



- The Constitution allocates sovereign power between governments along two dimensions: a vertical plane that establishes a hierarchy & boundaries between federal & state authority, and a horizontal plane that attempts to coordinate coequal states.
 - Both vertical & horizontal federalism are fundamental elements of constitution
 - Yet most scholarship about constitutional “federalism” focuses on vertical federal-state interactions while neglecting horizontal state-state interactions.
 - Scheme of inter-state relations - adjudication of inter-state water dispute, Inter-state councils, mutual recognition of public acts & records along with judicial proceedings, freedom of interstate trade & other intercourses.
 - Art 262 – adjudication of inter-state water dispute – (1) Parliament by law provide for adjudication of any water dispute (2)Parliament may provide that no court can exercise jurisdiction in such manner
 - 2 such acts – River Boards Act 1956 & Inter-State Water Dispute Act 1956
 - Central River Board – on request of state govts to advise them
 - Inter- State Water Dispute Act empowers Central govt to set up ad hoc water dispute tribunal for adjudication on dispute between two or more state on inter-state river.
 - Decision of tribunal binding on party states – no court is to have jurisdiction in respect of any water dispute which may be referred to such tribunal under this act
 - SC would have jurisdiction to adjudicate water dispute between states if legal rights or interests are concerned – but rule of law based upon analogy of private proprietary interest in water do not afford base for dispute resolution against the public interest at large
 - Till 2016 govt have set up 8 inter-state water dispute tribunal – Krishna ,Godavari & Narmada water disputes tribunal (1969) , Ravi & Beas Water Dispute Tribunal (1986) , Cauvery Water Dispute Tribunal (1990), Second Krishna Water Dispute Tribunal (2004) , Vansadhara Water Disputes Tribunal (2010) , Mahadayii Water Disputes Tribunal (2010)
- INTERSTATE COUNCIL**
- The Prime Minister is the chairman of the Council, whose members include the Chief Ministers of all states and UTs with legislative assemblies, and Administrators of other UTs.
 - Six Ministers of Cabinet rank in the Centre’s Council of Ministers, nominated by the Prime Minister, are also its members.
 - Art 263 – establishment of an Inter-state council to effectuate coordination between states & between centre & states
 - President can establish it in public interest – can define the nature of duties , organisation & procedure
 - Duties according to art 263
 1. Enquiring into & advising upon disputes
 2. Investigating & discussing the subjects behind the disputes .
 3. Making recommendations & coordination of policy
 - Councils function to enquire & advise upon inter-state disputes is complementary to the SC’s jurisdiction under art 133 to decide legal controversy between govts .
 - No binding decisions
 - Under art 263 – President has established – Central Council of Health , Central Council of Local govt & Urban Development ,Four Regional Councils For Sales Tax.
 - Central Council of Indian medicine & the Central Council of Homeopathy were set up under acts of Parliament
 - Sarkaria Commission on centre- state relations recommended establishment under art 263 – it should be called ‘ Intergovernmental Council
 - Janta Dal Govt headed by V.P. Singh established Inter-State Council in 1990 – members – PM (C) , CMs of all states , CMs of UTs with legislative assemblies , administrators of UTs without L.A. , Governors of states under President’s rule , 6 Central Cabinet Ministers.
 - ISC may meet at least thrice a year – in camera – questions decided by consensus.
 - There is a standing committee of the council –set up in 1996 for continuous consultation & processing of matters – members – Home minister (C) , 5 Union Cabinet Ministers , 9 CMs
 - Council is assisted by a secretariat- Inter- State Council Secretariat – set up in 1991- headed by secretary to GOI –since 2011 also acting as Secretariat of Zonal Councils
 - To mitigate the issue of difference of rules & laws of different states, constitution contains the ‘Full Faith & Credit’
 - Full Faith & Credit is to be given throughout the territory of India to public acts, records, judicial proceedings - effect of such record in one state

should be directed to other state on the basis of Parliamentary law

- It does not require the courts of a state to enforce the penal laws of another state
- Art 301 – free trade, commerce, intercourse throughout the territory.
- Art 302- 305 - Parliament can impose restriction on free trade within state or between states in public interest – Parliament cannot discriminate between two states – except on basis of scarcity – legislative assembly can impose such restrictions only with previous sanction of President – also can impose taxes on import of the subjects which are taxed in the territory
- Freedom under art 301 is subject to nationalisation law - Parliament can appoint any authority for free trade - no body appointed so far .
- Establishment of ISC was necessitated by changes in Indian party system & the institutional transformation associated with it
- Standing committee can invite experts
- Why ISC remained unutilised ?
- First four decades after independence when ISC was not formally set up, Congress was dominant at national & state level so issues were discussed at party forum
- Economic planning needed creation of National Development Council (NDC) which worked as a functional substitute for ISC
- In the multi-party coalition phase since 1989, importance of ISC reduced as some parties representing in federal coalition govt itself acted as a kind of inter-governmental forum
- The return of single-party majority govt at the centre in 2014 has necessitated strengthening of ISC
- Clause (A) of art 263 which gave power to investigate issues of inter-state conflict was dropped in presidential ordinance establishing ISC
- Civil society institutions & corporate sectors should get their representation in ISC.
- ISC & NITI merger in one constitutional forum can improve state's participation in inter-governmental affairs – can enhance institutional status of NITI Aayog by being attached a constitutional body
- To make it more federal the secretariat of ISC & Union Home Ministry accountable to Rajya Sabha.
- There is a little institutional space to settle inter-state friction especially since RS is no longer treated as a council of states but as parking lot for unelectable leaders of political parties
- ISC is yet just a discussion group but it should have a greater say in federal coordination in future
- The way in GST council, union govt having a third of the vote while the states share the rest, irrespective of the size of population – that option is open for the ISC

- ISC should have a permanent secretariat which will ensure frequent meetings
- Art 262 – excludes the legislative competence of all the state legislature when it comes to inter-state water disputes
- Art 262- excludes jurisdiction of SC when Parliament sets up an ISC to resolve a water disputes between two or more states
- According to Punchhi commission, ISC must meet at least thrice a year
- Right to free movement – migration for employment –overcrowding cities –no discussion at ISC –
- In India interstate migration doubled between 2001-2011 – growing 4.5% annually (WEF)
- According to WEF, Bihar has highest outflow of migrants –per-capita income roughly equivalent to Somalia's (USD 520)- birth rate of 3.4 children per woman
- According to the State of World Population report more than half of the world's population lives in urban areas
- According to report, urbanization in India is a consequence of demographic explosion & poverty induced rural-urban migration
- Chief minister of Tamil Nadu, suggested that bills of national importance should be placed before the Council before being tabled in Parliament.

INTERNATIONAL MODELS

- A supranational federation such as the European Union has the economic and financial affairs council to coordinate tax policies.
- The Australian states came together in 2005 to set up the council for the Australian federation to jointly represent their interests in Canberra.
- The premiers of Canada's 13 provinces and territories meet as part of the council of the federation.
- The German federation operates with a strong second house that represents the interests of the states.

ZONAL COUNCIL

- Statutory bodies –State Reorganisation Act of 1956 – five zones – Northern, Central, Eastern, Western & Southern
- For such division several factors taken into account – Natural division of country, river systems & means of communication, cultural & linguistic affinity, requirement of economic development, security, law & order
- Members- Central home minister, CMs of all states in zone, two other ministers of states, Administrator of each UT in the zone – advisors can be appointed without voting right – Person nominated by PCI, Chief Secretary of state, development commissioner

- Home minister is common chairman of five zonal councils – Each CM acts as vice-chairman of council in rotation holding office for a period of one year
- Matters like social & economic planning , linguistic minorities, border disputes , inter-state transport
- Only deliberative & advisory bodies
- Objectives – to achieve an emotional integration – to arrest growth of acute state consciousness , regionalism , linguism & particularistic trends , to stabilise the process of reorganisation , integration & economic advancement , to enable centre & state cooperation in socio-economic matters & evolution of uniform policies , to provide political equilibrium between different regions of country
- N-E Council - established by separate act – N-E Council Act of 1971 – Assam , Manipur , Mizoram , Arunachal , Nagaland Meghalaya, Tripura , Sikkim - extra functions compared to other councils – has to formulate a unified, coordinated regional plan covering matter of common importance.
- It was recommendation of Punchhi commission (2005) – national security, communal harmony, Centre-state financial relations & planning should be always discussed
- According to commission ‘National Security’ as a subject was not specifically listed in seventh schedule
- Western zonal council is the economic hub of India – Gujarat , Maharashtra, Goa
- Inter-state coordination on issues such as river water disputes, problems pertaining to the location, funding & execution of mega projects , ecosystem management , tourism development , climate change , natural disasters will help states to harness their growth potentials
- Inter-State migration and quarantine are under the Union List, while the prevention of infectious diseases moving from one State to another is under the Concurrent List.
- States have the power to impose border restrictions, the responsibility to prevent a breakdown of inter-State relations over such disputes is on the Centre.
- The Punchhi Commission in its report had said that ‘National Security’ as a subject was not specifically listed in any of the three Lists.
- The subject of Security under the Article 352 & under the Emergency Provisions in Part XVIII of the Constitution assigned to the Union Government.
- Though it is an overriding executive power of the Union, however, ‘Security’ is a subject in which the States & the Union have a common interest.
- In case of communal riots the use of Article 355 may be in order - if required explicitly clear that the Centre can depute Paramilitary Forces to such trouble spots in certain circumstances even if a request from the State Government is not received.
- State govt can approached the Supreme Court against any parliamentary law, invoking Article 131 which gives the apex court original jurisdiction in any dispute between the Centre and state or between state
- Internal security has often not been given due consideration as far as the proceedings of the ISC are concerned.
- Evolving and deepening nexus between crime and extremism bears testimony to the fact that ‘law and order’ issues have wider pan-Indian ramifications with obvious connections to external security
- The extremism exploiting the gaps along inter-state boundaries.
- Internal threats to national security have assumed centre-stage in the debates on Indian security.
- After the National Security Policy has been finalised, the Central Government shall seek collaboration with the States, a country wide review of the entire existing security management apparatus and draw up a plan for restructuring and revamping it within a stipulated time frame.
- Internal Security is thus only one of the aspects that the wide scope and mandate of the ISC covers. Consequently, internal security has often not been given due consideration as far as the proceedings of the ISC are concerned
- The creation of the States Division within the Ministry of External Affairs is indicative of this new willingness to mainstream regional voices on foreign policy matters.
- State govt should consider creating their own institutional frameworks to engage the central govt on foreign policy issues.
- Constitutionally mandated forums in a federal set-up, such as Zonal Councils and Inter-State Council, should be given more importance than the National Development Council.
- The entire approach to development since Independence has been steered by extra-Constitutional bodies like the Planning Commission and mechanisms like the NDC.
- The need for better Centre-State & inter-State coordination is also felt on account of internal security threats since the mid-1980s. Internal security concerns can be effectively tackled through the coordinated skills of the Centre and the States.