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**Roundtable on Mechanisms of Intergovernmental Relations in India**  
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**Prepared by Professor Akhtar Majeed, Director, Centre for Federal Studies**  
**Hamdard University, New Delhi.**

Many a time, we tend to read into our Constitution provisions that do not exist while overlooking those provisions that may not be to our liking at some particular time. There is a tendency to forget that our federal system itself is a mechanism, a device of shared-governance, for sharing power in our social-pluralism that is territorially identified. In most of the contemporary states and societies, certain federal practices can be instruments not only of good governance but also of conflict management. They include power-sharing, people's participation, devolution of power and authority, and intergovernmental collaboration. This is particularly so in plural societies which form an overwhelming majority in the international community. In such societies, issues of unity with diversity, self-rule and peaceful resolution of contentious issues, between tiers of government, have attracted attention and growing interest of scholars and practitioners of federalism.

The Constitution of India had envisaged a 'creative balance' between the need for an effective Centre and effectively empowered States. The federal system that emerged became the sound framework for the working of our Constitution. In spite of problems of balance-maintenance, the system has survived, though many of its federal features got eroded. India as a nation has survived, in spite of great odds and great complexity, because it is united as a nation with the voluntary and natural agreement of its constituent units. Largely, this is due to the fact that the Constitution has worked as a functioning mechanism not just for resolving intergovernmental disputes but also in maintaining a constitutional balance between the tiers of government.

Existing Provisions regarding our Federal structure need to be particularly examined from the evolving perspectives of autonomy (of states, regions, institutions) and integration ( *i.e.*, unity and diversity). We have to balance the factors promoting a federal institutional model of self-rule with shared rule. The inherent notion of power distribution and power sharing arrangements is a question between the National and Regional constituents of our federation. This relationship between the sub-structures of Union and States is to be examined from the notion of competence-division and sharing of a subject. Areas of potential federal conflicts that invite attention include the working of several constitutional provisions about the 'Emergency', roles of

the President and the Governor, distribution of financial resources, inter-state boundary or water-sharing disputes, etc.

The first attempt at establishing some mechanism for inter-state coordination was the *Joint Committee of Indian Constitutional Reform* that was set up by the British Parliament in 1933. The Government of India Act of 1935 included this proposal of the Joint Committee (Section 135). Article 263 of the Constitution of India is almost a replica of Section 135 of the Government of India Act, 1935 [ **Section 135**: “If at any time it appears to the Governor General that the public interest would be served by the establishment of an Inter-provincial council charged with the duty of (a) inquiring into and advising upon disputes which may have arisen between provinces, (b) investigating and discussing subjects in which some or all of the provinces or the Dominion and one or more of the Provinces, have a common interest, or (c) making recommendations upon such subjects and, in particular, recommendations for a better coordination of policy and action with respect to that subject, it shall be lawful for the Governor General to establish such a Council, and to define the nature of the duties to be performed by it and its organization and procedure”.

**Art. 263**: “If at any time it appears to the President that the public interests would be served by the establishment of a Council 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, (c) making recommendations upon any such subject and, in particular, recommendations for the better coordination of policy and action with respect to that subject, it shall be lawful for the President by order to establish such a Council and to define the nature of the duties to be performed by it and its organisation and procedure.”]

The first proposal for the establishment of an **Inter-State Council** was made in 1967 by the Administrative Reforms Commission’s Study Team on Centre-State Relations when it stressed that a mechanism for regular intergovernmental consultations was needed in view of the emerging cooperative nature of Indian federalism. The next year the Administrative Reforms Commission (ARC) also proposed an Inter-State Council (ISC). Till then one single political party ruling at the centre and the states, with a powerful leadership, had provided an alternative and extra-constitutional channel for the settlement of Centre-State problems. Yet, the ISC recommended by the ARC was to be an ad-hoc conference, temporary in nature, with the Prime Minister, all central ministers, representatives of zonal councils and of the opposition parties and the Chief Ministers of states as members. A body complimenting other intergovernmental institutions, with its recommendations only advisory in nature. Then, in 1971, the Rajamannar Commission of the Tamil Nadu government recommended setting up of an ISC on lines suggested by the Study Team mentioned above. It recommended a permanent, super-cabinet type of consultative body with The Prime Minister as chairman and all Chief Ministers as members, and its recommendations ordinarily binding on both the centre and the states. Extending the

jurisdictional competence of the ISC, the Rajamannar Commission made it review every bill of national importance or which was likely to affect the interests of one or more states before it was introduced in the lower house of the Parliament. The Commission had recommended a rearrangement of federal relations through transfer of subjects from the Union to the States' List of the Constitution. Particularly, it suggested abolition of Articles 249, 356 and 357 of the Constitution, and transfer of Entry 84 of the Union List (enumerating power to levy some excise taxes) to the State List, and granting of residuary power of legislation and taxation to the state legislatures. The Commission had taken the position that a strong Centre in the federal set-up was an impediment to the democratic aspirations of the regions. The Sarkaria Commission on Centre-State Relations (1988) was set up to examine the working of the arrangements between the Centre and the States and recommend such changes in the said arrangements as may be appropriate within the present constitutional framework. The report of the Commission had noted that the mechanism of intergovernmental relations in India were tilted in favour of the Central government with the result that there is "blood pressure at the Centre and anemia at the periphery", resulting in morbidity and inefficiency.

The Inter-State Council, as proposed by the Sarkaria Commission, was limited to consideration of political issues. The Commission had assigned it duties enumerated in Art. 263 (b) and (c): investigating and discussing subjects in which some or all the states, or the Union and one or more of the states, have a common interest; or making recommendations upon any such subject and, in particular, recommendations for the better coordination of policy and action with respect to that subject. The functions as laid down under Art.263 (a) were not recommended for the ISC by the Commission: inquiring into and advising upon disputes that may have arisen between states. The Inter-State Council as established in 1990 has precisely the same functions besides 4(c): deliberating upon such other matters of general interest to the States as may be referred by the Chairman to the Council.

Since the ISC is an advisory body, it is difficult to assess the efficacy of its policy performance. And, for the same reason, its cost-effectiveness also cannot be determined. A solid institutional structure for intergovernmental cooperation has not emerged because the Inter-Governmental Council / Inter State Council itself never had any permanent and independent secretariat. In its functioning it has remained only an adjunct, an annex, of the Ministry of Home Affairs. Even after its establishment, the ISC has not been able to attract sufficient attention from the State governments. With the Central government becoming weak – different political parties ruling at the Centre and in several States and the Central government enjoying the majority support in the Parliament without the party being in majority – and due to exigencies of coalition politics, the Central governments had to share power. The bargaining power of the States with the Centre has markedly increased and they no longer need a mechanism like the ISC to bargain with the Centre. Accordingly, the ISC needs to be included in the process of central legislation over matters in state list. In such cases, not only informal consultations between the Centre and the

states should be there, but also the central government should place the proposal before the ISC before such legislation is introduced.

As per the recommendations of the Sarkaria Commission, the National Development Council (NDC) and the Zonal Councils were to be supplemented by the Inter-Governmental Council (IGC). The NDC was to be known as the National Economic And Development Council (NEDC) and the IGC would perform functions as laid down in Art.263. Thus the two bodies, under the chairmanship of the Prime Minister, would be performing distinct functions – the NEDC dealing with matters of socio-economic planning and development, and the IGC the remaining functions of inter-state relations. While the Zonal Councils were to act independently of the IGC, the latter was to be a standing consultative body to review parliamentary legislation affecting the states. However, the Zonal Councils were to provide the first level of discussions on inter-state issues, and the IGC would select matters of national importance and of common interest. The Sarkaria Commission had envisioned an advisory role for the IGC and yet had believed that the Council would build mutual trust and confidence, emerging as the major instrument for discussing policies affecting intergovernmental relations. This was an optimism that was not in consonance with existing political realities. The government of the day believed at the time that the NDC represented the interests of the whole nation in planning and, therefore, an IGC/ ISC was not to serve any useful purpose.

One of the two recommendations of the Sarkaria Commission Report that were implemented (the other concerned the IGC) was directed at the restructuring of decentralized mechanisms: restructuring of local-level self-governing units and the appointment of state-level Finance Commissions for the transfer of resources from state level to these local-level units.

It was the start of central planning in the country that facilitated the establishment of institutions such as the Planning Commission, the National Development Council, the Finance Commission and the Zonal Councils. Whereas the Planning Commission was to make use of national expertise at multi-levels in making national development plans, the NDC (comprised of the Prime Minister, Chief Ministers of States and members of the Planning Commission) was to review and finalize the development plans made by the Planning Commission. The five Zonal Councils were advisory bodies on issues pertaining to each region's development planning.

After the 1956 States Reorganisation Act, five Zonal Councils were set up, each comprising of the Chief Ministers of the States in that zone, development ministers and chief secretaries of those States, a member of the Planning Commission, and each Council headed by the Union Home Minister. Functions of the Zonal Councils were: to attain the emotional integration of the country by mitigating regional consciousness; to help the Central and State governments evolve uniform social and economic policies; to assist effective implementation of development projects; and to evolve a degree of political equilibrium among the regions of the country. It was hoped by the first Prime Minister of India that, without becoming a fifth wheel of the coach and

without coming in the way of close relations between the Centre and the States, the Zonal Councils would help evolve day to day problems and help in economic planning. The idea was integration through decentralization, but the irregular meetings and very limited achievements, combined with a reluctance to take up controversial and sensitive issues, as well as the fact that this federal mechanism was headed by a minister of the Central government, soon made the Zonal Councils a non-issue and they came to be totally neglected.

Issues of fiscal federalism have been thorny although intergovernmental jurisdiction over taxation was clearly demarcated in the Union and the State Lists in the VII<sup>th</sup> Schedule of the Constitution. Parliament can approve assistance to the States through statutory grants-in-aid, discretionary grants and loans. These constitutional arrangements have not been objectively operated upon and instead the financial transfers have been politicised. In view of this, it would be worthwhile for the ISC to consider recommending fiscal transfers by some independent body working under the auspices of the ISC. The latter needs to determine the quantum of central assistance to states and its inter-state distribution. In view of the fact that over 60% of resource transfers from the Centre to the States are made through the Planning Commission and the Central Government's ministries, and not via the Finance Commission, it is hardly surprising that central intervention in the states' development programmes has increased so much. The Sarkaria Commission had also discussed setting up an expert committee to recommend restructuring taxation and resource distribution from the Centre to the States. It was proposed that an advisory sub-committee of Finance be set up in the NDC, and that the Finance Commission itself work under the member in charge of financial resources in the Planning Commission. It should be pointed out that issues of economic planning and development cannot be settled through institutions set up by the central government, such as Planning and Finance Commissions. They require coordinated efforts and for that cooperative federal arrangements are needed, a role that can best be provided by concerted ventures of the National Development Council and the Inter State Council. The possibility of the Inter-State Council and the National Development Council merging into a common intergovernmental forum deserves serious consideration by constitutional experts and policy-makers.

Entry 20 of the Concurrent List (VIIth Schedule) of the Constitution empowers both the Centre and the States to legislate on economic and social planning, and there are a number of subjects in the States' List that are relevant to planning. Since the central law prevails in the event of a jurisdiction dispute between the Centre and the States, the Centre can go to any extent in the name of planning.

In many of the spheres of state activity, the Central government has stepped in not through any constitutional provision but through the process of administration. In matters of implementation of plan policies in areas of land reforms, forest development, development of rural industries, irrigation, cooperative farming, agriculture, education, health, cottage industries etc, the Planning Commission insists on uniform policies to be followed by the States. It is believed that although

the primary responsibility in such matters is that of state governments, the Centre has an overall responsibility for helping coordinate and guide the work of the States to ensure that national policies can be satisfactorily worked out.

Despite the Constitution having established a territorial federation, a vertical federation has emerged because of the process and style of planning. Under Article 282 of the Constitution, Plan grants are given to the States by the Centre in the form of matching grants. Actually, various ministries of the government of India issue grants to corresponding ministries of State governments and, in this way, they are in a position to dictate and supervise departments of State governments. A vertical federation has resulted in which, through matching grants, corresponding departments of Central and State governments form a unit for the purposes of programmes and expenditure within their sphere. The State level bodies are merely implementing bodies and not the ones to consider the policies on the same level for the State as the Planning Commission does for the whole country. By allowing the Centre to tighten its financial grip over the States, the planning method and process has introduced a political complexion in the relationship between the Centre and the States. Grants provided to the States on the recommendations of the Finance Commission are made under Art 275 of the Constitution, and those on the recommendations of the Planning Commission under Art 282. When the Central government provides grants, under Art 275, through the Finance Commission, there is a constitutional obligation and hence it does not add to the authority of the Centre. But, under Art 282, grants through the Planning Commission are discretionary and, therefore, political in nature.

Something that is not good for the smooth functioning of the federal system is the upward trend of grants through Planning Commission and a slower rate of growth of grants through the Finance Commission. It not only increases financial dependence of States on the Centre, it also reduces the Finance Commission, which is an objective federal body, to relative insignificance. At the last meeting of the Inter-State Council, it was recommended that taxation should be transferred to the Concurrent List. It is strange that the Inter-State Council did not discuss the issue of the performance-linking of the Finance Commission's rewards to the States. State autonomy would be greatly affected by the performance-linking of central plan assistance and Finance Commission's awards. In spite of being contrary to the Constitutional provisions, this attack on the federal structure is not being given proper attention.

Reviewing the functioning and the actual powers exercised by the Planning Commission, Mr. M.C. Setalwad, India's first Attorney General, had once remarked that it was somewhat anomalous that "vast resources should be devolved to the States by the Union at the instance of a purely executive body". The need to review the role and powers of the Planning Commission is as relevant today as it was when the above statement was made. Much later, Dr P.V. Rajamannar, Chairman of the Fourth Finance Commission (1964), noting that the policy and programmes of the Plan come within the purview of the Planning Commission, had observed that the assistance to be given by the Centre for plan projects is practically dependent on the

recommendations of the Planning Commission and, therefore, a body like the Finance Commission cannot operate in the same field. He had recommended that the Planning Commission be made a statutory body, independent of the government. It does look rather odd that, in practice, it exercises more powers than the Finance Commission, which has been set up by the Constitution. Through the Planning Commission, the Centre has not only controlled the State sector of the Plan but also their implementation.

The Planning Commission gives a continuum of discretionary grants to the States under Art 282 of the Constitution: “The Union or a State may make grants for any public purpose, notwithstanding that the purpose is not one with respect to which Parliament or the legislature of the State may make laws”. Under this discretionary provision, plan grants are made on a regular basis. All this can be rectified if the Finance Commission determines plan assistance and the Planning Commission looks after planning and statutory devolutions. The Administrative Reforms Commission (ARC) had earlier recommended that the Finance Commission should determine grants as well as plan assistance and, for better coordination, a member of the Planning Commission may be appointed to the Finance Commission also.

Not only are the recommendations of the Finance Commission not mandatory, it is precluded from making recommendations on grants-in-aid (Art 275) and on discretionary grants (Art 282). These grants are within the jurisdiction of the Planning Commission. Over the years, plan grants have gone on increasing. The States have been demanding a greater role for the Finance Commission as opposed to the Planning Commission on the plea that the latter is a political body and is likely to be susceptible to the Central government. With the introduction of economic liberalization and the ‘New Economic Policy’, it seems that now the Centre also shares the views of the States on this point. With the increasing ‘dis-investment’ and withdrawal from various fields of activity, the Central government is bound to reduce the role of the Planning Commission. In the fiscal sphere, it may force the States towards competitive performance and then the resultant gap in inter-State disparities.

The First Five Year Plan had recommended that “in a country the size of India, where the States have under the Constitution full autonomy within their own sphere of duties, it is necessary to have a forum such as National Development Council (NDC) at which from time to time the Prime Minister of India and the Chief Ministers of States can review the working of the plan and of its various aspects”. Consequently, the government established the NDC in 1952, and it is now composed of the Prime Minister, Chief Ministers of all the States, and members of the Planning Commission. The NDC is required to supervise the work of national planning, to recommend measures for the achievement of plan targets and to consider important questions of social and economic policy affecting national development. The State governments submit their five-year plans to the Planning Commission which prepares the National Plan and, after its approval by the Central government, the NDC goes through it. The NDC’s recommendations are taken into consideration by the Planning Commission before the final shape is given. The process

represents the principle of cooperative federalism. While its terms of reference originally expect the NDC to review the working of the National Plan from time to time, in practice the NDC makes recommendations pertaining to the overall size and structure of the Plan. Also, the NDC ensures a coordinated implementation of the Plan. Because of the coordinated, concerted approach of involving the Centre and the States, the NDC is able to ensure a balanced development in different regions of the country. The NDC is a policy-making body and its recommendations are not just advisory suggestions but policy-decisions and policy-directives. It is a national forum for planning which gives informal sanction to the underlying concept of cooperation between the Centre and the States. It brings States into an organic relationship with the organization of national planning. It occupies an important position in the Indian federal setup as it consists of the chief executives of the Central and State governments and, therefore, its advice can hardly be distinguished from a clear mandate. Many a times, the NDC has taken decisions that greatly affect the federal working and which normally would be impossible for the State government to agree to without the express approval of the State legislature. But since the NDC took such decisions, they have been approved and implemented by the Centre and the State governments (for example, surrender of some taxes from the State list to the Union list).

However, in actual practice, even the NDC is largely a decorative body. Its infrequent meetings have eroded its claim of strengthening the process of consensus politics and reflecting ground realities of a vast and diversified country. It has met infrequently when the Planning Commission required its endorsement for the prepared Plans. Effective coordination of the Central and State fiscal policies and programmes has been difficult for such an unwieldy body. There have been frequent demands, particularly from States governed by parties other than the one at the Centre, for de-linking the NDC from the Planning Commission and to make the NDC play an effective role in formulation and implementation of development plans in a truly “federal style”. The NDC was visualized as a bridge between the two levels of governments and, if it is made organizationally and operationally strong, it can well play that role.

There has been a perception among various State governments that their aspirations are not reflected in the plans of the NDC and the Planning Commission. This is so because the level of consultations in the NDC is not adequate and there is too much of interference by the Planning Commission in programmes falling within State jurisdiction. Zonal Councils have been insignificant both in resolution of conflicts and in coordinating State policies. Many of the State governments feel that harmonious relationship is possible in the presence of institutional consultation and consensus-making. However, it was the centralized nature of Indian federalism that ensured that the institutionalized mechanisms of cooperative federalism do not develop. The over-centralization of the decision-making process and the de-institutionalization of intergovernmental relations has gone hand in hand. There has been a singular lack of confidence among the States in centrally dominated institutions of cooperative federalism. This is not altogether misplaced because more often innovations in institutionalized inter-governmental relations have only replicated the institutions they were supposed to improve upon. The



perception is not entirely baseless that there has been a trivialization of formal mechanisms such as the NDC and the ISC.

In **CONCLUSION** it may be pointed out that instruments of intergovernmental cooperation have not been successful and effective because the required decentralization has not been possible due to India's administrative centralization and earlier central planning structures. Cooperative federalism, as envisaged by the Constitution, is possible when these intergovernmental institutions become effectively operative. A mechanism for intergovernmental cooperation can succeed if it does not have to depend on other executive organizations for getting its decisions implemented. In the debates on federalism, special attention needs to be given – but often is not – to the importance of intergovernmental relations and mechanisms for resolving contentious issues between different tiers of government. Such an academic attention is particularly needed for plural societies where different socio-economic interests vie for political control of the national polity. Intergovernmental agencies have generally operated outside the framework of the Constitution. At least in India, the intergovernmental agencies have not acquired the functional relevance visualized in the Constitution. The recommendations of intergovernmental agencies in India have lacked any force and have not been in a position to cope with the inter-jurisdictional strains of the Indian federal set-up. This is due to the ad hoc style of their functioning and this has eroded their credibility. Cooperative federalism can succeed only if a fair balance is maintained between the claims of diversity and the requirements of unity. If that balance is absent, whatever mechanisms of inter-governmental relations are devised would remain non-functional and ineffective.