



TNPSC GROUP I & II INDIAN POLITY WORKSHEET

SPIRIT OF FEDERALISM & CENTRE STATE RELATIONS

Political scientists have classified governments into **unitary and federal** on the basis of the nature of relations between the national government and the regional governments.

- A unitary government is one in which all the powers are vested in the national government and the regional governments, if at all exist, derive their authority from the national government. E.g. UK, France
- A federal government is one in which powers are divided between the national government and the regional governments by the Constitution itself and both operate in their respective jurisdictions independently. E.g: US, Switzerland, Australia

Features of Federal Government in Constitution of India

- Dual Government
- Written Constitution
- Division of powers
- Supremacy of the Constitution
- Rigid Constitution
- Independent judiciary
- Bicameral legislature

Unitary features of Indian constitution

- Single Constitution
- Single Citizenship
- No Right to Existence for States
- Anti-Federal nature of Rajya Sabha
- Appointment of Governor
- Emergency powers
- All-India Services
- Election Commission
- Unified Auditing

Facts:

- The term 'federation' is derived from a Latin word *foedus* which means 'treaty' or 'agreement'.
- The United States of America is the first and the oldest federation in the world.
- Article 1 of the Constitution describes India as a 'Union of States'.
- The Indian federal system is based on the 'Canadian model'

- KC Wheare described the Constitution of India as "**quasi-federal**". He remarked that "Indian Union is a unitary state with subsidiary federal features rather than a federal state with subsidiary unitary features."
- Granville Austin called the Indian federalism as a "**cooperative federalism**".
- Morris Jones termed it as a "**bargaining federalism**"
- Ivor Jennings has described it as a "federation with a strong centralising tendency"
- K.P. Mukherjee remarks that "India is not a federation at all".
- **K.M. Munshi** states that the Constitution made India "a **quasi-federal** union invested with several important features of a unitary government".
- **Prof. Alexandrowich** described "India is a case sui generis" meaning Indian federalism is one of its own kind.

CENTRE-STATE RELATIONS

The Constitution of India, being federal in structure, divides all powers (legislative, executive and financial) between the Centre and the states.

The Centre-state relations can be studied under three heads:

- Legislative relations (Articles 245 to 255).
- Administrative relations (Articles 256 to 263).
- Financial relations (Articles 268 to 293).

Legislative Relations

The Constitution of India, being federal in structure, divides all powers (legislative, executive and financial) between the Centre and the states.

Though the Centre and the states are supreme in the irrespective fields, the maximum harmony and coordination between them is essential for the effective operation of the federal system.

Legislative Relations

1. Articles 245 to 255 in Part XI of the Constitution deal with the legislative relations between the Centre and the states.
2. The Indian Constitution divides the legislative powers between the Centre and the states with respect to both the territory and the subjects of legislation.
3. Thus, there are four aspects in the Centre-states legislative relations, viz.,
 1. Territorial extent of Central and state legislation ;
 2. Distribution of legislative subjects;
 3. Parliamentary legislation in the state field; and
 4. Centre's control over state legislation.

1. Territorial Extent of Central and State Legislation

The Constitution defines the territorial limits of the legislative powers vested in the Centre and the states in the following way:

- i. The Parliament can make laws for the whole or any part of the territory of India. The territory of India includes the states, the union territories, and any other area for the time being included in the territory of India.
- ii. A state legislature can make laws for the whole or any part of the state. The laws made by a state legislature are not applicable outside the state
- iii. The Parliament alone can make 'extraterritorial legislation '. Thus, the laws of the Parliament are also applicable to the Indian citizens and their property in any part of the world.

2. Distribution of Legislative Subjects

The Constitution provides for a three-fold distribution of legislative subjects between the Centre and the states, viz., List-I (the Union List), List-II (the State List) and List-III (the Concurrent List) in the Seventh Schedule:

- i. The Parliament has exclusive powers to make laws with respect to any of the matters enumerated in the Union List. This list has at present 98 subjects (originally 97 subjects) like defence, banking, foreign affairs, currency, atomic energy, insurance, communication , inter-state trade and commerce, census, audit and so on.
- ii. The state legislature has "in normal circumstances" exclusive powers to make laws with respect to any of the matters enumerated in the State List . This has at present 59 subjects (originally 66 subjects) like public order, police, public health and sanitation , agriculture, prisons, local government, fisheries, markets, theatres, gambling and so on
- iii. Both, the Parliament and state legislature can make laws with respect to any of the matters enumerated in the Concurrent List . This list has at present 52 subjects (originally 47 subjects) like criminal law and procedure, civil procedure, marriage and divorce, population control and family planning, electricity, labour welfare, economic and social planning, drugs, newspapers, books and printing press, and others.
- iv. **Residuary powers (Article 248):** Parliament has exclusive power to make laws on the subjects not enumerated in any of the lists (Entry 97 of

Union List). Wherever the conflict arises as to a subject matter, the Union List predominates over the other lists.

- v. **The 42nd Amendment Act of 1976** transferred five subjects to Concurrent List from State List, that is, (a) education, (b) forests, (c) weights and measures, (d) protection of wild animals and birds, and (e) administration of justice; constitution and organisation of all courts except the Supreme Court and the high courts.
- vi. **The 101st Amendment Act of 2016** has made a special provision with respect to goods and services tax. Accordingly, the Parliament and the state legislature have power to make laws with respect to goods and services tax imposed by the Union or by the State. Further, the parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods or services or both takes place in the course of inter-state trade or commerce.

3. Parliamentary Legislation in the State Field

The Constitution empowers the Parliament to make laws on any matter enumerated in the State List under the following five extraordinary circumstances:

i. When Rajya Sabha Passes a Resolution - Article 249

The Rajya Sabha declares that it is necessary in the national interest that Parliament should make laws with respect to goods and services tax or a matter in the State List, then the Parliament becomes competent to make laws on that matter.

A resolution must be supported by two-thirds of the members present and voting.

The resolution remains in force for one year; it can be renewed any number of times but not exceeding one year at a time.

ii. During a National Emergency - Article 250

- i. The Parliament acquires the power to legislate with respect to goods and services tax or matters in the State List, while a proclamation of national emergency is in operation.

- ii. The laws become inoperative on the expiration of six months after the emergency has ceased to operate.

iii. When States Make a Request – Article 252

When the legislatures of two or more states pass a resolutions requesting the Parliament to enact laws on a matter in the State List, then the Parliament can make laws for regulating that matter.

A law so enacted applies only to those states which have passed the resolutions.

iv. To Implement International Agreements – Article 253

- i. The Parliament can make laws on any matter in the State List for' implementing the international treaties, agreements or conventions.
- ii. This provision enables the Central government to fulfil its international obligations and commitments.
- iii. Some examples of laws enacted under the above provision are United Nations (Privileges and Immunities) Act, 1947; Geneva Convention Act, 1960;

v. During President's Rule

When the President's rule is imposed in a state, the Parliament becomes empowered to make laws with respect to any matter in the State List in relation to that state.

A law made so by the Parliament continues to be operative even after the president's rule.

vi. Centre's Control Over State Legislation

Besides the Parliament's power to legislate directly on the state subjects under the exceptional situations, the Constitution empowers the Centre to exercise control over the state's legislative matters in the following ways:

(i) Article 200

The Governor can reserve a bill passed by the state legislature for the consideration of the President. It must be noted here that the President enjoys absolute veto over such a bill (Articles 200 and 201).

(ii) Article 304

A state bill imposing restrictions on the freedom of trade, commerce and intercourse with that state or within that state can be introduced in the legislature of the state only with the previous sanction of the President (Article 304).

(iii) Article 360

The Centre can direct the states to reserve money bills and other financial bills passed by the state legislature for the President's consideration during a financial emergency (Article 360).

(iv) Article 213

The Governor cannot make an ordinance without the instructions from the President in certain cases (Article 213).

From the above, it is clear that the Constitution has assigned a position of superiority to the Centre in the legislative sphere.

Administrative Relations

Article 256 to 263 in Part XI of the Constitution deal with the administrative relations between the Centre and the states.

II. Distribution of Executive Powers

1. The executive power has been divided between the Centre and the states on the lines of the distribution of legislative powers, except few cases.
2. The executive power of the Centre extends to the whole of India.

3.
 - i. To the matters on which the Parliament has exclusive power of legislation (i.e. the subjects enumerated in the Union List) and
 - ii. to the exercise of rights, authority and jurisdiction conferred on it by any treaty or agreement.

Similarly, the executive power of a state extends to its territory in respect of matters on which the state legislature has exclusive power of legislation (i.e. the subjects enumerated in the State List.

4. In respect of matters on which both the Parliament and the state legislatures have power of legislation (i.e., the subjects enumerated in the Concurrent List), the executive power rests with the states

III. Direction by the Centre to the states

The Centre is empowered to give directions to the states with regard to the exercise of their executive power in the following matters:

Article 256

Article 256 provides that the executive power of the state shall be so exercised as to ensure compliance with the laws made by the Parliament.

Article 257

Article 257 provides that states must exercise their executive power in such a way so as not to impede or prejudice the exercise of the executive power of the Union in the state.

Article 257 (2)

The construction and maintenance of means of communication (declared to be of national or military importance) by the state; .

Article 257 (3)

The measures to be taken for the protection of the railways within the state;

Article 350 A

The provision of adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups in the state;

Article 351 (Part XVII)

Development of the Hindi Language: It shall be the duty of the Union to promote the spread of the Hindi language and to develop it so that it may serve as a medium of expression for all the elements of the composite culture of India (Article 351 in Part XVII).

IV. Relations During Emergencies

Article 352

(i) During the operation of a national emergency (under Article 352) , the Centre becomes entitled to give executive directions to a state on 'any' matter. Thus, the state governments are brought under the complete control of the Centre.

Article 356

(ii) When the President's Rule is imposed in a state (under Article 356) , the President can assume to himself/herself the functions of the state government.

Article 360

(iii) During the operation of a financial emergency (under Article 360), the Centre can direct the states to observe canons of financial propriety.

Other Provisions

Article 355

(i) Article 355 imposes two duties on the Centre: (a) to protect every state against external aggression and internal disturbance; and (b) to ensure that the government of every state is carried on in accordance with the provisions of the Constitution.

(ii) The state election commissioner, though appointed by the governor of the state, can be removed only by the President.

V. Cooperation between the Centre and States

(i) Article 263

The President can establish (under Article 263) an Inter-State Council to investigate and discuss subject of common interest between the Centre and the states. Such a council was set up in 1990.

(ii) Article 307

Parliament has power to constitute an **Inter-State Commerce Commission** (Article 307) and empower it to execute such functions as it may deem fit.

VI. Extra-Constitutional Devices

(i) There are extra-constitutional devices to promote cooperation and coordination between the Centre and the states.

(ii) The non-constitutional advisory bodies include the NITI Ayog (which succeeded the planning commission), the National Integration Council, the Central Council of Health and Family Welfare, the Central Council of Local Government, the Zonal Councils, the North-Eastern Council.

(iii) The important conferences held either annually or otherwise to facilitate Centre-state consultation on a wide range of matters are as follows: (i) The governors' conference (presided over by the President). (ii) The chief ministers' conference (presided over by the prime minister). (iii) The chief secretaries' conference (presided over by the cabinet secretary).

Centre-State Relationship - Original question

Which are the articles that describe situations and confer power to Union Government to claim control over states?

- a. Art 368 and 313 b. Art 356 and 363 c. Art 365, 256 and 257
d. Art 349 and 350 e. Answer not known

எந்த சட்டங்கள் சூழ்நிலைக் கருதி மாநில அரசுகளை மத்திய அரசு கட்டுப்படுத்தும் அதிகாரங்கள் கூறுகின்றன?

- a. சரத்து 368 மற்றும் 313 b. சரத்து 356 மற்றும் 363
d. சரத்து 365, 256 மற்றும் 257 d. சரத்து 349 மற்றும் 350
e. விடை தெரியவில்லை

Financial Relations

Articles 268 to 293 in Part XI I of the Constitution deal with Centre-state financial relations.

I. Allocation of Taxing Powers

The Constitution divides the taxing powers between the Centre and the states in the following way:

1. The Parliament has exclusive power to levy taxes on subjects enumerated in the Union List (which are 13 in number)
2. The state legislature has exclusive power to levy taxes on subjects enumerated in the State List (which are 18 in number)
3. The concurrent jurisdiction is not available with respect to tax legislation.
4. The residuary power of taxation (that is, the power to impose taxes not enumerated in any of the three lists) is vested in the Parliament.

II. Distribution of Tax Revenues

The 80th Amendment Act of 2000 and the 101st Amendment Act of 2016 have introduced major changes in the scheme of the distribution of tax revenues between the centre and the states.

(i) 80th Amendment

The 80th, Amendment was enacted to give effect to the recommendations of the 10th finance Commission.

The Commission recommended that out of the total income obtained from certain central taxes and duties, 29% should go to the states.

This is known as the 'Alternative Scheme of Devolution' and came into effect retrospectively from April I, 1996.

(ii) 101st Amendment

The 101st Amendment has paved the way for the introduction of a new tax regime (i.e. goods and services tax - GST) in the country.

A. Taxes Levied by the Centre but Collected and Appropriated by the States (Article 268):

This category includes the stamp duties on bills of exchange, cheques, promissory notes, policies of insurance, transfer of shares and others.

B. Taxes Levied and Collected by the Centre but Assigned to the States (Article 269) :

- i. The following taxes fall under this category: (i) Taxes on the sale or purchase of goods (other than newspapers) in the course of inter-state trade or commerce.
- ii. Taxes on the consignment of goods in the course of inter-state trade or commerce.

C. Levy and Collection of Goods and Services Tax in Course of Inter-State Trade or Commerce (Article 269-A);

The Goods and Services Tax (GST) on supplies in the course of inter-state trade or commerce are levied and collected by the Centre. But, this tax is divided between the Centre and the States in the manner provided by Parliament on the recommendations of the GST Council.

D. Taxes Levied and Collected by the Centre but Distributed between the Centre and the States (Article 270):

This category includes all taxes and duties referred to in the Union List.

E. Surcharge on Certain Taxes and Duties for Purposes of the Centre (Article 271):

The Parliament can at any time levy the surcharges on taxes and duties referred to in Articles 269 and 270.

F. Taxes Levied and Collected and Retained by the States:

These are the taxes belonging to the states exclusively. They are enumerated in the state list and are 18 in number. These are: (i) land revenue; (ii) taxes on agricultural income;

III. Distribution of Non-tax Revenues

A. The Centre The receipts from the following form the major sources of non-tax revenues of the Centre: (i) posts and telegraphs; (ii) railways; (iii) banking; (iv) broadcasting (v) coinage and currency; (vi) central public sector enterprises; (vii) escheat and lapse; and ("iii) others.

B. The States: The receipts from the following form the major sources of non-tax revenues of th e states: (i) irrigation; (ii) forests; (iii) fisheries; (iv) state public sector enterprises; (v) escheat and lapse; and (vi) others.

IV. Grants-in-Aid to the States

Besides sharing of taxes between the Centre and the states, the Constitution provides for grants-in-aid to the states from the Central resources. There are two types of grants-in-aid, viz, statutory grants and discretionary grants:

A. Statutory Grants

Article 275 empowers the Parliament to make grants to the states which are in need of financial assistance and not to every state.

B. Discretionary Grants

Article 282 empowers both the Centre and the states to make any grants for any public purpose, even if it is not within their respective legislative competence.

I. Finance Commission

- Article 280 provides Finance Commission as a **quasi-judicial** body constituted by the President every fifth year or at such earlier time as he considers necessary.
- Recommendations made by the Finance Commission are only of advisory nature and not binding upon the government.

Composition

- A chairman and four other members appointed by the President.
- They hold office for such period as specified by the President in his order. They are Eligible for appointment.
- The Parliament enacted Finance Commission (Miscellaneous Provisions) Act of 1951, specifying the qualifications of the chairman and its members.

Functions

- The finance commission is required to make recommendations to the President of India on the following matters:

Distribution of the net proceeds of taxes to be shared between the Centre and the States.

Principles that should govern the grants-in-aid to the states by the centre (i.e. out of the consolidated fund of India).

The Commission submits its report to the President

He lays it before both the Houses of Parliament along with an explanatory memorandum as to the action taken on its recommendations (Article 281).

II. Goods and Services Tax (Gst)

GST is an indirect tax used on the supply of goods and services. It came into effect through the **Constitutional 101st amendment act 2016**.

Article 269A: GST Council

The President shall constitute within 60 days from the date of commencement of 101st amendment act 2016 by order constitute a GST council, which shall consist of the following members:

- Union Finance Minister – Chairperson
- Union minister of state in charge of Revenue or Finance – Member.
- Minister in charge of Finance or Taxation or any other Minister nominated by each state government – Members.

CENTER-STATE COMMISSIONS AND COMMITTEES

Administrative Reforms Commission

The Central government appointed a six-member Administrative Reforms Commission (ARC) in **1966** under the chairmanship of **Morarji Desai** (followed by K Hanumanthayya).

The important recommendations are:

- Establishment of an Inter-State Council under Article 263 of the Constitution.
- Appointment of persons having long experience in public life and administration and nonpartisan attitude as governors.

The **second ARC** was constituted in **2005** under the chairmanship of **Veerappa Moily** (followed by V. Ramachandran)

Rajamannar Committee

In **1969**, the Tamil Nadu Government (DMK) appointed a three-member committee under the chairmanship of Dr P V Rajamannar to examine the entire question of Centre–state relations. The committee submitted its report to the Tamil Nadu Government in **1971**.

The important recommendations of the committee are as follows: **(i) An Inter-State Council** should be set up immediately; **(ii) Finance Commission** should be made a permanent body; **(iii) Planning Commission** should be disbanded and its place should be taken by a statutory body; **(iv)** Articles 356,357 and 365 (dealing with President’s Rule) should be totally omitted; **(v)** The provision that the state ministry holds office during the pleasure of the governor should be omitted; **(vi) All-India services** (IAS, IPS and IFS) should be abolished ; **(vii)** It recommended the elimination of articles 256, 257, 339(2) from our Constitution.

Anandpur Sahib Resolution

In **1973**, the **Akali Dal** adopted a resolution containing both political and religious demands in a meeting held at Anandpur Sahib in Punjab. The demands were, (1) the Centre’s jurisdiction should be restricted only to **defence, foreign affairs, communications, and currency** and the (2) entire residuary powers should be vested in the states. It stated that the (3) Constitution should be made federal in the real sense and should ensure equal authority and representation to all the states at the Centre.

West Bengal Memorandum

In **1977**, the West Bengal Government (led by the Communists) published a memorandum on Centre–state relations and sent to the Central government. The memorandum *inter alia* suggested the following: **(i)** The word ‘union’ in the Constitution should be replaced by the word ‘federal’; **(ii)** The jurisdiction of the Centre should be confined to defence, foreign affairs, currency, communications and economic co-ordination;

Sarkaria Commission (1983)

The final report was submitted in October 1987, and the summary was later officially released in January 1988. The Commission made **247** recommendations to improve Centre–state relations.

1. A **permanent Inter-State Council** called the Inter-Governmental Council should be set up under Article 263.
2. Article 356 (President’s Rule) should be used very sparingly, in extreme cases as a last resort when all the available alternatives fail.
3. The National Development Council (NDC) should be renamed and reconstituted as the National Economic and Development Council (NEDC).
4. The Centre should consult the states before making a law on a subject of the Concurrent List.

Venkatachaliah Commission

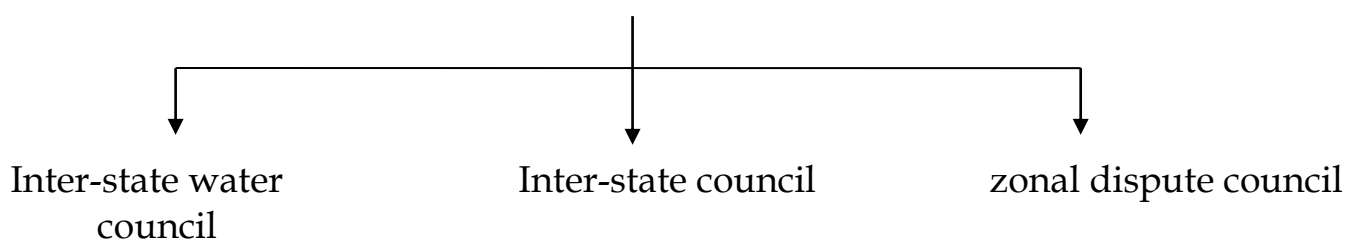
The **National Commission** to review the working of the Constitution (NCRWC) was set up in February **2002** for suggesting possible amendments to the Constitution of India.

Punchhi Commission

The Second commission on Centre-State Relations was set-up by the Government of India in April **2007** under the Chairmanship of **Madan Mohan Punchhi**, former Chief Justice of India. Report submitted on **2010**.

Inter-State Relations

INTER-STATE RELATIONS



I. Inter-State Water Disputes

Article 262 of the Constitution provides for the adjudication of inter-state water disputes.

(i) Parliament may by law provide for the adjudication of any dispute or complaint with respect to the use, distribution and control of waters of any inter-state river and river valley.

Under this provision, the Parliament has enacted two laws (1. The River Boards Act (1956) and 2. The Inter-state River Water Disputes Act (1956)]. The River Boards Act provides for the establishment of river boards for the regulation and development of Inter-State River and river valleys. A river board is established by the Central government on the request of the state governments concerned to advise them.

The Inter-State River Water Disputes Act empowers the Central government to set up an adhoc tribunal for the adjudication of a dispute between two or more states in relation to the waters of an inter-state river or river valley.

Inter-State Water Dispute Tribunals Set-up So far

SI. NO	Name	Set-up in	States Involved
1	Krishna Water Disputes Tribunal-I	1969	Maharashtra, Karnataka, and Andhra Pradesh
2	Godavari Water Disputes Tribunal	1969	Maharashtra, Karnataka, Andhra Pradesh, Madhya Pradesh, and Odisha
3	Narmada Water Disputes Tribunal	1969	Rajasthan, Gujarat, Madhya Pradesh and Maharashtra
4	Ravi and Beas Water Disputes Tribunal	1986	Punjab, Haryana and Rajasthan
5	Cauvery Water Disputes Tribunal	1990	Karnataka, Kerala, Tamil Nadu, and Puducherry
6	Krishna Water Disputes Tribunal-II	2004	Maharashtra, Karnataka, and Andhra Pradesh

II. Inter-State Councils

Article 263 contemplates the establishment of an Inter-State Council to effect coordination between the states and between Centre and states.

The President can establish such a council if at any time it appears to him/her that the public interest would be served by its establishment.

Establishment of Inter-State Council

The Sarkaria Commission on Centre-State Relations (1983- 88) made a strong case for the establishment of a permanent Inter-State Council under Article 263 of the Constitution .

In pursuance of the above recommendations of the Sarkaria Commission, the Janata Dal Government headed by V. P. Singh established the Inter-State Council in 1990. It consists of the following members:

- i. Prime minister as the Chairman
- ii. Chief ministers of all the states
- iii. Chief ministers of union territories having legislative assemblies
- iv. Administrators of union territories not having legislative assemblies
- v. Governors of States under President's rule
- vi. Six Central cabinet ministers, including the home minister, to be nominated by the Prime Minister.

The council is a recommendatory body on issues relating to inter-state, Centre-state and Centre-union territories relations.

Inter-State Trade and Commerce

Articles 301 to 307 in Part XIII of the Constitution deal with the trade, commerce and intercourse within the territory of India.

Article 301 declares that trade, commerce and intercourse throughout the territory of India shall be free.

Zonal Councils

The Zonal Councils are the statutory (and not the constitutional) bodies. They are established by an Act of the Parliament, that is, States Reorganisation Act of 1956. The act divided the country into five zones (Northern, Central, Eastern, Western and Southern) and provided a zonal council for each zone.

Each Zonal council consists of the following members: (a) home minister of Central government. (b) chief ministers of all the States in the zone. (c) Two other ministers from each state in the zone. (d) Administrator of each union territory in the zone.

Zonal Councils at a Glance

S	Name	Members	Headquarters
1	Northern Zonal Council	Himachal Pradesh, Haryana, Punjab, Rajasthan, Delhi, Chandigarh, Jammu and Kashmir and Ladakh	New Delhi
2	Central Zonal Council	Uttar Pradesh, Uttarakhand, Chhattisgarh, and Madhya Pradesh	Allahabad
3	Eastern Zonal Council	Bihar, Jharkhand, West Bengal and Odisha	Kolkata
4	Western Zonal Council	Gujarat, Maharashtra, Goa and Dadra and Nagar Haveli and Daman and Diu	Mumbai
5	Southern Zonal Council	Andhra Pradesh, Telangana, Karnataka, Tamil Nadu, Kerala and Puducherry	Chennai

The objectives (or the functions) of the zonal councils:

- To achieve an emotional integration of the country.
- To help in arresting the growth of acute state-consciousness, regionalism, linguism and particularistic trends.

To enable the Centre and states to cooperate with each other in social and economic matters and exchange ideas and experience in order to evolve uniform policies.

North-Eastern Council

In addition to the above Zonal Councils, a North-Eastern Council was created by a separate Act of Parliament-the North-Eastern Council Act of 1971. It came into existence on August 8, 1972. In 2002, Sikkim was added as the eighth member of the North-Eastern Council. Its members include Assam, Manipur, Mizoram, Arunachal Pradesh, Nagaland, Meghalaya, Tripura and Sikkim.

