

**Global experience on Mechanisms,
Processes and Institutions to facilitate
Cooperative Federalism for identifying
extensive legal, institutional, policy
changes and reforms for India
German Experiences**

Delhi, January 2016

Legislative Competences of States I

Article 70 Basic Law

“I. The States shall have the right to legislate insofar as this Basic Law does not confer legislative power on the Federation.

II. The division of authority between the Federation and the States shall be governed by the provisions of this Basic Law concerning exclusive and concurrent legislative powers.”

Exclusive Legislation (Art 73 BL)

1. Foreign Affairs
2. Citizenship in the Federation
3. Freedom of Movement, passports and identity cards, immigration, extradition
4. Currency, weights and measures, standards
5. Customs, foreign trade
6. Air transport
7. Federal Railways, general railways laws
8. Post and telecommunication
9. Federal officers and employees
10. Industrial property rights, copyrights
11. Federal Criminal Police Office,
12. Cooperation between Federation and States concerning criminal police and protection of the democratic order
13. Federal statistics
14. Weapons and explosives
15. Benefits for war victims
16. Nuclear energy, disposal of radioactive substances

Concurrent Legislation

1. Civil law, criminal law, legal professions
2. Registry office (birth, death, marriage)
3. Refugees and expellees
4. Public welfare
5. War damage, reparations, war graves
6. Mining, industry, energy, crafts, trade, commerce, banking except restaurants, fairs, exhibition and markets
7. Labour law, social security
8. Educational grants, promotion of research
9. Expropriation
10. Prevention of the abuse of economic power
11. Promotion of agriculture, forestry and fishery, hunting
12. Land law. land distribution, regional planning
13. Public health, medical professions, pharmacy, narcotics
14. Maritime and costal shipping, inland waterways, meteorological services
15. Road traffic, long-distance roads
16. Waste disposal, air pollution, noise
17. Public liability
18. Protection of nature, landscape management, management of water resources
19. Admission to institutions of higher education, graduation

Main Competences of States

- **Administration, organization, including laws for the civil servants of State and municipalities, remuneration of civil servants and employees**
- **Police (exception federal border police)**
- **Local authorities (local government laws, territorial reforms, urbanism etc.)**
- **Education (kindergartens, schools, universities, but not vocational education, apprenticeships)**
- **Penal system**
- **Culture, press, radio and television**
- **Fairs, markets, exhibitions, restaurants, hours of trading for shops,**
- **Assemblies, demonstrations and procession,**
- **State constitution, State constitutional court**

Execution of Federal Law

- **Execution by States in their own right** - own authority, own responsibility - normal case
oversight by federation (mostly by federal ministries) only at the level of highest State authorities, violation of law (voted by Federal Council!), Federal Constitutional Court
- Execution by States on **federal commission**
detailed supervision
- **Execution by federal administration** - exception

Federal Council (Bundesrat)

- **Article 50 Basic Law:**

The States shall participate through the Federal Council in the legislation and administration of the Federation and in matters concerning the European Union.

- **Article 51:**

(1) The Federal Council shall consist of members of the State government, which appoint and recall them...

(3) The votes of each State may be cast only as a unit...

Role of Federal Council in Legislation

- **Consent bills – nearly 50 % of all federal legislation (consent is required):**
 - Constitutional amendments (2/3 majority)
 - Bills which effect expenditures and tax income of the States
 - Bills which effect the administrative jurisdiction of the *States*
- **Objection bills (all other bills)**
- **Delegated federal legislation and general administrative provisions (consent required)**

Important role of Mediation Committee

(strictly confidential, 1 member appointed by each of the 16 State governments & 16 members of the Bundestag)

Minister-Presidents' Conference

- Horizontal cooperation and coordination between States (State legislation and administration)
- Vertical political cooperation and coordination between Federation and States
- Coordinating and directing sectorial ministerial conferences
- Procedure:
 - Unanimity, confidential, not binding decision but very influential,
 - meeting 4 times a year,
 - rotating chairmanship, no bureau

Coordination via Political Parties

Germany has mostly national parties (except the Bavarian CSU), close coordination within and by the political Parties

- Chancellor, chairman of parliamentary group and minister-presidents are members of the their party's executive committee, meeting every 2 weeks
- Meetings of Chancellor, group chairman, and minister-presidents before each Federal Council session (all 3 weeks)
- Before all session of IGR institutions, participants belonging to the same party have a regular preliminary meeting.

Thank you for your attention!

Annex