

**COMMISSION
ON
CENTRE-STATE RELATIONS**

GOVERNMENT OF INDIA

QUESTIONNAIRE

Commission on Centre-State Relations

Questionnaire

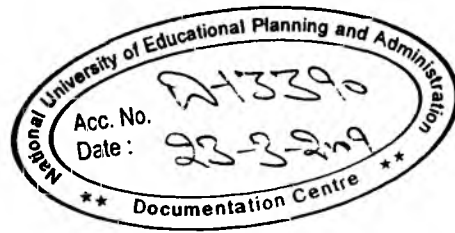
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COMMISSION ON CENTRE-STATE RELATIONS

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The Commission expresses its deep gratitude to late Dr. Amaresh Bagchi who was a Member of the Commission for his signal contribution to the preparation of this document. Dr. Bagchi passed away on 20th February 2008.

PREFACE

The Draft Questionnaire was circulated in December 2007 to the Union Ministries/ Departments, all State Governments, major political parties, selected Constitutional, legal and other domain experts and academic institutions of repute, so as to make the process of formulating the questionnaire a participatory exercise. There was enthusiastic response from several stakeholders and after considering their suggestions the Commission has now finalized the Questionnaire. Some of the views and comments, though not included as questions, have been noted as 'issues' which the Commission intends to go into later. In the event of the Commission receiving additional inputs the Commission may consider issuing a supplementary questionnaire.

The Commission would like to express its appreciation to all those who responded to the Draft Questionnaire for enriching the consultative process and helping the Commission in obtaining greater clarity on the subjects it proposes to consider.

The Commission now invites views and responses to the questions to enable it to fulfil its mandate.

New Delhi

31st May 2008

INTRODUCTORY

In a system of multi-level governance operating essentially in a federal framework such as ours, harmonious relations between the Centre and the States are critical for the stability, security and economic growth of the country and welfare of the people.

Constitution – Federal with a Strong Centre

Alarmed at the turn of events preceding the birth of free India and the country's partition, framers of the Indian Constitution had opted for a "Union of States" with a strong Centre, keeping away from the idea of a loose federation that had engaged their attention initially. While delineating the sphere of governance for the two levels of Government – the hallmark of a federal polity – our founding fathers adopted an approach to make sure that the country did not have to suffer any challenge to its integrity again. That led them to give the Centre powers to act decisively whenever needed, and particularly when there was a threat to the country's integrity. Hence, provisions such as, according primacy to laws passed by Parliament over State laws, keeping residuary powers with the Centre, providing for the appointment of Governors of States by the President, and Emergency provisions in extreme situations were incorporated as essential parts of the Constitution. In keeping with the scheme of things, the tax powers of the States were also relatively limited. To enable the Centre to perform the task of maintaining macroeconomic stability, the States' access to borrowing from the market was subjected to Centre's oversight. The Constitution of India thus came to be described by some as quasi-federal with unitary characteristics.

50s to 70s – Further Centralization

As is well known, in the first three decades after independence centralization of powers was accentuated due to various factors such as the predominance of a single political party at the Centre as well as in the States; adoption of planning as a strategy of national development in which investment decisions determined by the Union, albeit through a consultative process, generally set the priorities for State budgets; the system of industrial licensing and control and the nationalization of major banks. The trend of judicial pronouncements during the period also tended to follow the same spirit. The Finance Commission appointed periodically, however, did endeavour to give evenhanded dispensation to States in the matter of revenue sharing.

The 80s – Centre-State Relations Revisited: Sarkaria Commission on Centre-State Relations

While the polity enjoyed stability, barring insurgency in some areas, and the economy registered good growth after a long period of stagnation, things started changing by the close of the seventies. One party rule started giving way to other parties and regional formations. The growth momentum also faltered. Some sections expressed their concern about the efficacy of overly centralized planning in sustaining growth at a rapid pace. States became vocal in their perception of the contraction of their powers and excessive use of emergency provisions by the Centre. Taking note of these developments, the Centre appointed a high level Commission in 1983 chaired by Justice R. S. Sarkaria, to examine the working of Centre-State relations.

The Commission made a thorough enquiry into the state of inter-governmental relations and came out with wide ranging recommendations. Many of them were accepted and implemented. In certain areas, however, the recommendations were not accepted or acted upon.

The 90s and thereafter – Globalization, Decentralization and Devolution

Events, however, seemed to overtake the political configurations bringing economic issues to the forefront. The economic crises of 1990-91 prompted acceleration of the earlier liberalization process. Controls in many areas were removed and operation of the market largely restored. The entrepreneurship and management skills of the private sector were sought to be utilized to a greater measure in almost all activities. Similarly, more space in economic policy making was sought to be provided to the States. Other factors were also at work with profound impact on systems of governance everywhere. Countries were compelled to meet greater obligations as a result of their membership of international bodies in a fast globalizing world. The horror of terrorism around the world posed a serious threat to integrity, stability and peace for which action had to be taken through international cooperation. Similarly, global warming and environmental concerns stared every nation in the face, calling for concerted action internationally.

On the other hand, inadequacy of public services in critical areas like health and education, led to the demand for greater decentralization to bring government closer to the people and for greater accountability. Although Panchayats and Municipalities existed, they were not endowed with adequate functions or resources of their own and were subjected to several controls. Supersessions were not uncommon and timely elections were not conducted. The Constitution was amended to rectify the situation by giving these institutions Constitutional status, with the hope that they would function as a third tier of governance. However, empowering them adequately remained a challenge.

In many other respects the change did not go far. Although the States were expected to perform functions on a scale larger than before, their access to tax powers and borrowing remained limited. The transfer system did help to alleviate the regional disparities in the level of living and in public services, but sharp imbalances remained. While liberalization and restoration of the market helped to accelerate growth, regional disparities tended to widen. In an attempt to counter the possible ill effects on fiscal discipline, conditionalities came to be used increasingly with transfers. Fiscal discipline was sought to be imposed on State Governments by tying debt relief to enactment of fiscal responsibility laws. The proportion of central revenues transferred to the States had increased substantially over the years and dependence of relatively backward States on transfers had gone up sharply. The planning strategy, it was argued, needed a radical shift to reduce regional disparities and promote all round development.

The Rise of Regional Parties and Coalition Politics

Politically, however, with the rise of regional parties and coalitions, States seemed to gain the upper hand in many matters. Centre's powers of intervention also came to be circumscribed by judicial pronouncements in several areas such as imposition of President's rule. The dictum of 'basic structure' of the Constitution propounded by the Supreme Court in the celebrated Kesavananda Bharati case also tied the hands of the Centre in important ways.

The effect, inter alia, is that while the States feel handicapped in pursuing development programmes of their own for lack of adequate funds, the Centre finds itself hamstrung even when there is serious breakdown in law and order in some areas. The growth of the common market which is one of the main factors driving nations to come together to form federations or economic unions is unable to gain the momentum warranted by its potential, despite the mandate of freedom of trade, commerce and intercourse within the Indian Union envisaged in Article 301.

Second Commission on Centre-State Relations

Given this background it was felt that another look at the entire gamut of Centre-State relations was called for. The present Commission has been constituted to perform this task. The Commission would now like to have inputs from all stakeholders, Governments at all levels, major political parties, civil society groups and all persons interested in the issues raised in the terms of reference. The basic question that the Commission is required to address is:

“Are the existing arrangements governing Centre-State relations – legislative, executive and financial - envisaged in the Constitution, as they have evolved over the years, working in a manner that can meet the aspirations of the Indian society as also the requirements of an increasingly globalizing world? If not, what are the impediments and how can they be remedied without violating the basic structure of the Constitution?”

Stakeholder Consultation and Methodology

This questionnaire is the outcome of an extensive process of stakeholder consultation. The substantive and considered responses of all the stakeholders especially Union Ministries, State Governments, major political parties and constitutional experts will be a significant input in the deliberations of the Commission. In addition to deliberating upon the responses to the questionnaire, the Commission intends to follow a methodology, the core ingredients of which are continuous and sustained consultative interaction with multiple stakeholders; commissioning studies including case studies on issues which require research and in-depth analysis; and interaction with selected domain experts and knowledge partners. It is expected that by following such a methodology the Commission will be able to fulfil its mandate satisfactorily.

India needs to respond to the far reaching changes of fundamental importance having a bearing on the quality of life of its people. Good governance is the key to managing this transition successfully and harmonious Centre - State relations occupy a significant place in this task. The Constitutional scheme, which by and large has stood the test of time, may require an imaginative appraisal and appropriate interpretation to be able to support the realization of the vision articulated in its Preamble. It is in this context that a fresh look at inter-governmental relations assumes critical importance.

1

Constitutional Scheme of Centre-State Relations

Constitutional Scheme of Centre-State Relations

Conceptual framework

1.1 What are your views on the overall framework and scheme of relations between the Centre and the States as contained in the Constitution of India and as they have evolved over time?

1.2 The framers of the Indian Constitution envisaged a unique scheme of Centre-State relations in which there is predominance of powers with the Centre. In the wake of developments that have taken place since then, the growing challenges and the emerging opportunities, please give your views whether any changes are called for in that scheme. If so, please suggest appropriate changes.

Role of Governor

1.3 In the Constitutional scheme, the Governor plays an important role in the relations between the Centre and States. Do you have any comments/suggestions to make regarding this role?

1.4 In the context of this role what are your views regarding the existing Provisions (alongwith conventions, practices and judicial pronouncements) relating to the appointment, tenure and removal of Governors?

1.5 The powers and functions of the Governor under Articles 200 and 201 in respect of assent to Bills have come for debate on many occasions in the past. Please give your views in the matter.

Constitutional scheme relating to Local Governments

1.6 With the passage of the 73rd and 74th Constitutional Amendments, Panchayats and Municipalities have been accorded Constitutional status and protection. However, the Constitution leaves it to the State legislature to further devolve to the local bodies powers, functions, funds and functionaries. The experience of the implementation of these provisions varies widely from State to State. What steps should be taken in your view to make the devolution of powers and functions to the Panchayats and Municipalities and their implementation more effective?

1.7 What has been your experience in the functioning of District Planning Committees and Metropolitan Planning Committees as envisaged under Articles 243 ZD and 243 ZE respectively of the Constitution? What are your views on the steps needed to be taken to effectively promote the concept and practice of independent and decentralized planning and budgeting at District and Metropolitan levels?

Legislative Relations

1.8 In the course of the working of the Constitution certain subjects/entries in the Seventh Schedule have been transferred from one List to another. What in your view should be the principles and practices that may govern the transfer of legislative items from the State List to Union List/Concurrent List or vice versa? Is there any need for change of procedure in this regard? Do you have any suggestions on this issue?

1.9 What in your view has been the impact on Centre-State relations as a result of the changes that have taken place with the transfer of item from one List to another in the Seventh Schedule? Please provide specific instances of such impacts.

1.10 Are the existing processes of prior consultation with the States before undertaking any legislation on a matter relating to the Concurrent List effective? What suggestions do you have in this regard?

Administrative Relations

1.11 The Constitution makers seem to have given predominance to the Union vis-à-vis States in the matter of administrative relations. In view of past experience, does the present system warrant any change?

1.12 Articles 256 and 257 of the Constitution confer powers to the Union to give directions to the States. How should these powers be used in the best interest of good governance and healthy Centre-State relations?

1.13 The provisions relating to All India Services under Article 312 are a unique feature of Centre-State relations in India. What measures do you recommend for promoting better governance and harmonious Centre State relations through these Services?

Mechanisms for Inter-Governmental Consultation

1.14 Consultation between the Union and the States is a common practice in federations to facilitate administrative coordination. Several institutional arrangements including the National Development Council, the Inter-State Council, Zonal Councils, the National Integration Council exist for the purpose of formal consultations. Are you satisfied that the objective of healthy and meaningful consultation between the Centre and the States is being fully achieved through the existing institutional arrangements? What are the ways in which these processes can be further streamlined and made more effective?

1.15 Apart from the Inter-State Council several other institutions have been created to promote harmonization of policies and their implementation among States. Prominent among these are the Zonal Councils. In addition, there are a number of inter-State consultative bodies e.g., National Water Resource Council, Advisory Council on Foodgrains Management and Public Distribution and the Mineral Advisory Board. Then there are Central Councils of Health, Local Self Government and Family Welfare, Transport Development, Education, etc. What is your appraisal of the working and efficacy of these institutions/arrangements in securing inter-governmental cooperation? Do you think they play a useful and effective role in setting standards and effective coordination of policies in vital areas? What are your suggestions in this regard?

1.16 Treaty making is a part of the powers of the Union Executive. In the process of implementing these treaties some obligations at times may be cast on States also. What would you like to propose to take care of the concerns of the States?

1.17 In disputes leading to much litigation between the Union and the Central Government Public Enterprises, the Supreme Court had suggested an administrative mechanism to resolve such disputes through negotiations and consultation. This mechanism has helped to resolve many disputes without having to go to Courts. Do you

think such an institutional arrangement can work for resolving administrative, financial etc. disputes between the Union and the entities of the States?

1.18 Article 247 contemplates establishment of additional Courts by Parliamentary legislation for better administration of laws made by Parliament with respect to matters in the Union List. However, the Constitution is not so explicit in respect of establishment of additional Courts to better administer laws made by Parliament with respect to matters in the Concurrent List. What are your suggestions in this regard?

Emergency Provisions

1.19 A body of opinion holds that safeguards corresponding to Clauses 7 and 8 of Article 352 may be incorporated in Article 356 to enable Parliament to review continuance of a proclamation under Article 356(1). What is your view on the subject?

2

Economic and Financial Relations

Economic and Financial Relations

Economic and Financial Relations: General

2.1 In implementing the strategy of planning adopted by India after Independence, the Centre had assumed the lead role in formulating five-year plans with controls and licensing to implement them, and the States were required to play a supporting part. After economic liberalization many of the controls and licenses have been largely done away with and the States have regained much of their economic policy making space. Do you think the shift has been adequate and beneficial? Can you also highlight the specific areas in which further reforms may be required at the State level which can improve governance in general and the implementation of schemes and programmes of the Government?

2.2 Although the States are now expected to play an active role in promoting economic growth and poverty alleviation by providing infrastructure, delivering basic services efficiently and maintaining law and order, it is alleged, that most States have not kept pace with the reform process. On the other hand it is said that the discretion and priorities of the States, are affected by the imposition of the Centre's priorities, inter alia, through Centrally Sponsored Schemes. What are your views in this regard?

2.3 It has been the practice of the Planning Commission to get Five Year Plans including the Approach papers approved by the National Development Council with a view to ensuring involvement of the States in the planning process. Besides, discussions are held by the Planning Commission every year with the States individually, to decide the size of their Annual Plans and to accord approval. Do you think that the current practice is satisfactory or are any changes called for in the interest of better economic relations between the Centre and the States?

2.4 The National Development Council and the Inter - State Council are among the fora available for facilitating the coordination of economic policy making and its implementation. However only limited use seems to have been made of these institutions for the purpose. Coordination is achieved more through interaction between the Central Ministries and the States. Do you think the present practice is adequate for ensuring harmonious economic relations?

System of Inter-Governmental Transfers

2.5 To all appearances and also from the Constituent Assembly debates it seems the Finance Commission was envisaged by the Constitution to be the principal channel for transfer of funds from the Centre to the States including those which were meant for development purposes. However, substantial transfers now take place through other channels such as, the Planning Commission and Central Ministries so much so that it is now said that such transfers have significantly impacted on fiscal federalism and the devolution of financial resources. Do you think that the present system of transfer of funds is working satisfactorily? Is there a need to restore the centrality of the role of the Finance Commission on devolution of funds from the Centre to the States?

2.6 Transfer of funds from the Centre to the States through revenue sharing and grants with the mediation of a statutory body viz., the Finance Commission, was envisaged by the Constitution makers to redress the imbalances in the finances of the States resulting from an asymmetric assignment of financial powers and functions to the States – the vertical imbalance. The disparities in the capacity of the State Governments to provide basic public services at a comparable level - horizontal imbalance - it was believed would also be alleviated through such transfers. There have been twelve Finance Commissions so far and the thirteenth has

since been constituted. By and large the institution of the Finance Commission has come to be regarded as a pillar of India's federal system. What is your assessment of the role of the Finance Commission and the results achieved in terms of redressal of vertical and horizontal imbalances?

2.7 Transfers made by the Planning Commission by way of assistance for State plans are supposed to be guided largely by the Gadgil formula. Of late however the proportion of formula based plan transfers has come down. How do you view this development and what are your suggestions in this regard?

2.8 There is widespread criticism that the funds provided by the Centre are not properly utilized by the States and there are reports of substantial leakages. In order to provide incentives to the States for better fiscal management and efficient service delivery there is a suggestion that all transfers to the States should be subjected to conditionalities and also tied to 'outcomes'. States on the other hand argue that in their experience the funds are not released by the Central Government in a timely manner. What are your suggestions on the subject?

2.9 Centrally Sponsored Schemes have emerged as an important instrument of the planning process. There is a view that such schemes may or may not be supplementing the States' own Plan schemes. What are your suggestions in this regard?

2.10 Substantial funds are now being transferred by the Centre directly to Panchayats, Municipalities and other agencies bypassing the States on the ground that the States have sometimes been tardy in the devolution of funds to these bodies. What is your view on this practice?

2.11 The States' power of borrowing is regulated by Article 293 of the Constitution. What do you suggest should be done further to facilitate the States' access to borrowing while keeping in view imperatives of fiscal discipline and macro economic stability?

2.12 What has been in your view the impact of the fiscal responsibility laws in your State?

Scheme of Tax Assignment

2.13 Do you think that in the light of experience and the requirements of a modern economy, it is time now to give a fresh look to the entire scheme of assignment of tax powers between the Centre and the States? If so, please give your suggestions with detailed justification.

Domestic Trade Tax reform: Introduction of Tax on Goods and Services (GST)

2.14 The system of domestic trade taxes in India is set to undergo a radical change with the introduction of Tax on Goods and Services (GST). Several models are available for operating the GST in a federal country. What in your view would be the model best suited for our country? You may also like to suggest the institutional arrangements that may be needed to implement the desired GST.

2.15 Once GST is introduced will there be a case for continuing with taxes on production, such as excise duty?

3

**Unified and Integrated
Domestic Market**

Unified and Integrated Domestic Market

3.1 One of the major benefits of a federation is to provide a common market within the country. In order to foster the growth of the common market, Article 301 of the Constitution mandates that trade, commerce and intercourse within the Indian Union shall be free. However, it is stipulated that restrictions on the free movement of goods etc. may be imposed in 'public interest' (Article 302). Invoking public interest, both the Centre and the States have imposed restrictions of various kinds on the movement of goods like food grains and so on. Besides restrictions on the movement of food grains, the impediments to the operation of a common market are imposed in several other ways such as, providing minimum price for products namely cotton or sugarcane and monopoly procurement of commodities such as cotton etc. While such actions by a State require approvals by the Centre, it is said that approvals have been granted in many cases almost as a matter of routine.

What in your view should be done to ensure the operation of the common market in the Indian Union? How can the mandate contained in Part XIII of the Constitution be carried out effectively?

3.2 Article 307 of the Constitution provides for the creation of an institution to oversee the operation of the mandate of a common market in the country. What are your views on setting up a Commission/Institution under Article 307 for this purpose?

4

Local Government and Decentralized Governance

Local Governments and Decentralized Governance

4.1 Even though fifteen years have passed since the 73rd and 74th amendments of the Constitution, the actual progress in the devolution of powers and responsibilities to local Governments i.e. Panchayats and Municipalities is said to be limited and uneven. What steps in your view need to be taken to ensure better implementation of devolution of powers as contemplated in the 73rd and the 74th amendments so as to enable Panchayats and Municipalities to function as effective units of self government?

4.2 Should greater autonomy be given by the State governments to Panchayats and Municipalities for levying taxes, duties, tolls, fees etc. in specific categories and strengthening their own sources of revenue? In this context, what are your views for making the implementation of recommendations of the State Finance Commissions more effective?

4.3 A large number of government schemes are implemented by the Panchayats and Municipalities which are operated on the basis of various guidelines issued by the Central and State line departments. There is a view that such common guidelines are rigid and sometimes unsuited to local conditions. Do you think there is a case for making these guidelines flexible, so as to allow scope for local variations and innovations by Panchayats and Municipalities without impinging on core stipulations?

4.4 There is an increasing number of schemes of the Central Government for which funds go from the Centre directly to local governments and other agencies. The purpose of this is to ensure that the targeted beneficiaries of these schemes get the benefits directly and quickly. Please comment on the desirability and effectiveness of the practice of direct release of funds and the role of the States in monitoring the implementation of the schemes. Do you have any other suggestions in this regard?

4.5 In the spirit of the 73rd and 74th amendments to the Constitution primacy was expected to be accorded to Panchayats and Municipalities in decentralized planning, in decision making on many local issues eg. public health, school education, drinking water supply, drainage and sewerage, civic infrastructure, etc and in the administration and implementation of Government funded developmental programmes, schemes and projects. In practice, however, many authorities, agencies and other organizational entities such as societies, missions, self help groups etc. continue to function in parallel and at times even in competition and conflict. Concern has been expressed by some sections that these parallel institutions are contrary to the Constitutional vision and weaken the role and effectiveness of the Panchayats and Municipalities. On the other hand, it is sometimes argued that Panchayats and Municipalities do not have the capacity to plan, administer and implement many programmes/schemes/projects requiring very specialized technical and managerial skills and resources. What are your views in the matter? What steps would you suggest to streamline institutional arrangements between such parallel agencies and the Panchayats/Municipalities to bring about more effective and well coordinated action congruent with the spirit of the 73rd and 74th amendments?

4.6 A view is often expressed that the three levels of the district, intermediate and village Panchayats within the Panchayat system clutter up the system and give scope for friction and discord amongst them. What are the means by which an organic linkage can be best fostered between the Panchayats? Are any changes in the three tier system warranted?

4.7 Participative planning especially spatial planning from the grassroots level upwards to culminate in a district plan is emerging as the most potent instrument for empowering Panchayati Raj Institutions. Do you think this is the right approach to empower Panchayats? What are your views on the role, functions and composition of the District and Metropolitan Planning Committees?

4.8 Instances have been reported where the State Governments have held different or even conflicting views to that of the local Governments in respect of the administration of devolved subjects and vice versa. What mechanisms do you suggest, other than Courts, to help resolve such disputes? What other measures would you suggest to bring about better linkages between elected members of Panchayats and Municipalities with the State Legislatures? Is there a possible room for representation of elected Panchayats and Municipality members in the Upper Houses/Legislative Councils of the States, where such Upper Houses exist?

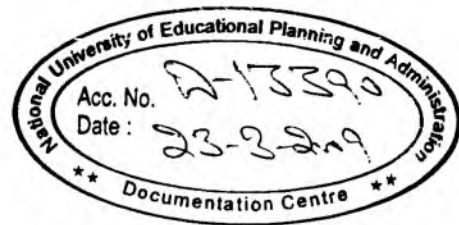
4.9 What roles do you envisage for the local Governments in infrastructure creation specially mega-projects which may involve acquisition of land and displacement of people in areas under the jurisdiction of the local Governments? Local Governments should have a major role to play in decision making on issues relating to management of land resources especially change of land use from agricultural to urban and industrial purposes, acquisition of land for public purposes etc., to ensure greater stakeholder participation and reduce possibilities of conflict between local, state and national interests. What are your views in this regard?

4.10 Large urban agglomerations and mega-cities pose very different kind of challenges for governance in a federal context. The relationship between the Governments of such large cities and other levels of Government is becoming increasingly complex. What roles and responsibilities would you like to see assigned to each of the three levels of Government for the better management of mega/metro cities including their security keeping in view the specific nature of the problems faced by them?

4.11 Many of the regions falling in the scheduled areas (Schedules V & VI) have traditional institutions of governance coexisting with or substituting Panchayati Raj Institutions e.g. Autonomous Hill Councils etc. What are your views as to how these institutions can be further strengthened and be congruent with the spirit of the 73rd and 74th amendments without undermining their traditional character?

5

**Criminal Justice,
National Security
and Centre-State
Cooperation**



Criminal Justice, National Security and Centre-State Cooperation

Role of the Union in the matter of Internal and National Security

5.1 Article 355 of the Constitution stipulates that “it shall be the duty of the Union to protect every State against external aggression and internal disturbance.....” Although Public Order and Police come within the State List, Deployment of Central forces in any State in aid of the civil powers including jurisdiction, privileges and liabilities of members of such force while on such deployment are subjects of the Union List. In the context of recent developments of prolonged extremist violence and cross-border terrorism in certain States, the role and responsibility of the Central and State Governments to contain such disturbances have come up for examination in meetings of the Centre with the States.

This is an issue which has a vital bearing on the life and security of the people and deserves urgent attention. Given the mandate of Article 355 and the division of powers in respect of internal and national security, do you think the role and responsibilities of the Centre and States in the matter of controlling internal disturbance often spread over several States require delineation through supporting legislation?

5.2 By convention and in practice, Central forces are deployed to control “internal disturbance” only when specific requests are made to that effect by individual State Governments. Article 355 of the Constitution enjoins the Union to protect States against external aggression and internal disturbances. What courses of action you would recommend for the Centre to effectively discharge its obligations under Article 355?

Social and Communal Conflicts

5.3 Maintenance of communal harmony in the country is one of the key responsibilities of both the Union and the State Governments. The Government is expected to ensure that communal tensions and communal violence are kept under control at all times. What according to you should be the role, responsibility and jurisdiction of the Centre vis-à-vis the States –

(a) During major communal tensions particularly the ones which may lead to prolonged and escalated violence? and;

(b) When such prolonged major communal violence actually takes place?

5.4 Likewise, what are your views on prevention and control of sectarian violence or any other social conflicts that may lead to prolonged and escalated violence?

5.5 In the light of the above two questions, what according to you should be classified as a major and prolonged act of violence? What parameters would you like to suggest in defining a major and prolonged act of violence?

5.6 In the above context what steps would you suggest for making the role of the National Integration Council more effective in maintaining and sustaining social and communal harmony in the country?

5.7 How can the media in your view play a constructive role in preventing and containing communal and sectarian violence?

Crimes affecting National Security

5.8 Several expert committees constituted by the Government from time to time for reforming criminal justice administration have consistently recommended the need for classifying crimes threatening national security as a separate category requiring differential treatment. These are crimes generally masterminded by criminal syndicates across state and national boundaries using illegitimate or ostensibly legitimate channels mostly with the support of anti-national elements. This category may include crimes such as terrorist violence, economic crimes like money laundering, production and distribution of fake currency and stock market frauds, transnational crimes like drug trafficking, arms and explosives smuggling etc..

Given the potential danger to the security of the country arising from such inter-State and transnational crimes, which crimes in your view merit inclusion in such a category?

5.9 Given their characteristics as mentioned in 5.8, inter-State and transnational crimes do warrant different procedures for investigation and prosecution as compared to other crimes. A Central Agency with special expertise and resources working in co-ordination with international security agencies on the one hand and the State police on the other, is the model recommended by expert committees to tackle the problem. What are your views in this regard?

5.10 The Central Agency so constituted as a result of issues raised in 5.9 above would not be able to operate effectively without the cooperation and support of the State law and order machinery. What are your suggestions in this regard?

6

Natural Resources, Environment, Land and Agriculture

Natural Resources, Environment, Land and Agriculture

Water Resources

6.1 The Inter-State River Water Disputes Act, 1956, provides for inter alia the constitution of a tribunal by the Central Government, if a dispute cannot be settled by negotiations within a time frame of one year after the receipt of an application from a disputant State; giving powers to tribunals to requisition any data from the State Governments, the water management agencies etc; a data bank and an information system being maintained by the Central Government at the national level for each river basin; empowerment of the Central Government to verify data supplied by the State Government; a time frame for tribunals to give an award and for the decision of the tribunal after its publication in the official gazette by the Central Government to have the same force as an order or decree of the Supreme Court. Broad principles for sharing of river waters are still under discussion between the Central Government and the States.

Are you satisfied that the measures taken so far have contributed effectively to the resolution of inter-state river water disputes? What additional measures do you suggest for strengthening the implementation of the existing Constitutional provisions and other laws? What in your view should be the role of the Central Government in implementing and monitoring the existing inter-State water sharing agreements and in ensuring compliance and implementation of the awards of tribunals, court decisions and agreements/treaties?

6.2 Water as a resource, particularly river waters, is an issue of great complexity and sensitivity in terms of ownership and control, conservation, optimal and sustainable use, sharing and distribution and it is apprehended that this may result in serious tension and possible civil strife in future. Proper management of the resource requires striking a balance between national interests and the interests of the States through which the rivers flow. In this context several proposals have been considered including the transfer of water from one river basin to another, more prudent use in intra-basin areas, sharper focus on rain water harvesting and water management strategies etc. What are your views in the matter to ensure better management of this valuable resource keeping in view both national interests and the interests of individual States? Can the concept of integrated planning and management of river basins under a joint authority be introduced on a larger scale?

6.3 Continuing from the foregoing, what in your view should be the nature of Centre-State cooperation in mitigating the effect of floods and management of drainage and irrigation particularly when these issues have inter-State and international implications?

6.4 Pollution of our rivers poses a serious threat to the quality of available water, biotic resources, human health and safety and our natural heritage. Adequate efforts to tackle the problem through technology-oriented national and state level programmes backed by people's participation have been lacking. Even Missions such as Ganga / Yamuna Action Plan(s) and other river action plans have yielded limited results. What steps - legal, administrative, technological, economic and financial - would you suggest for a resolution of the problem?

6.5 The subject of land improvement figures at Entry 18 in List-II of the Seventh Schedule under Article 246. Most of the States have not taken sufficient measures to optimally utilize the nutrients present in the residue of

treated sewage or in the river waters by way of sillage and sewage flowing into them (part of the solid waste settles at the river bottom and is retrievable during the period of lean flow) and recycling the available water resource to improve the fertility of soil and increase the productivity of land.

In this context there is an increasingly perceived need to have in place a national strategy for control, regulation and utilization of sillage and wastewater to improve the quality of soil, land and other nutrients with the objective of augmenting agricultural yield, more so due to mounting water scarcity and changes in precipitation owing to climatic changes. What are your suggestions for countering the resulting loss to the nation?

6.6 Storage or reservoir or dam based projects are often conceived as multi purpose projects providing not only power but also irrigation, navigation, drinking water and flood control benefits. At the same time such projects have higher environmental and social externalities. The issue of fair sharing of social and environmental costs and benefits between downstream/command areas and upstream/catchment areas has been a major problem leading to suboptimal utilization of this valuable resource.

What role do you envisage for the Central Government for achieving greater cooperation among the various stakeholders in developing a consensus on such projects?

Forests, Land and Agriculture

6.7 With the adoption of the National Environment Policy 2006, greater powers have been delegated to the States to grant environmental and forest clearances for infrastructure and industrial projects having investment of upto a specified limit. While one body of opinion is of the view that it will have a harmful effect on ecology and disrupt the fragile equilibrium in our environment, others look upon this as a welcome initiative which will facilitate timely implementation of development projects.

Do you think that the existing arrangements are working satisfactorily? How do you think the conflicting interests of development and environmental conservation can be better reconciled?

6.8 There is a view that the inadequacy of minimum infrastructure facilities for forest dwellers and general lack of economic opportunities has greatly contributed to the escalation of dissatisfaction and alienation among them. This also raises security concerns. The 'Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Tribes) Act, 2006' which confers land ownership rights on Scheduled Tribes and other traditional forest dwellers in the event of their being in occupation of the said land as on 13th December, 2005 is perceived as a major step towards containment of unrest and tension. Do you agree with this assessment? What further steps can be taken to build sustainable models of conservation by involving tribal and other forest dwelling communities?

6.9 Some of the States have contended that they have to maintain and conserve large tracts of forests and green cover for national and global benefit at the cost of the economic interests of the State. Similarly mountain States, particularly those that are a part of the Himalayan ecosystem have to constrict the economic exploitation potential of the region for the benefit of the ecosystem as a whole. In other words, these States provide ecological services essential for the nation as a whole as well as for the entire global community. These States have argued for compensation to them and the communities who perform the role of stewardship of these valuable ecological assets. What are your views in this regard?

Mineral Resources including Hydrocarbons

6.10 Regulation of mineral resources including hydrocarbons comes within the competence of the Centre by virtue of Entries 53, and 54 and 55 of List I of the Seventh Schedule. Entry 23 under List II similarly empowers the States to regulate the development of mines and minerals subject to the provisions of List I. The States have been seeking a greater role in the decision making processes relating to the regulation of mineral resources e.g. in the determination of the royalty rates, periodicity of rates revision etc. What steps, in your view, should be taken to evolve an integrated policy on the subject that would reconcile the interests of the States with the sustainable exploitation of mineral resources including hydrocarbons in the national interest?

Ecosystems, Climate Change and Natural Disasters

6.11 India's vulnerability to the projected impacts of climate change is high, particularly with regard to its effect on water resources, power, agriculture, forests, tourism, health and rural livelihoods etc. Most of these issues are dealt with primarily at the State and local levels.

In view of the problems and challenges posed by the phenomenon of climate change, how would you delineate the respective roles and responsibilities of the Centre, the States and the Municipalities and Panchayats?

7

Infrastructure Development and Mega Projects

Infrastructure Development and Mega Projects

7.1 Mega projects, such as infrastructure projects related to national/inter-State highways, river interlinking major irrigation works, large scale power generation, etc are characterized by long gestation periods, heavy capital investment requirements and complex ownership and management structures involving multiple stakeholders. These projects both in their creation and operation are dependent on smooth and well-coordinated Centre-State and inter-State relations. There are several instances of such projects getting thwarted or delayed or their operations getting affected by inter-State or Centre-State problems at a heavy cost to society. Please give your suggestions for creating an enabling policy and institutional framework, innovative structures and mechanisms for stakeholder participation and systems and procedures for quick reconciliation of conflicting approaches so that national interests prevail.

7.2 Mega projects involve large scale acquisition of land and consequential problems associated with compensation, displacement of people and their relief and rehabilitation and resettlement. Would you suggest any policy changes in the existing processes of land acquisition and payment of compensation thereof? Likewise, is there a need for bringing in any changes in the rehabilitation and resettlement policies in order to minimize displacement, ensure fair compensation for the project affected people and provide them commensurate livelihood security?

7.3 In the case of mega projects, often actions and interventions in one State impact on another. The construction of a large dam in one State, for instance, may lead to large scale displacement of people in another without commensurate benefits accruing to that State. What are your suggestions for evolving a national consensus on rehabilitation policies and strategies and conflict resolution mechanisms?

8

Socio Political Developments, Public Policy and Governance

Socio-Political Developments, Public Policy and Governance

Political Developments

8.1 India is characterized by 'unity in diversity' consistent with a pluralistic identity. Recent decades have been marked by significant increase of socio-political mobilization around sectarian identities. Fears have been expressed that political developments emanating from such mobilization pose a threat to the unity and integrity of the country.

Do you agree with this assessment and if so what are your suggestions for a long- term solution?

8.2 Another significant political development has been the growth and ascendancy of regional parties. These parties have now come to legitimately play a major role in governance at the national level. Given the possibility of this trend continuing, what would you suggest should be done to harmonize national and regional interests for better Centre-State relations?

8.3 In contemporary federations, different types of political configurations exist with various kinds of coalitions being formed among political parties, other groups and individuals. In India the multi-party coalitions have increasingly become the trend. In this context, what measures would you suggest to ensure that the national vision and wider collective purpose are always paramount and do not get distorted.

8.4 With the passing of the 73rd and the 74th amendments to the Constitution in 1992 more empowered local level political leadership has emerged. New areas of political tensions and conflicts among Central, State and Panchayat/Municipal level leaderships have consequently arisen. How can these conflicts be resolved and their relationship harmonized? Please give your suggestions.

Social Developments

8.5 Socio-economic developments have resulted in large scale migration from the under developed to the better developed regions within the country. This has sometimes affected the established demographic patterns and has tended to cause social tensions. This development has serious implications for Centre-State and inter-State relations. With the free movement of citizens guaranteed by the Constitution, what measures would you suggest to contain such social tensions?

Public Policy and Governance

8.6 Article 37 of the Constitution states that the principles laid down in Part IV are fundamental in the governance of the country and it shall be the duty of the State to apply these principles to making laws.

- (i) Have the Directives been accorded due regard by the Centre and the States in making laws and in formulating policies and programmes?
- (ii) What are those Directives which require more legislative attention from (a) the Union Parliament, and (b) the State Legislatures?

8.7 What in your view are the elements of good governance that need to be addressed? What parameters would you consider appropriate in order to judge the performance of a State? What are your views about the existing monitoring, review and evaluation mechanisms to ensure delivery of effective outputs and outcomes of the schemes and programmes in the field?

8.8 The task of governance is no longer confined exclusively to Governments, but includes a wide range of stakeholders – the organized private sector, public-private partnership institutions, civil society organizations, user and consumer groups, special interest groups, associations of industry and a variety of other non-state organizations. In many spheres of activity, earlier performed primarily by Governments, eg., education, health care, infrastructure creation and management, such organisations now play a very important role at various levels. In view of their growing significance these organizations may have to be seen as important players in a multi-level federal order.

In the context of these developments, what measures would you suggest for the participation of these emerging stakeholders in the scheme of governance to address the growing challenges of ensuring good governance for promoting the welfare of the people?

8.9 In the context of the increased role of many non-state organizations in the delivery of public services, please give your views on:

- (a) What can be done to ensure that such organizations take due account of social responsibilities and public good in their functioning?
- (b) How can the discipline of human rights and the philosophy of the Directive Principles be brought into the scheme of such organizations?
- (c) How can the principle of democratic accountability in the delivery of public services be extended to these organizations?

9

Social, Economic and Human Development

Social, Economic and Human Development

9.1 Development strategies, particularly those aimed at correcting regional imbalances, often require looking at the region as a whole. Regions are often defined by topographic, agro-climatic, ethno-geographic and social and cultural similarities and may comprise two or more States. There is merit in looking at the core strengths of the entire region and basing strategies on such strengths irrespective of State boundaries. This would require new forms of inter-State cooperation for synergistic development. What are your suggestions for achieving such cooperation?

9.2 One of the criticisms faced by the central sector and Centrally Sponsored Schemes is that they tend to have a uniform prescription for all situations without adequate regard to regional and local specificities and suffer from lack of flexibility.

Do you think such criticism is justified? If yes, what are your suggestions to remove them? What measures do you suggest for customization of programmes and schemes to suit the differentiated needs of States and Local Governments?

9.3 Quality of education at all levels and in all fields has been a matter of concern. There is need for developing common acceptable standards and having an effective system of accreditation, certification and quality assurance systems and procedures. Given the Constitutional provisions what respective roles, according to you, can the Centre and States play individually or collectively in working out a coordinated strategy in this respect?

9.4 What steps can be undertaken by the Centre and States in a coordinated manner to preserve and promote academic disciplines which are getting marginalized by a variety of socio-economic developments?

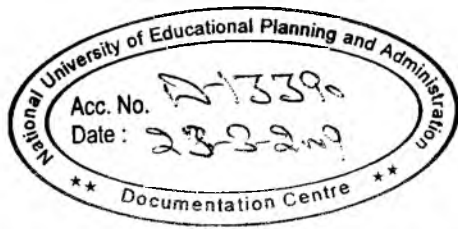
9.5 One of the challenges faced by policy planners in the country is lack of uniform social and economic measurement standards (including poverty, health, education etc.). This applies across Central departments as well as between States. This is an important issue because these measurements are utilized for the allocation of resources to the States. How can uniform national standards for the measurement of these indicators be formulated? What are your suggestions with respect to Centre-State cooperation in the joint formulation of these standards?

10

Miscellaneous

Miscellaneous

10.1 Para 4(iii) of the notification relating to the Terms of Reference of this Commission (annexed) states that the Commission while examining and making recommendations may not limit its mandate to these. While the Commission has tried to make the Questionnaire as comprehensive as possible, there may still be additional issues which the respondents may like to highlight. In case it is felt that submissions on such additional issues are required, these can be added alongside the responses to the questions.



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Relevant Extract from Notification no. IV/12013/9/2004-CSR dated 30th September, 2005 on the Terms of Reference

- 4 (i) The Commission will examine and review the working of the existing arrangements between the Union and States as per the Constitution of India, the healthy precedents being followed, various pronouncements of the Courts in regard to powers, functions and responsibilities in all spheres including legislative relations, administrative relations, role of Governors, emergency provisions, financial relations, economic and social planning, Panchayati Raj institutions, sharing of resources; including inter-state river water and recommend such changes or other measures as may be appropriate keeping in view the practical difficulties.
- (ii) 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 particularly over the last two decades and have due regard to the scheme and framework of the Constitution. Such recommendations would also need to address the growing challenges of ensuring good governance for promoting the welfare of the people whilst strengthening the unity and integrity of the country, and of availing emerging opportunities for sustained and rapid economic growth for alleviating poverty and illiteracy in the early decades of the new millennium.
- (iii) While examining and making its recommendations on the above, the Commission shall have particular regard, but not limit its mandate to the following: -
- (a) The role, responsibility and jurisdiction of the Center vis-a-vis States during major and prolonged outbreaks of communal violence, caste violence or any other social conflict leading to prolonged and escalated violence.
 - (b) The role, responsibility and jurisdiction of the Center vis-a-vis States in the planning and implementation of the Mega Projects like the inter-linking of rivers, that would normally take 15— 20 years for completion and hinge vitally on the support of the States.
 - (c) The role, responsibility and jurisdiction of the Center vis-a-vis States in promoting effective devolution of powers and autonomy to Panchayati Raj Institutions and Local Bodies including the Autonomous Bodies under the 6th Schedule of the Constitution within a specified period of time.
 - (d) The role, responsibility and jurisdiction of the Center vis-a-vis States in promoting the concept and practice of independent planning and budgeting at the District level.
 - (e) The role, responsibility and jurisdiction of the Center vis-a-vis States in linking Central assistance of various kinds with the performance of the States.
 - (f) The role, responsibility and jurisdiction of the Centre in adopting approaches and policies based on positive discrimination in favour of backward States.
 - (g) The impact of the recommendations made by the 8th to 12th Finance Commissions on the fiscal relations between the Centre and the States, especially the greater dependence of the States on devolution of funds from the Centre.
 - (h) The need and relevance of separate taxes on the production and on the sales of goods and services subsequent to the introduction of Value Added Tax regime.
 - (i) The need for freeing inter-State trade in order to establish a unified and integrated domestic market as also in the context of the reluctance of State Governments to adopt the relevant Sarkaria Commission's recommendation in Chapter XVIII of its report.
 - (j) The need for setting up a Central Law Enforcement Agency empowered to take up suo motu investigation of crimes having inter-State and/or international ramifications with serious implications on national security.
 - (k) The feasibility of a supporting legislation under Article 355 for the purpose of suo motu deployment of Central forces in the States if and when the situation so demands.

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Designed