

**Brief note on
Inter State disputes and the role of the Union Government**

Source- Ministry of Home Affairs

Inter State council is a constitutional body set up on the basis of provisions in Article 263 of the Constitution of India by a Presidential Order dated 28th May, 1990 on recommendation of Sarkaria Commission. The Inter State council is headed by Hon'ble Prime Minister of India and all the Chief Ministers and a few Cabinet Ministers of the Union of India are Members of the Council, who have recently met on 16th July 2016 after a gap of eleven years to discuss various issues which augments the relationship of Centre State and paves an ambience of reviving the Inter State Council to achieve its goals and thus creates an mechanism of active participation of States for strengthening and building healthy relationship with the Centre. The function of the ISCS is as under:-

- (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; or
- (c) making recommendations upon any such subject and, in particular, recommendations for the better co-ordination of policy and action with respect to that subject,

Zonal council

Zonal Council was set up as Statutory body under State Reorganization Act 1956. There are five zonal Council in the country, which are **Northern Zonal Council** (comprising the States of Haryana, Himachal Pradesh, Jammu & Kashmir, Punjab, Rajasthan, National Capital Territory of Delhi and Union Territory of Chandigarh) **Central Zonal Council**, (comprising the States of Chhattisgarh, Uttarakhand, Uttar Pradesh and Madhya Pradesh) **Eastern Zonal Council**(comprising the States of Bihar, Jharkhand, Odisha and West Bengal) **Western Zonal Council** (comprising the States of Goa, Gujarat, Maharashtra and the Union Territories of Daman & Diu and Dadra & Nagar Haveli) and **Southern Zonal Council** (comprising the States of Andhra Pradesh, Karnataka, Kerala, Tamil Nadu, Telangana and the Union Territory of Puducherry). Five Zonal council meetings have been held in the year 2015 and one meeting of Eastern zonal Council held on 27-06-2016 and one Western zonal Council meeting was held on 21-10-2016. Each Zonal Council is an advisory body and may discuss any matter in which some or all of the States represented in that Council, or the Union and one or more of the States represented in that Council, have a common interest and advise the

Central Government and the Government of each State concerned as to the action to be taken on any such matter.

In particular, a Zonal Council may discuss, and make recommendations with regard to:

- any matter of common interest in the field of economic and social planning;
- any matter concerning border disputes, linguistic minorities or inter-State transport; and
- any matter connected with, or arising out of, the re-organisation of the States under the States Reorganisation Act.

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Failure of the Constitutional machinery in the States- Role of the Union Government.

Constitution of India defines the role of the Union of Government in case of Failure of the Constitutional machinery in the States. Constitutional provisions invoked in such situation are given below: -

2. Article 356: Provisions in case of failure of constitutional machinery in States. –
(1) If the President, on receipt of report from the Governor of a State or otherwise, is satisfied that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of this Constitution, the President may be Proclamation-

- (a) Assume to himself all or any of the functions of the government of the State and all or any of the powers vested in or exercisable by the Governor or anybody or authority in the State other than the Legislature of the State;
- (b) Declare that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament;
- (c) Make such incidental and consequential provisions as appear to the President to be necessary or desirable for giving effect to the objects of the Proclamation, including provisions for suspending in whole or in part the operation of any provisions of this Constitution relating to anybody or authority in the State:
Provided that nothing in this clause shall authorize the President to assume to himself any of the powers vested in or exercisable by a High Court, or to suspend in whole or in part the provision of any provision of this Constitution relating to High Courts.

(2) Any such Proclamation may be revoked or varied by a subsequent Proclamation.

(3) Every Proclamation under this article shall be laid before each House of Parliament and shall except where it is a Proclamation revoking a previous Proclamation, cease to operate at the expiration of two months unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament:

Provided that if any such Proclamation (not being a Proclamation revoking a previous Proclamation) is issued at a time when the House of the People is dissolved or the dissolution of the House of the People takes place during the period of two months referred to in this clause, and if a resolution approving the Proclamation has been passed by the Council of States, but no resolution with respect to such Proclamation has been passed by the House of the People before the expiration of that period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution unless before the expiration of the said period of thirty days in a resolution approving the Proclamation has been also passed by the House of the people.

(4) A Proclamation so approved shall, unless revoked, cease to operate on the expiration of a period of [six months from the date of issue of the Proclamation]:

Provided that if and so often as a resolution approving the continuance in force of such a Proclamation is passed by both Houses of Parliament, the Proclamation shall unless revoked, continue in force for a further period of [six months] from the date on which under this clause it would otherwise have ceased to operate, but no such Proclamation shall in any case remain in force for more than three years:

Provided further that if the dissolution of the House of the People takes place during any such period of [six months] and a resolution approving the continuance in force of such Proclamation has been passed by the Council of States, but no resolution with respect to the continuance in force of such Proclamation has been passed by the House of the People during the said period, the Proclamation shall cease to operate at the expiration of thirty days from the date on which the House of the People first sits after its reconstitution unless before the expiration of the said period of thirty days a resolution approving the continuance in force of the Proclamation has been also passed by the House of the People:

[Provided also that in the case of the Proclamation issued under clause (1) on the 11th day of May, 1987 with respect to the State of Punjab, the reference in

the first proviso to this clause to “three years” shall be construed as a reference to [five years].]

5. Notwithstanding anything contained in clause (4), a resolution with respect to the continuance in force of a Proclamation approved under clause (3) for any period beyond the expiration of one year from the date of issue of such proclamation shall not be passed by either House of Parliament unless—

- (a) a Proclamation of Emergency is in operation, in the whole of India or, as the case may be, in the whole or nay part of the State, at the time of the passing of such resolution, and
- (b) the Election Commission certifies that the continuance in force of the Proclamation approved under clause (3) during the period specified in such resolution is necessary on account of difficulties in holding general elections to the Legislative Assembly of the State concerned;]

[Provided that nothing in this clause shall apply to the Proclamation issued under clause (1) on the 11th day of the May, 1987 with respect to the State of Punjab.]

3. The above provisions have been invoked on various occasions in past in case of failure of Constitutional machinery such as defection, withdrawal of support, breakup of the ruling party, no party or combination of party getting majority after fresh elections etc. Detail of such cases are available in the Lok Sabha Secretariat publication titled “President’s Rule in States and Union Territories”.
