

CENTRE-STATE RELATIONS

- **Legislative**
- **Administrative**
- **Financial**

Legislative - Art. 245 to 255 in Part XI

Legislative - 4 aspects

Territorial extent

Subjects/Lists

Parliamentary legislation in state field

Centre's control over state legislation

Territory

Parliament – laws - whole or part of India, extra-territorial legislation (person/property outside India)

Restrictions

- **Presidential regulations for governance or which may repeal or amend act of parliament - A&N, Lakshadweep, DNH, D&D**
- **Governor of a state with Scheduled area specify modifications & exceptions**
- **Specify modifications & exceptions by Governor of Assam for tribal autonomous areas**
- **Specify modifications & exceptions by President for tribal areas in Meghalaya, Tripura & Mizoram**

State legislature - whole or part of state and if outside sufficient nexus between state and the object

THE 300C.

A Gujarat Act containing a provision to take into account land held **in** any other part of **India** for computation of permissible ceiling area of land **in** Gujarat was held³ to be valid on the ground that there was sufficient territorial nexus.

Lists

Union [97 → 100 subjects] → Uniformity throughout country
state [66 → 61] → Matters of local & regional importance
& concurrent [47 → 52] → Uniformity desirable but not essential

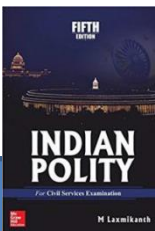
Concurrent

- ❖ Criminal & Civil procedure
 - ❖ Marriage & divorce
- ❖ Population control & family planning
 - ❖ Electricity
 - ❖ Labour welfare
- ❖ Economic & social planning
 - ❖ Drugs
 - ❖ Newspapers
 - ❖ Books & printing press
- ❖ 42nd amendment added 5 more education, forests, weights & measures, protection of wild life & constitution of courts except S.Court & H. Court

Residuary – Parliament including tax

Note:

Gol, 1935 provide 3 fold classification & residuary powers to Governor General
In US & Australia → residuary to states & Canada → residuary to Union

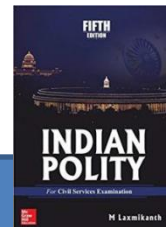


Conflict between Central & state law in the concurrent list

- **Central law prevails**
- **If state law got Presidential assent after reservation it prevails...still parliament can override**

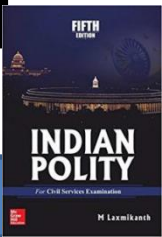
PARLIAMENTARY LEGISLATION IN THE STATE FIELD on 5 Extra Ordinary Circumstances

Art. 249 - Rajya Sabha passes resolution in the National Interest, 2/3rd members present & voting, remains in force for one year, can be renewed any number of times, but not exceeding 1 year at a time, does NOT restrict the power of state to make laws on the same matter



Art. 250 - during national emergency, parliament can make laws in state list, inoperative after six months emergency ceased to operate, does NOT restrict the power of state to make laws on the same matter

Art. 252 - 2 or more states request by passing resolutions, applicable only to requested states, adoption by others possible, such laws amended/repealed by Parliament ONLY, examples: Prize competition Act 1955, wildlife Act 1972, Water Act 1974, Urban Land Act 1976, Transplantation of Human Organs Act 1994

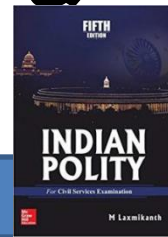


Art. 253 – to implement international agreements Examples: UN Act 1947, Geneva Convention Act 1960, Anti-Hijacking Act 1982

Art. 356 – those laws continue to be operative even after the President's rule but, state repeal/alter/re-enact those laws after that rule

CENTRE'S CONTROL OVER STATE LEGISLATION

- 1. Reservation of certain bills by Governor for Presidential consideration**
- 2. Certain bills require prior Presidential sanction**
- 3. President can direct to reserve money bills & other financial bills during financial emergency**



Administrative Relations – 256 to 263, Part XI

Distribution of Executive Powers

- ✓ **Centre – whole India, Parliament has exclusive legislative power [Union List]**
- ✓ **State – whole state, legislature has exclusive legislative power [State List]**
- ✓ **Concurrent List – the executive power with states except when a Constitutional provision or a parliamentary law specifically confers it on the Centre**

Obligation of States & Centre – Art.256

2 restrictions on executive power of states – coercive nature of centre

- **States to comply with Parliamentary laws**
- **Not to impede or prejudice the executive power of Centre in the state**
- **Art. 365 - Failure of comply by state with Centre's direction- President rule under 356**

Centre's direction to the states in the exercise of its executive power

- ❖ **In the matter of construction & maintenance of means of communication by the state**
- ❖ **Protection of railways**
- ❖ **Adequate facility for primary stage mother-tongue instruction to linguistic minority**
- ❖ **STs welfare schemes**

Mutual Delegation of Functions [Conditional or Unconditional] – distribution of legislative powers rigid, so as executive power...Constitution provides for inter-government delegation

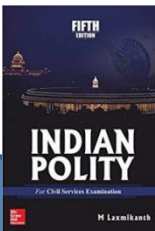
✓ **President with the consent of the state**

✓ **Governor of state with the consent of the central government**

➤ **Note: WITHOUT consent Parliament can delegate a duty to state in the Union List**

Cooperation between Centre and States

- 1. Art. 262. Parliament's role in inter state river valley**
- 2. Art. 263. President can establish inter-state council for common interest. Established in 1990**
- 3. Full faith & credit to public acts, records & judicial proceedings of the Centre & every state**
- 4. Parliament can appoint an authority relating to freedom of trade, commerce and intercourse, NO such authority appointed so far**



All-India Services

Occupy & serve in top positions both in Centre & states by turns, but recruited & trained by centre, controlled by both, they help in

- ✓ **high standard of administration**
- ✓ **uniformity in administration**
- ✓ **cooperation & joint action**

Public Service Commission

SPSC Chairman & members appointment by Governor but removal President

Parliament can establish JPSC on states request but, Chairman & members appointment by President

UPSC can serve the needs of state on request by its Governor but with approval of President

Judicial Relations

Integrated Judiciary

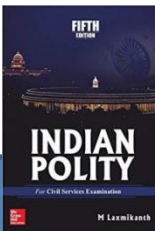
**Judges of a state high court – NJC, President
Parliament can establish High Court for 2 or
more states**

Relations During Emergencies

Art. 352 Centre directs state on ANY matter

**Art. 356 President assumes state
government's functions/Governor's powers**

**Art. 360 Centre directs states to observe
canons of financial propriety & President
directs states financial actions**



Other Provisions

Art. 355 a. Centre to protect states against external aggression & internal disturbance

Art. 355 b. Centre to ensure state administration in accordance with Constitution

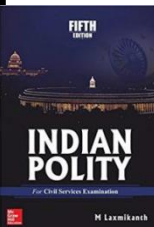
Governor – An agent of Centre – reporting to Centre

State Election Commissioner – removal by President

Extra-Constitutional Devices

Advisory/Policy Making bodies: NITI Aayog, NIC, Zonal Councils, NEC, Central Council on Health, Central Council on Local Gov., Central Council on I.Medicine, Central Council of Homeopathy, Central Family Welfare Council, Transport Development Council, UGC and so on

Conferences: Governors, CMs, CSs, DGPs, CJoH, VCs, Home/Law Ministers...



FINANCIAL RELATIONS – Art. 268 to 293, part XII

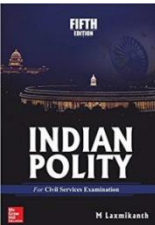
Allocation of Taxing Powers

Parliament – Union List – 15

State Legislature – State List – 20

**Parliament & State Legislature – 3
related to vehicles, stamp duties &
fees**

**Residuary items – Parliament – taxes
like gift, wealth & expenditure**



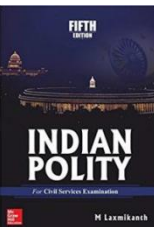
Constitutional restrictions on taxing powers of the states

Taxes on professions, trade...by state but the limit 2,500/annum

- **Sales tax restrictions...**
- **outside state : NO**
- **sale or purchase in the course of import/export : NO**
- **sale or purchase in the course of in inter-state trade & commerce: NO**
- **goods declared by Parliament to be of special importance: restrictions**

❖ Tax on consumption/sale of electricity...yes, but consumed/sold to Centre or railways NO

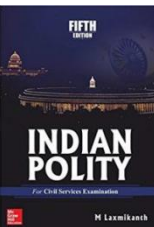
❖ Tax on water/electricity on an authority established by parliament for develop inter state river valley... yes...but after presidential consideration



Distribution of Tax Revenue

80th Amendment brought several central taxes and duties like Corporation Tax & Customs Duties at par with income tax

88th Amendment added Art.268-A



	Centre	State
Levied [L]	Art 268, Art 268 A, Art 269, Art 270	state list items
Collected [C]	268 A, Art 269, Art 270	Art 268, 268 A, state list items
Appropriated [A]	268 A	Art 268, 268 A
Assigned [As]		Art 269
Distributed [D]	Art 270	Art 270
Proceeds	271	
Retained		state list items

Art. 268 - Stamp Duties on..., Excise Duties on 2 items

Art. 268A – Service Tax

Art. 269 – taxes related to inter-state trade or commerce

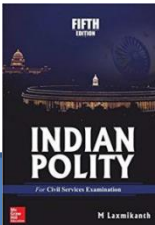
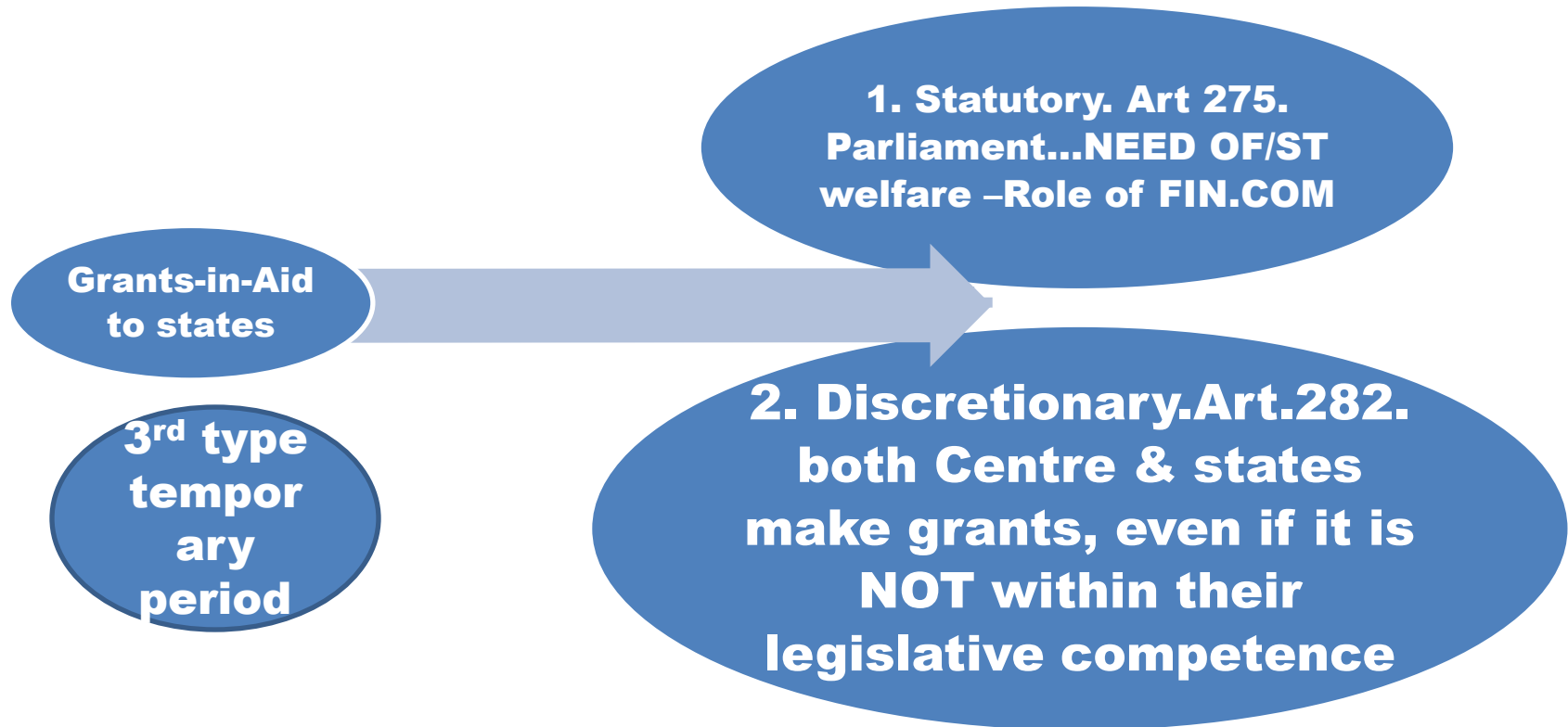
Art. 270 – Union List related

Art 271 - Surcharges in Art. 269 & 270

state list items – 20/11 items

	Centre	state
268	L	C, A
268A	L, C, A	C, A
269	L, C	As
270	L, C, D	D
271	Surcharges on 269,270	

Distribution of Non-tax Revenue for Centre & states: items in their respective list



Protection of states interests in financial matters

Certain bills require President's recommendation

- 1. imposing/varying tax in which states are interested**
- 2. varying the meaning of 'agricultural income'**
- 3. impose any surcharge**

??????

Borrowing

Centre → within India or outside, but limit fix by Parliament, NO such law or limit, make loans/guarantees to/for state

State → within India, but limit fix by legislature, with Centre's consent raise loans if outstanding loan already

INTER-GOVERNMENTAL TAX IMMUNITIES

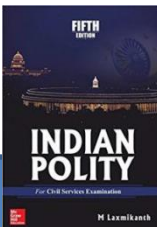
Exemption of Central property from state taxation

- ✓ **Parliament empowered to remove this ban**
- ✓ **Property may be used for commercial/sovereign purposes**
- ✓ **Corporations/Companies (a separate legal entity) created by Centre NOT immune**

Exemption of State property or income from Central taxation

- ✓ **Property may be used for commercial/sovereign purposes**
- ✓ **If Parliament provides state's commercial function may be taxed**
- ✓ **Centre tax property or income of local authorities**
- ✓ **Corporations/Companies (a separate legal entity) created by state NOT immune**

➤ **S. Court's advisory jurisdiction excise/customs applicable to state**

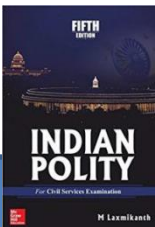


Trends in Centre-State relations

Till 1967 – smooth

After that changed political scenario – non-Congress (states) Vs. Congress (Centre)

- Tension Areas in Centre-state relations**
- Governor's appointment/dismissal/role**
- President's Rule for partisan interests**
- Central forces deployment**
- Reservation of bills**
- Discrimination in financial allocation to states**
- Sharing of finances**
- Management of All India Services**
- Use of electronic media for political purposes**
- Appointment of enquiry commissions against CMs**
- Encroachment on the state list**



Commissions/Initiatives related to Centre-state relations

1966 – ARsC – Chaired by M.Desai later Hanumanthayya, constituted study team under MC Setalvad, 22 recommendations

✓ **Establishment of Inter-State council**

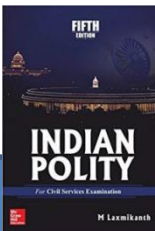
✓ **Non-partisan governor**

✓ **Delegation of power to states**

✓ **More financial resources to states**

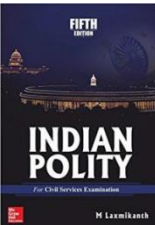
✓ **Deployment of central forces on request of state or otherwise**

➤ **NO action by GOV. on ARC**



1969 – Tamil Nadu Gov. (DMK) – Rajamannar Committee

- ✓ **Setting of Inter-State council**
- ✓ **Permanency of Finance Commission**
- ✓ **Disbandment of Planning Commission**
- ✓ **Omission of President's rule**
- ✓ **Residuary power to states**
- ✓ **Abolition of AISs**
- **Centre Gov. ignored**



1973 – Anadhpur Sahib Resolution – Akali Dal

- ✓ **Both political & religious demands**
- ✓ **Residuary power to states**
- ✓ **Equal authority & representation to all states**

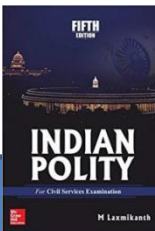
1977 West Bengal Gov. memorandum

- ✓ **‘Union’ to be replaced by ‘Federal’ in constitution**
- ✓ **Residuary power to states**
- ✓ **Presidential Rule & Financial emergency to be repealed**
- ✓ **Consent from state for state reorganisation**
- ✓ **Rajya sabha = Lok Sabha**
- ✓ **75% revenue to state**
- ✓ **Abolition of AISs**

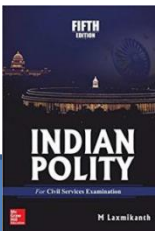
1983 - SARKARIA COMMISSION – Central Gov. appointed - 3 members : RS Sarkaria, B. Sivaraman & SR Sen

Did NOT favour structural changes in constitution but functional/operational aspects – 247 recommendations

- ✓ **Permanent Inter-State Council called Inter-Governmental Council**
- ✓ **President Rule sparingly**
- ✓ **AISs to be strengthened & more such services**
- ✓ **Residuary Power in Concurrent List but Residuary Power of taxation in Parliament**
- ✓ **Withhold of assent by President to be communicated to state**



- ✓ **NDC to NEDC**
- ✓ **Zonal council reactivation**
- ✓ **Centre should consult states before making a law in the concurrent list**
- ✓ **CM consultation before Governor's appointment part of constitution**
- ✓ **Sharing corporate tax with states**
- ✓ **Council of Ministers having majority - No dismissal by Governor**
- ✓ **Except compelling reason no dismissal of Governor**
- ✓ **Enquiry commission against minister by a demand of Parliament**
- ✓ **No Surcharge except specific purpose & limited period**
- ✓ **3 language formula**
- **so far 180 recommendations implemented including establishment of Inter-State council in 1990**



PUNCHHI COMMISSION

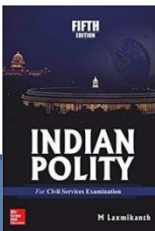
2nd commission on Centre-State relations

Set up in 2007

1+4 members

Terms of Reference

- Communal Violence**
- Inter-linking of rivers**
- Devolution of powers & autonomy to PRIs**
- Independent planning & budgeting at the district level**
- Central assistance vs. performance of states**
- Positive discrimination in favour of states**
- Taxes in VAT regime**
- Integrated domestic market**
- Central law enforcement agency to take up crimes having inter-state ramifications**
- Art.355**



Recommendations-310-2010

- ✓ **Broad agreement between Centre & states before legislation on Concurrent List**
- ✓ **Restrained Parliamentary supremacy on State List**
- ✓ **Inter-state Council to audit Concurrent List**
- ✓ **6 months time for Presidential consideration of state bill**
- ✓ **Follow Sarkaria recommendations in Governor's selection**
- ✓ **Governor removal by impeachment**
- ✓ **Governor's discretionary power to be exercised in non-arbitrary manner**
- ✓ **Governor to decide about a bill in 6 months**
- ✓ **Constitution to lay down guidelines to appoint CM by Governor in an hung assembly like preference to pre-poll alliance**
- ✓ **Governor have the right to sanction prosecution of a state minister**
- ✓ **Governor only constitutional role, NO CHANCELLOR or other STATUTORY POSITION**

- ✓ **Restricted use of 356**
- ✓ **Framework to deal localized emergency without resorting to 352 & 356**
- ✓ **Amendment to 263**
- ✓ **Zonal Council to meet 2 times/year, Secretariat of inter-state council as zonal council's Secretariat**
- ✓ **The success of Empowered Committee of Finance Ministers of to be replicated in other sectors**
- ✓ **Forum of CMs to coordinate policies like energy, food...**
- ✓ **New all-India services in sectors like health, education, engineering & judiciary**
- ✓ **Removal of obstacles for well functioning of Rajya Sabha – Equality of Representation irrespective of population size**
- ✓ **Devolution of powers to local bodies**
- ✓ **Cost sharing in state's implementing central legislations**
- ✓ **Major minerals royalty to be revised in 3 years, state to get compensation for delay**
- ✓ **NO ceiling on profession tax**
- ✓ **Assessment of all fiscal legislations by independent body**
- ✓ **Mechanism to involve states in finalization of Terms of Reference for Finance Commission**
- ✓ **Bringing down surcharges & cesses**
- ✓ **Permanent secretariat for Finance Commission**
- ✓ **Inter-State and Commerce Commission under Art. 307 as constitutional body**