.}

Apart from the broad conferment of the executive power with respect to the scope of legislative power, there are several provisions in the Constitution which have the effect of extending the executive power of the Union and enabling the Union to exercise effective control over the State(s). The executive power of the Union is vested in the President of India who can exercise it directly or through officer's subordinates to him in accordance with the Constitution.\footnote{Bishamber Dayal Chandra Mohan v. State of Uttar Pradesh, AIR 1982 SC 33.} In our Parliamentary system, the President is the Constitutional head, the executive power is exercised by the ruling party and political considerations play an important role in administrative decision.

In order to enable the Union to exercise administrative control over the State(s), several techniques have been adopted. These techniques have to be considered not only in the light of Constitutional framework but also having regard to the newly emerging political realities.\footnote{R.K. Chaubey, FEDERALISM, AUTONOMY AND CENTRE- STATE RELATIONS; 1\textsuperscript{st} ed. 2007, pp. 202-203.}
CHAPTER- 4

Centre- State Administrative Co-ordination

India is a federation country where the Constitution establishes dual polity with the union at the centre and the states at the periphery. The key features of the federal system are dual government system and the division of powers. As there are two governments existing at same time with different powers, as conferred by the Constitution, so there is always a possibility of situations which give rise to conflicts or disputes may be due to inefficient communication or may be lack of co-ordination. So, the Constitution of India has adopted the following techniques of co-ordination between the Centre and the States.

4.1. Power of Union to give direction to the States

In this aspect constitution provides article which confer power on the Union to give directions to the States in the exercise of their executive power are of vital importance to the proper and smooth day to day working of the Central Government. Article 256, 257, 339 (2), 350A and 365 constitute a remarkable feature of the Indian Constitution. These provisions signify the intention of the Constitution makers to create atmosphere of cooperation and co-ordination in the executive part of the constitution.

Article 256 of the Constitution provides that the executive power of every State shall be so exercised as to ensure compliance with the laws made by the Parliament and any existing law which apply to that State and the executive power of the Union shall extend to giving of such directions to the State as may appear the Government of India to be necessary for that purpose. The idea is that central laws should be properly executed in states. It is incumbent upon the State government to act in accordance with the directions given by the central government.17

It further stipulated that Article 256 of the Constitution that if the state government fails to endorse the laws passed by the Parliament within its jurisdiction; the union government can issue directions to the states to ensure their compliance. This article lays down that it shall be duty of the States to

exercise its executive power so as to ensure that due effect is given within the state to every act of Parliament.

It is clear from the phraseology of Article 256 that the existence of a law made by Parliament is a condition precedent which must be satisfied for the issuance of a direction under it. No direction can be issued under Article 256 where no enforcement of a law made by Parliament is involved.\footnote{Sharma Transport v. Govt. of A.P, AIR 2002 SC 322.}

Article 257 is a negative injunction which requires that the executive power of every State shall be so exercised as not to impede or prejudice the executive power of the Union. Sub clauses (2) and (3) of Article 257 extend the executive power of the Union so as to enable it to give direction to a State as to the construction and maintenance of means of communication declare in the direction to be of National and Military importance and to the giving of directions to a State as to the measures to be taken for the protection of the Railway within the States. Sub Clause (4) of that Article deals with the disbursement to the State by the Union of the excess costs incurred by the State in respect of matters dealt with in clauses 2 and 3 of that Article.

It is obligatory on the part of the State Government to comply with the directions issued by the Central Government under Article 256 and 257(1). The sanction to enforce the directions is enshrined in Art. 356.\footnote{K. Co-op. Building Society Ltd. v. State of Andhra Pradesh, AIR 1985 AP 242.}

‘Communications’ is a State subject.\footnote{Entry 13 List II.} However, under Article 257(2), the Centre may give directions to a State as to the construction and maintenance of means of communication declared in the direction to be of national or military importance. This, however, does not restrict the power of Parliament to declare highways or waterways to be national; nor is the Centre’s power restricted with respect to the national highways or waterways or its power to construct and maintain means of communication as part of its functions with respect to naval, military and air force works.\footnote{Entry 4, 23, 24, List I.}

Article 257(3) empowers the Centre to give directions to a State as to the measures to be taken for the protection of the railways within the State. ‘Railways’ is a Central subject\footnote{Entry 22, List I.} but ‘Police’ is a...
State subject and, consequently, the protection of railway property lies within the field of the State Government.

As a corollary to the power given to the Union to issue directions to the States, both in an emergency and otherwise, it has been provided in Article 365 that if any States fails to comply with or give effect to any direction issued, the President may hold that a situation has arisen in which the Government of that State cannot be carried on in accordance with the provisions of the Constitution. The consequence of such a view taken by President is that the penal provisions of Article 356 of supersession of the State Government and its legislature are attractive.

However, in Cases of Jay Engineering Works v. State of West Bengal and Deputy Accountant General v. State of Kerala, the Courts have intervened to prevent the exercise by the States of their executive power in contravention of the laws made by Parliament.

In case failure to comply with article 256 may attract serious consequences but no court is likely to entertain a grievance at the instance of a private party that article 256 has not been complied with by a state government.

Besides Article 256 and 257, the Union has power under Article 339 (2) to give directions to a State for the preparation and execution of schemes for the welfare of the Schedule Tribes in the State. Similarly, directions may be given to a State for providing instructions in the mother tongue at the primary stage of education, to children belonging to linguistic minorities (Article 350A).

Further the power of Union under Article 353 to give directions to a State during emergency is in operation as to the manner in which executive power of the State is to be exercised is so sweeping that such a direction may have the effect of bringing the State Government under complete control of the Union without suspending it. While in normal times, directions may be given only for specified purposes, during an emergency, directions may be given as how the

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23 Entry 2, List II.
24 AIR 1968 Col 407.
25 AIR 1970 Ker 158.
executive power of the State is to be exercised. In such situation the Union Government cannot by such directions take over the executive functions of the states.

Article 365 of the Constitution provides for sanction for enforcement of directions. Where any State has failed to comply with, or to give effect to, any directions given in the exercise of the executive power of the Union, the President may hold that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of the Constitution and the entire administration of the State may be taken over the by Centre issuing a Proclamation under Article 356.

The Sarkaria Commission recommended that:

“Articles 256, 257 and 365 are wholesome provisions designed to secure coordination between the Union and the States for effective implementation of Union laws and the National Policies indicated therein or nonetheless, a direction under these Articles and the application of the sanction under Article 365 in the event of its non-compliance should be a measure of last resort to cope with situation of irreconcilable differences. Further stated that they provide a technique for ensuring effective inter-governmental cooperation and maintaining the Rule of Law which are fundamental values enshrined in our Constitution.”

4.2. Intergovernmental Delegation of Administrative powers

Article 258 of the Constitution has made two-fold provision of delegation of union powers to the States. Delegation of powers may be done either by agreement or by legislation. Firstly, the Union Government may, with the consent of the State Government, delegate to it, the Union’s executive power on specified subjects, conditionally or unconditionally [Article 258(1)]. Secondly, Parliament may, while legislating on a Union subject, confer power and impose duties or authorized the conferring of powers and imposition of duties upon a State or Officers and Authorities therefore, for administering the law made [Article 258(2)]. The difference between the two provisions is that, in the first case, the Union executive cannot act on its own without the consent of the State but in the second case, it can act unilaterally by reasons of the authority given

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27 Report of Sarkaria Commission on the Centre-State Relationship, para 2.5.22, p.29.
28 Article 258 (1) and Article 258 (2) of Constitution of India, 1950.
by Parliament. A notification issued by the President under Article 258(1) entrusting functions to a state government has been held to be a legislative act. Delegation may be for one or more States may be general i.e. to all States.

The Supreme Court in *Jayanti Lal Amrat Lal v. F.N. Rana*[^29^], distinguished between the functions exercisable by the President on behalf of the union and functions conferred on the President under expression provision of the Constitution[^30^]. Only the former functions can be delegated under Article 258 (1) and not the latter functions. It must also be noticed that only a executive function can be delegated under clause (1) of Article 258, and not a quasi-judicial function. However, in *Shamsher Singh v. State of Punjab*[^32^], it was clarified that the distinction made by the Supreme Court in *Jayantilal Amritlal*[^33^] case between the executive functions of the Union and the executive functions of the President does not lead to the conclusion that the President is not the constitutional head of Government. Moreover, all the functions exercised of President are to be exercised with the aid and advice of the Council of Ministers[^34^].

Article 258 (2) empowers the Parliament to make laws authorizing the delegation by the Central government of its powers and functions to the states or officers and authorities in the States. Such a law may relate to matters with respect to which the Legislature of the State has no power to make laws. Those matters are enumerated on List I and List III of the seventh Schedule to the constitution. E.g., the *Central Sales Tax Act 1956*, enacted by parliament with respect to Entry 92A.

Article 258A was added by the Constitution (Seventh Amendment) Act, 1956. The object behind the insertion of this provision was to remove any practical difficulty in connection with the execution of certain development projects in a State. When the functions are entrusted by a State Government to the Government of India, the latter does not become “an agent” of the former government[^35^].

[^32^]: AIR 1974 SC 2192.
[^33^]: AIR 1964 SC 648.
[^34^]: See Article 74(1) of Constitution of India, 1950.
[^35^]: N.B. Singh v. Duryodhan, AIR 1959 Ori. 48, at p.65.
4.3. All India Services

All India Services is a specific institutional area of tension between the Centre and the States. Some discordant notes are struck on their role and their existence and functioning are seen as an erosion of the State autonomy.

Article 312 introduces an important feature into the Constitution, namely, that besides separate Services for the Union and the States, the Centre can create certain Services common to both. If the Rajaya Sabha declares by resolution supported by not less than 2/3rd of the members presents and voting that it is necessary or expedient in the national interest so to do. Parliament may by law provide for the creation of one or more All India Services (including All Indian Judicial Services) and regulate recruitment and conditions of service for it.36

The state has the authority to suspend the officials of All India Services. The President of Indian is responsible for the appointment and taking disciplinary action against them. Their recruitment, training, promotion disciplinary matters are determined by the central government. A member of the Indian Administrative Service (IAS) on entry into the service is allotted to a state where he/she serves under a state government. This arrangement wherein a person belonging to the All-India Service being responsible for administration of affairs both at the centre and states.

The Sarkaria Commission has recommended:

“The All-India Services should be further strengthened. This could be achieved through well-planned improvements in selection, training, development and promotion policies and methods. The present accent of generalism should yield place to greater specialization in one or more areas of public administration.”37

The Punchhi Commission has recommended:

“New all India services in sectors like health, education, engineering and judiciary should be created.”

4.4. Grants in aid (Article 275)

The central government makes grants-in-aid to the states in order to cope with the ever-expanding needs of the state. Grant-in-aid to states thus serve two purposes: firstly, central government exercises a strict control over the States because grants are granted subject to certain conditions. In case state does not agree central government withdraw the grant. Secondly it generates Centre-State Co-ordination and co-operation if state wants to develop its welfare schemes for the people of States.38

4.5. Full faith and Credit Clause (Article 261)

However, the Constitution provides the provisions to secure cooperation and coordination between centre and states: full faith and credit is to be given throughout the territory of India to public acts, records and judicial proceedings of the centre and every state.

CHAPTER-5

Co-operative Federalism- Co-ordination between States

Here a federal Constitution involves the sovereignty of the units within their respective territorial limits it is not possible for them to remain in complete alienate form each other. Therefore, Federal Constitutions provide certain rule for co-operation which the units are expected to take into consideration while dealing with each other. This co-ordination between the States and the centre is called Co-operative federalism.

5.1. Irritants over Deployment of Para Military Forces

An issue area which has often irritated Centre-State relations has been the deployment of Paramilitary forces in the States.

Duty Imposed during Emergency

A duty has, however, been imposed on the Union to protect every State not only against external aggression but also from internal disturbance and to ensure that the governance of every State is carried on in accordance with the provisions of the Constitution. Under this Article, Central intervention is called for when there is internal disturbance in a State or a failure of Constitutional machinery.\(^{39}\)

While article 352 is in operation means emergency declared, Article 355 provides that it is the duty of the Union to protect every State against external or internal disturbance and to ensure that the Government of every State is carried on in accordance with the provisions of this Constitution. This Article puts explicit and not implicit obligation on the Centre to protect every State against any kind of internal disturbance or domestic violence effecting the normal situation of law and order.\(^{40}\) Internal disturbance may occur when there is a political upheaval, which the local police force cannot control in a State. Such a situation may also arise when the police refuse to do its lawful duty to control a disturbance or when there is undue interference by political parties in the discharge of the duties of the police.

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\(^{40}\) Article 355 of Constitution of India, 1950.
It lays power to the Centre to use this Article immediately if a State Government is in the grip of domestic violence and internal chaos.

Since the commencement of the Constitution, the Union Government deployed the Central Reserve Police Force (CRPF) Suo moto on three occasions, viz., once in Kerala in 1968 for the protection of its offices and property there during the strike of Central Government employees, and twice in West Bengal in 1969, for the protection of Farakka Barrage and in connection with clashes between the workers of the Durgapur Steel Plant and the U.P. Provincial Armed Constabulary stationed by the Union Government at the Plant.41

The Centre can, therefore, even act against the wishes of the State Government and deploy forces on its own will or initiative to quell internal disturbance, violence or rebellion and its decision cannot be called in question in any Court of Law. However, the maintenance of public order is primarily the responsibility of the State Government under Article 162 read with Entry 1 of the State List.

Today after 44th amendment where the paramilitary Forces of the Union can be deployed in a state to control internal disturbance without prior consent of the State.

5.2. Inter-State Council

India is a union of states wherein the centre plays a prominent role but at the same time is dependent on the states for the execution of its policies. The Constitution has provided for devices to bring about inter-governmental co-operation, effective consultations between the centre and states so that all important national policies are arrived at through dialogue, discussion and consensus. One such device is the setting up of the Inter-State Council, along with Zonal Councils.42

The Constitution also makes provision for the settlement of Inter State disputes, where possible, without recourse to litigation. With this object, Article 263 says for establishment for an, Inter-State Council which may be charged with the duty of –

a) Inquiring into and advising upon disputes which may have arisen between States:

b) Investigating and discussing subjects in which some or all of the states, or the Union and one or more of the States, have a common interest; or

c) Making recommendations upon any subject and, in particular, recommendations for the better co-ordination of policy and action with respect to that subject.\textsuperscript{43}

Article 263 empowers the President to constitute a Council to inquiry into and advice upon a dispute which may have arisen between the States. Here President has constituted the Central Council of Health and council of Local Self Government in the exercising power under article 263. Five Zonal Councils were set up under State Re-organisation Act, 1956 are, Northern Council, Eastern Council, Western Council, Southern Council, and the Central Council.\textsuperscript{44}

Establishment of Inter-State Council [Article 263]- By issuing order on 28 may 1990\textsuperscript{45} President set up Inter-State Council, their membership as Prime Minister, Chief Ministers of all States and Union Territories and Administrators of the Union Territories not having a Legislative Assembly. In this part where Six Ministers of Cabinet rank to be nominated by PM.

The Council is merely an advisory body and its conclusions are not mandatory, nor as the President do any power to secure compliance with its recommendations.

Duties of the Inter-State Council

The Council shall be a recommendatory body and shall perform the following duties-

a) To investigate and discuss objects of common interests;

b) To deliberate on such matters of general interest to the states as referred by the the Chairman of the Council.

The Sarkaria Commission has recommended that Inter State Council called the Inter-Governmental Council under Article 263 should be a permanent body and should be charged with duties set out in Article 263 other than Social Economic Planning and Development.\textsuperscript{46}

\textsuperscript{43} M.P. Singh, CONSTITUION OF INDIA, 12th ed. 2016, p.834.
\textsuperscript{44} M.P. Jain, INDIAN CONSTITUTIONAL LAW, 7th ed. 2014, pp. 682-695.
\textsuperscript{45} The Inter-State Order, 1990 (May 28, 1990)
\textsuperscript{46} Report of the Sarkaria Commission on Centre- State Relationship, Para 9.3.05.p, 238.
The Punchhi Commission recommended that “there should be a continuing auditing role for the Inter-state Council in the management of matters in concurrent or overlapping jurisdiction. Suitable amendments to Article 263 are required to make the Inter-State Council a credible, powerful and fair mechanism for management of inter-state and Centre- state differences. The Zonal Councils should meet at least twice a year with an agenda proposed by states proposed by states concerned to maximise co-ordination and promote harmonisation of policies and action having inter-state ramification.”

5.3. Inter-State Water disputes (Article 262)

In India there are many inter-state rivers and their regulation and development has been a source of inter-state function. These relate to the use, control and distribution of waters of inter-state rivers for irrigation and power generation. In the Indian Constitution, water-related matters within a state are included in the state list, while the matters related to inter-state river waters are in the union list. To curb these kinds water dispute, Parliament has enacted Inter- State Water Disputes Act in 1956 and River Board Act, 1956.

In *T.N Cauvery Sangam v. Union of India*\(^{48}\), the Supreme Court held that if the central government had failed to make a reference of the dispute, the Court could, on an application under Article 32 by an aggrieved party, issue *mandamus* to the Central Government to carry out its statutory obligation.

In the exercise of power conferred by Article 262, Parliament has passed the River Board Act, 1956 and Inter-State Disputes Act, 1956. This Article empowers the Union government to set up a Tribunal for the adjudication of disputes relating to waters of Inter- State rivers. Here negotiations play a very important role in case of disputes.

Clause (i) Article 261 deals with *Public acts, records and Judicial proceedings* which states that full credit and faith shall be given throughout India to public acts and Judicial Proceeding of Union and all the States. Public acts mean all other legislative and executive acts of Union and the States.

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\(^{47}\) Report of Punchhi Commission on Centre-State Relationship Para 3

\(^{48}\) AIR 1990 SC 1316
This clause serves a very important purpose of eliminating any possible hindrance to the normal transaction of administrative activities in the Indian Federation.49

**Jurisdiction of Union in relation to territories outside India (Article 260)**

The government of India may by agreement with the government of any territory not being part of territory undertake any executive, legislative and judicial functions vested in the Government of such territory, but every such agreement shall be subjected to, and governed by, any law relating to the exercise of foreign jurisdiction for the time being in force.50

**5.4. Irritants over Governor’s Role**

One of the major causes of irritants between the Centre and the States has been the office of the Governor of India. The Governor has two-fold functions to perform: - he has to sustain a harmonious relationship between the State and the Centre, and the same has to play a role of friend and guide to his Council of Ministers. Article 154 invests the executive power of the State in the Governor and empowers him to exercise it directly or through officer’s subordinate to him. Article 163(1) contemplates a Council of Minister with the Chief Minister as its head to aid and advice "the Governor in the exercise of his functions or any of them in his discretion". The Governor is expected to act as a Constitutional Head and carry out the advice of Council of Minister, because Article 164 explicitly says that the Council of Minister shall be collectively responsible to State Legislative Assembly.

In *U.N. Rao v. Indira Gandhi*51 and in *M. Karunanidhis v. Union of India*52 Cases, the Supreme Court confirmed the view of various High Courts that the Governor is required to keep the Council of Minister in office (under Article 163) except in the case of President Rule in the State. However, the real controversy relating to the Office of the Governor has arisen mainly because of the role he plays in imposing President's Rule in the State. The Constitution provides that if the President in respect of a report from the Governor of a State or otherwise, is satisfied that a situation has arisen

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51 AIR 1971 SC 1002.
52 AIR 1979 SC 898.
in which the Government of a State cannot be carried on in accordance with the Provisions of the Constitution, he can declare failure of the Constitution Machinery under Article 356. It may be noted that President make take over the Government of a State without a Governor's report if he is independently satisfied that such a cause of action is necessary.

The arbitrary dismissal of the State Government, suspension and dissolution of the Assemblies on 'purely party and partisan' considerations clearly revealed that Article 356 has been toughly misused by the Central Government.

The Sarkaria Commission has suggested that a person to be appointed as a Governor should satisfied a stipulated criterion and a politician from the ruling party at the Union should not be appointed as a Governor of a State run by some other party or a combination of other parties. Further it also recommended the report of Governor under Article 356 should be a "speaking document" and should be made transparent.

The Punchhi Commission has recommended that suggestions of Sarkaria Commission should be adopted while appointing Governors. “Governors should be given a fixed tenure of five years and their removal should not be of the government at the Centre.

5.5. Centre State relation during Emergency Period

If a State fails to execute any lawful direction of the Union Government, the President may regard such non-compliance as failure of the Constitutional machinery in the State and may proclaim an emergency under which the Union of India may assume the executive and legislative control of the State.

Under President’s Rule (Article 356): The State Governments cannot ignore the directions of the Union Government, otherwise the President can take the action against the Government of the State stating that the administration cannot be carried on the accordance with the provisions of the Constitution and thus can impose President's rule on the State. In such an eventuality the President shall assume to himself all or any of the functions of the state Government.
Under Proclamation of National Emergency (Article 352): During a Proclamation of National Emergency, the power of the Union to give directions extends to the giving of directions as to the manner in with the executive power of the State is to be exercised relating to any matter.

Under Proclamation of Financial Emergency (Article 360): During a Proclamation of Financial Emergency, Union can direct the State Governments to observe certain canons of financial propriety and to reduce the salaries and allowances of all or any class of person serving in connection with the affairs of the Union including the Judges of the Supreme Court and High Courts. Union also requires all Money Bills or Financial Bills to be reserved for the consideration of the President after they are passed by the Legislature of the State.

It is thus, evident that in the administrative sphere the States cannot act in complete isolation and have to work under the directions and in cooperation with the Centre.
Conclusion

After having research Researcher can conclude as administrative relation between the Centre and the States reveals that the Constitution of India has assigned very wide sweep of administrative power to the Union. The administrative relationship between the centre and the states in India has evolved during the course of colonial rule. After Independence the Constitution of India provided for a system of inter-governmental relationship both for normal times and emergencies. In normal times, the federal polity was expected to function on the principle of dual government. The history of highly centralised government in the past, the influence of the Government of India Act 1935 and the concern of our founding fathers about national stability, peace and harmony led to the acceptance of a constitutional arrangement of distribution of powers that deliberately tilted the scale in favour of the union.

Later, in course of actual governance, the political forces started reshaping the Indian polity and central dominance through President's rule and other provisions harmed the effective working of the federal system. As different political parties came to power at the union and the state level, the phenomenon of central dominance had steadily come under attack by the constituent states. The politics of centre-state relations revolved round such issues as 'more powers to the states', 'more financial resources to the states' and even a clamour for redrafting of the Indian Constitution. In response to the states' demands, the Sarkaria Commission which was set up to review the working of the federal system suggested appropriate constitutional changes but nothing substantial came out of it. But it seems that in the years to come 'consensus' rather than 'control' is going to be the dominant paradigm of centre-state administrative relationship in the years to come.

However, Articles 256, 257, 356 and 365 of the Constitution provide a system of comprehensive administrative control and direction of the States by the Centre. It would, however, be wrong to get the impression that the States are completely subservient to the Centre since they have their own powers and status from the Constitution itself. Many conventions have also been evolved making the States more autonomous in practice than what they would look to be in theory. For instance, constitutionally speaking, the Centre need not consult the State Government for administering the matters concerning certain subject in the Concurrent List. And yet, the Centre
has always been consulting the State Government as a matter of convention before taking any
decision on such matters.

The distribution of powers between the centre and states in the legislative and executive fields, as
stipulated in the Constitution is clearly delimited in their scope. At the same time the Constitution
provides for devices through which cooperation between the centre and states is facilitated. These
include constitution of All India Services, Joint Public Service Commission for two or more states
and presence of integrated judicial system. Adequate provisions have been made in the
Constitution in ensuring smooth financial relations between the centre and states, through
provision of grants-in-aid, constitution of Finance Commission etc. The setting of Inter-State
Council by the National Front government for the first time is considered a positive step towards
promoting harmonious relationship between the union and states in bringing about overall
development of the country.

The centre has emerged strong over the years, due to centralisation of certain powers in its hands.
Through giving of directions to the states backed by a coercive sanction for their enforcement,
exercising supervisory control over the states in the maintenance of order, and proclamation of
emergencies, the union exerts its control over the states. The Sarkaria Commission on centre-state
relations suggested certain constitutional changes, which would smoothen the relationship
between the centre and states. Efforts need to be made to make our federal system decentralised
on both political and administrative fronts.

Apart from above researcher can also conclude as India is not ruled by one government but
simultaneously by twenty-eight governments, one National government and twenty-eight State
governments sharing between them the totality of governmental powers under the Constitution.
Such sharing of sovereign powers by different governments under the same Constitution is
possible only under a federal system and that is what makes India a federal Union and its
Constitution a federal Constitution.