

INTRODUCTION

The Constitution of India envisages two tiers of Government, one at the level of the Union, and the other at the level of the States. From the functional standpoint, such a Constitution is not a static format, but a dynamic process. Within this process, the interplay of centrifugal and centripetal forces influenced by a changing social, economic and political environment, constantly strives to find a new adjustment of the balance between unity and diversity.

The very dynamism of the system with all its checks and balances brings in its wake problems and conflicts in the working of Union-State relations. Stresses, strains and irritations generated by such problems may stifle the working of the system and endanger the unity and integrity of the country. It is, therefore, necessary to review from time to time, in the light of the past experience, the evolution of Union-State arrangements not only for the purpose of identifying persistent problems and seeking their solutions, but also to attune the system to the changing times so that propelled by a spirit of common endeavour and cooperative effort it takes the country ever forward towards the social welfare goals set out in the Constitution.

The Constitution has been in operation for the last 37 years. A review of the administrative aspects of Union-State relations was made by the Administrative Reforms Commission (1966-70). Much has happened since then in the realm of Union-State relations. In the wake of social, economic and political developments over the years, new trends, tensions and issues have arisen. 'Consensus and Cooperation' which is a pre-requisite for smooth functioning of Union-State relations is threatened by politics of confrontation. In this perspective, after mature consideration, the late Prime Minister with great foresight and wisdom called for a fresh comprehensive review of the arrangements between the Union and the States, in all spheres. On March 24, 1983, she announced in Parliament the proposal to appoint a Commission under the Chairmanship of R. S. Sarkaria, a retired Judge of the Supreme Court. She declared that "the Commission will review the existing arrangements between the Centre and the States while keeping in view the social and economic developments that have taken place over the years. The review will take into account the importance of unity and integrity of the country for promoting the welfare of the people". She further enunciated that the Commission would examine "the working of the existing arrangements between the Centre and the States and recommend such changes in the said arrangements as might be appropriate within the present constitutional framework".

Terms of Reference

The Commission was formally constituted per Government of India, Ministry of Home Affairs Notification No. IV/11017/1/83-CSR, dated June 9, 1983. Subsequently, two more members were inducted. Shri B. Sivaraman was appointed on July 7, 1983 and Dr. S. R. Sen on July 27, 1983.

The terms of reference of the Commission, as enunciated in this Notification, are as under:

"2. The Commission will examine and review the working of the existing arrangements between the Union and States in regard to powers, functions and responsibilities in all spheres and recommend such changes or other measures as may be appropriate.

3. In examining and reviewing the working of the existing arrangements between the Union and States and making recommendations as to the changes and measures needed, the Commission will keep in view the social and economic developments that have taken place over the years and have due regard to the scheme and frame-work of the Constitution which the founding fathers have so sedulously designed to protect the independence and ensure the unity and integrity of the country which is of paramount importance for promoting the welfare of the people".

The expression "arrangements", used twice in the context of the phrase "between the Union and the States", is of wider amplitude than the word "relations" occurring in the main caption of Part XI of the Constitution. It includes all inter-Governmental relations whether founded on or arising from or related to

constitutional or statutory provisions, or administrative practices and conventions including the mechanisms through which they are worked.

The scope of the "Terms of Reference" would include an examination and review of the working of—

- (a) the constitutional provisions in regard to "powers, functions and responsibilities" of the Union and the States having a bearing on the role of the Union and the States in relation to each other "in all spheres";
- (b) the statutes having an inter-face between Union and States, particularly the extent to which they impinge upon each other's area of responsibility and functions;
- (c) the administrative practices and conventions involving inter-action between the Union and the States in various areas of concurrent or separate responsibility, such as, planning, devolution of financial resources and financial grants, civil supplies, etc., including the mechanisms or agencies through which these functions are channelised.

In reviewing the arrangements and making recommendations as to changes and measures needed, the Commission is required by the Terms of Reference, to—

- (i) "keep in view the social and economic developments that have taken place over the years"; and
- (ii) "have due regard to the scheme and framework of the Constitution which the founding fathers have so sedulously designed to protect the independence and ensure the unity and integrity of the country which is of paramount importance.....".

No. (i) would include, *inter alia*, social and economic developments that have taken place in pursuance of the Directive Principles of State Policy enshrined in the Constitution. Since these Directives are fundamental in the governance of the country, it is implicit that nothing is to be suggested or recommended which may thwart or undermine the implementation of that policy. This guideline does not preclude the Commission from taking into account political developments that have taken place or may take place in future, providing they have an impact on Union-State relations. Indeed, many of the problems arising from or concerning the "arrangements" between the Union and the States are inextricably intertwined with political issues.

As per (ii), the Commission is mandated that in its task it will have "due regard" to the "scheme and framework" of the Constitution. The criteria for identifying such "scheme and framework", as broadly indicated, are—

- (a) that these have been 'sedulously designed by the founding fathers to protect the independence and ensure the unity and integrity of the country'; and
- (b) that these are 'of paramount importance for promoting the welfare of the people'.

These criteria are illustrative, but not exhaustive.

The words "in the working", used twice in the context of "between the Union and the States", indicated that the primary endeavour of the Commission should be to find solutions to the various problems in the functional aspect of Union-State arrangements. The Commission may suggest structural changes when it finds that a persistent problem or dysfunctioning of these arrangements is due to some deficiency in the framework of the Constitution.

Some Initial Difficulties

In the initial stages, the Commission was faced with a number of difficulties which impeded its becoming promptly and fully operational. There was considerable delay in the appointment of staff and provision of proper office accommodation and facilities. The Commission could not settle down to its task till February, 1984. Another factor that caused delay and dislocation in its working, was the frequent transfers of the Secretaries of the Commission. As many as three Secretaries were appointed during the

tenure of the Commission. Difficulties were also experienced in filling up posts at various levels promptly with suitable persons.

Collection of Basic Information

Preliminary Steps

The first task of the Commission was to collect basic information. For that purpose, several preliminary steps were taken. A public notice was issued and advertised in all leading newspapers of India inviting from all interested individuals, knowledgeable persons, organisations and other sources, information and factual data which would facilitate the identification of the problems, issues and difficulties experienced in the working of Union-State arrangements in the legislative, administrative, fiscal, economic and other spheres.

The Chairman wrote demi-officially to ninety former Chief Ministers and other eminent persons of different States soliciting such information and their views. Research dossiers were culled and relevant data collected from various publications, including proceedings of public seminars, debates and reports of former Commission, Committees, Studies, decisions of the Supreme Court and High Courts having a bearing on any aspect of Union-State relations. Communications were sent to all the State Governments requesting for information about the specific difficulties, if any, encountered by them in the working of these arrangements.

In January, 1984, a Questionnaire consisting of 109 questions divided into seven parts, viz., Introductory, Legislative Relations, Role of Governor, Administrative Relations, Financial Relations, Economic and Social Planning and Miscellaneous including Industry, Trade and Commerce, Agriculture, Food and Civil Supplies, Education and Inter-Governmental Coordination, was issued. No less than 6800 copies of the Questionnaire, in English and 500 copies, in Hindi, were issued to Members of Parliament, Members of State Legislatures, Governors, ex-Governors, Chief Ministers, ex-Chief Ministers, Vice-Chancellors of Universities, Institutions, Journalists, Jurists, Statesmen, Economists, Trade Unions, former Members of Constituent Assembly and different political parties. Copies of the Questionnaire were also sent to the Union Government and its Heads of Departments. Supplementary Questionnaires, each containing a set of about 10 or 12 questions on technical issues, were circulated to the specialists concerned including Central Government Ministries, State Governments, eminent Jurists, former Governors, distinguished Statesmen and others.

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In January, 1984, a Questionnaire consisting of 109 questions divided into seven parts, *viz.*, Introductory, Legislative Relations, Role of Governor, Administrative Relations, Financial Relations,

Economic and Social Planning and Miscellaneous including Industry, Trade and Commerce, Agriculture, Food and Civil Supplies, Education and Inter-Governmental Coordination, was issued. No less than 6800 copies of the Questionnaire, in English and 500 copies, in Hindi, were issued to Members of Parliament, Members of State Legislatures, Governors, ex-Governors, Chief Ministers, ex-Chief Ministers, Vice-Chancellors of Universities, Institutions, Journalists, Jurists, Statesmen, Economists, Trade Unions, former Members of Constituent Assembly and different political parties. Copies of the Questionnaire were also sent to the Union Government and its Heads of Departments.

Supplementary Questionnaires, each containing a set of about 10 or 12 questions on technical issues, were circulated to the specialists concerned including Central Government Ministries, State Governments, eminent Jurists, former Governors, distinguished Statesmen and others.

Response to the Commission's communications from the best informed sources, *viz.*, the State Governments, was far from being prompt. Their replies trickled in very slowly. When a reply was received, action was immediately initiated to hold a meeting of the Commission with the Chief Minister of the State with a view to obtaining further clarifications in respect of the important issues high-lighted in the reply. However, there were delays in arranging for such meetings also. The following table gives the dates on which the replies were received and the dates on which meetings were held:

	Date of receipt of reply	Date of meeting
1. Madhya Pradesh	1-2-1984	3-8-1984
2. Kerala	4-6-1984	6-6-1984
3. West Bengal	3-8-1984	19-11-1984
4. Tripura	29-8-1984	19-2-1985
5. Himachal Pradesh	29-8-1984	17-9-1984
6. Nagaland	17-12-1984	27-9-1985
7. Karnataka	18-1-1985	10-4-1985
8. Assam	23-2-1985 30-7-1987	25-2-1985
9. Orissa	6-5-1985	6-7-1985
10. Andhra Pradesh	22-5-1985	12-6-1985
11. Haryana	24-6-1985	12-3-1986
12. Bihar	16-8-1985	19-12-1985
13. Meghalaya	29-9-1985	1-10-1985
14. Maharashtra	17-10-1985	21-11-1985
15. Tamil Nadu	3-12-1985	31-12-1985
16. Uttar Pradesh	23-12-1985	20-1-1986
17. Gujarat	24-7-1986	20-11-1986
18. Sikkim	28-7-1986	Not held
19. Rajasthan	22-10-1986	19-3-1987
20. Manipur	19-12-1986	20-2-1987
21. Jammu and Kashmir	31-12-1986	16-2-1987

It will be observed that, during the first two years of the Commission's tenure, replies were received from only 10 State Governments.

Response from Government of Punjab was received as late as on 24th April, 1987. Due to imposition of President's Rule from 11th May, 1987, discussion with the Punjab Government could not be held. Meetings were, however, held on 29-6-1987 and 14-7-1987 with the former Chief Minister, Shri S.S. Barnala who had signed the State Government's response, when in office, but appeared before the Commission as

President of Akali Dal (L) Party. This opportunity was utilised to discuss the memorandum of the State Government also. No response was received from the Governments of Arunachal and Mizoram. Submissions were, however, received from two Union Territory Administrations of Goa and Pondicherry on 11-11-1985 and 2-1-1986 respectively and discussions were also held with them. Responses were received and meetings were held with Ministers of Union Government as under:

	Date of meeting
1. Shri Ajit Kumar Panja, Minister of State for Planning	21-5-1986
2. Shri G.S. Dhillon, Union Minister for Agriculture	27-5-1986
3. Mrs. Mohisina Kidwai, Union Minister for Health and Family Welfare	29-5-1986
4. Shri N.D. Tiwari, Union Minister for Industries	30-5-1986
5. Shri P. Shiv Shankar, Union Minister for Commerce	3-7-1986
6. Shri Vishwanath Pratap Singh, Union Minister for Finance	8-7-1986
7. Shri P.V. Narasima Rao, Union Minister for Human Resource Development	18-8-1986
8. Shri Buta Singh, Union Minister for Home Affairs	20-8-1986

Further, there was considerable delay in receiving replies to our Questionnaire and communications from most political parties of all-India stature. The following are the details of the dates when their replies were received and the dates on which meetings were held with the party representatives:—

	Date of receipt of reply	Date of meeting
1. Communist Party of India (Marxist)	30-3-1984	8-10-1984
2. Communist Party of India	24-4-1984	9-4-1986
3. Janata Party	5-7-1985	12-3-1986
4. Bharatiya Janata Party	12-2-1986	10-4-1986
5. Lok Dal	13-3-1986	17-3-1986
6. All India Congress Committee (Socialists)	2-5-1986	2-5-1986
7. All India Congress Committee (I)	30-5-1986	30-5-1986

The number of replies in response to the Questionnaire of the Commission was 405, including the Memoranda received from the State Governments. This figure does not include information received or collected by other modes.

The Commission set up four Study Teams to assist it in the study and analysis of all relevant material collected, including that received by it in response to the Questionnaires. Each team was headed by a Director. The distribution and coordination of the studies in their day-to-day working was supervised and coordinated by the Joint Secretary and the Secretary under the overall superintendence and direction of the Commission.

The broad topics of the study included—historical background and evolution of the Constitution; proceedings of the Constituent Assembly; Union-State arrangements and their working in the legislative, administrative, financial socio-economic and other relevant spheres. The Constitutions of some federations, *inter alia* of Australia, Canada, Federal Republic of Germany, Switzerland, USA, USSR and Yugoslavia were also studied. A few experts from some of these countries met members of the Commission or wrote letters or sent documents on some matters.

From June, 1984 onwards, the Commission visited 15 States and two Union Territories and held discussions with their Governments. During these visits, eminent publicmen, academicians, leaders of political parties and others located in those States, were also interviewed. The tour programmes to the States were fixed after prior consultation with the State Governments, who had either sent their Memoranda

in advance or had done so shortly before or during the visit to those States. These conferences were essential for elucidating many points which were either left obscure in their memoranda, or were peculiar to the conditions in those States. The Commission could not visit the States of Gujarat, Haryana, Jammu and Kashmir, Manipur, Punjab, Rajasthan and Sikkim, due to constraint of time as the memoranda of these Governments were received at a very late stage. Discussions with these State Governments, except the Government of Sikkim were held at the Commission's office in New Delhi. Sikkim Government felt that they have nothing to add more than what they have spelt out in replies to Questionnaire, submitted to the Commission.

The Commission has interviewed more than 850 individuals including Union Ministers, Chief Ministers, former Union Ministers, former Chief Ministers and State Ministers, Jurists, political parties, scientists, journalists, editors of leading newspapers and magazines, scholars, economists, fiscal experts, Parliamentarians, leader of political parties, senior officials of the Union Government, etc.

The Commission had the privilege of holding discussions with following members of the Constituent Assembly, in a group, on October 29, 1984 at New Delhi:

1. Shri R.R. Diwakar
2. Shri M.L. Dwivedi
3. Shri K.K. Jain
4. Shri R.L. Malviya
5. Dr. Mohan Singh Mehta
6. Shri S. Nijalingappa
7. Ch. Ranbir Singh
8. Prof. N.G. Ranga
9. Smt. Renuka Ray
10. Shri Satish Chandra
11. Pt. Ram Sahai Tiwari
12. Shri Kishori Mohan Tripathi

These apart, some other Members of the Constituent Assembly including Sarva Shri O.V. Alagesan, M.R. Masani, C.M. Poonacha, C. Subramaniam, Kalu Ram Virulkar, Dr. Hare Krishna Mehtab and Dr. Satyanarain Motturi were interviewed during the visits to the States. The Commission acknowledges the debt of gratitude which it owes them for having taken the trouble of appearing and giving the Commission the benefit of their valuable suggestions, discussions and information.

The task before the Commission covered a very wide spectrum. It had to sift virtually a cartload of material and data. Hence a selective approach became imperative so that its attention could be focussed on major and important issues.

The Commission noticed that there was near unanimity among all sections of public opinion on some of the major issues, particularly in regard to the imperative necessity of establishing an Inter-State Council.

The Commission's report consists of two Parts. The first Part contains the main report and the second the memoranda received from the State Governments and political parties. The report covers issues which have a direct bearing on inter-Governmental relations in legislative and administrative spheres and also the need for establishing a standing Inter-State Council under Article 263, to ensure inter-governmental coordination. It also includes related matters, such as, the Role of the Governor, Emergency Provisions, Deployment of Union armed forces in a State to help maintain public order, Reservation of State Bills for consideration of the President and All-India Services. The report further covers inter-governmental relations germane to socio-economic development, *viz.*, Financial Relations, Economic and Social Planning, National Economic and Development Council and miscellaneous items such as Agriculture and issues relating to industry, mines and minerals, inter-State trade and commerce, inter-State river disputes, forests, food and civil supplies and mass media. Lastly, the report contains miscellaneous matters like Language, Union Territories and General observations and Conclusions.

To start with, the Commission had no library of its own. It had to draw copiously for books and law reports on the Library of the Supreme Court. The Commission acknowledges with thanks the general

permission granted so generously by the Chief Justice of India for the use of the Court's library. A report dealing with a subject as vast and complex as review of Union-State relations reflects the sum-total of the conclusions based on a study and analysis of the information drawn from publications which are too numerous to acknowledge. None-theless, the Commission expresses a special debt of gratitude towards the eminent authors of the publications and reports, a bibliography of which is given at the end of Part I.

The Commission has great pleasure in acknowledging the dedicated and painstaking work put in by the entire staff. The Commission records its appreciation of the valuable assistance rendered to it by the Directors and the Consultant. The teams functioning under the immediate control and guidance of the Directors greatly facilitated the task of the commission by their patient work in critically analysing the mass of evidence received and the carrying out valuable studies for the Commission. Special mention must be made of the meritorious work done by the Directors, S/Shri B.P. Sinha and B.M. Rao. Way back, the latter had assisted the Study Team of the Administrative Reforms Commission and earned distinct recognition. By dint of dedicated and distinguished work as Director he has raised himself still higher in the estimation of this Commission. He was very ably assisted by Shri R.R. Mittal, Senior Research Officer, who brought to bear his rich experience on the work before the Commission. In the complex field of financial relations and Economic and Social planning Shri B.P. Sinha distinguished himself.

Shri M.K. Moitra, IAS was the Joint Secretary to the Commission for most of its term till the completion of his tenure on deputation. He organised the studies with firm determination and devotion. Through his intensive and extensive studies he made very valuable contribution to the Commission's work. His successor Shri A.K. Verma, joined the Commission only a short time before the expiry of its term. He ensured the completion of the Report according to schedule under his overall supervision. The Commission acknowledges with thanks the work done by the Joint Secretaries.

The Commission was fortunate to have as its Secretaries very able and dedicated officers. At the inception of the Commission, Shri K.A. Ramasubramaniam, IAS was its Secretary. He took all preliminary steps, including the issue of the questionnaire, organisation of the Study Teams and the office establishment, arrangement of office accommodation, collection of basic information, preparation of discussion papers, etc. which were essential for making the Commission operational. Just when the Commission had embarked on the second phase of its work requiring visits to the States and discussion with the State Governments, he retired on attaining the age of superannuation. Shri G.V. Ramakrishna, IAS succeeded him. With great drive he galvanised the work of the Study Teams and accelerated the tempo of work. Comprehensive Notes prepared by him on certain topics helped to concretise the results of the discussions and deliberations of the Commission. Though his tenure with the Commission was short, yet the exemplary direction he gave to the Studies, endured. In the last but the longest and the most crucial phase of the Commission's work, Shri D. Sankaraguruswamy, IAS was its Secretary. The brunt of the work as the Chief assistant to the Commission and principal supervisor of the Studies fell on him. He assisted the Commission not only in its deliberations but also in drawing up its report. There is hardly any sentence in this voluminous Report which has not passed his masterly scrutiny. The Commission acknowledges with gratitude the commendable assistance rendered by him in its task pertaining to all spheres of Union-State relations.

Mention must also be made of Shri Ramesh Sharma, Senior Research Officer incharge of the Coordination Division, who painstakingly arranged all the visits of the Commission to the various States as also personally supervised the work of getting ready the report in its final shape.

Though the Commission has acknowledged by name the outstanding work of a few officers, the Commission is conscious of the contribution of the other members of the Staff. The ministerial staff, under the direction of the Joint Secretaries whole heartedly cooperated in the successful completion of the task entrusted to them. The Chairman and the Members of the Commission also place on record with thanks the outstanding work of the personal staff who attended to them and other officers of the Commission.

Sd/-

(JUSTICE R. S. SARKARIA)
Chairman

Sd/
(B. SIVARAMAN)
Member *Member*

Sd/-
(DR. S.R. SEN)