



CENTRE-STATE RELATIONS

CHAPTER IV

4.1 In a federal polity, in view of large areas of common interest and shared action between the constituent units, coordination of policies and their implementation become extremely important. Article 263 of the Constitution envisages establishment of an institutional mechanism to facilitate coordination of policies and their implementation.

INTER-STATE COUNCIL (ISC)

4.2 In pursuance of the recommendation made by the Sarkaria Commission on Centre-State Relations, the Inter-State Council (ISC) was set up in 1990.

4.3 The ISC is a recommendatory body and has been assigned the duties of investigating and discussing such subjects, in which some or all of the States or the Union and one or more of the States have a common interest, and making recommendations for better coordination of policy and action with respect to that subject. It also deliberates upon such other matters of general interest to the States as may be referred to it by the Chairman of the Council.

4.4 The Prime Minister is the Chairman of the Council. Chief Ministers of all the States and Union Territories having Legislative Assemblies, Administrators of Union Territories not having Legislative Assemblies, Governors of States under President's rule and six Ministers of Cabinet rank in the Union Council of Ministers, nominated by the Chairman of the Council, are the members of the Council. Five Ministers of Cabinet rank/Minister of State (independent Charge)

nominated by the Chairman of the Council are permanent invitees to the Council. The Inter-State Council was last reconstituted on August 21, 2009.

4.5 The meetings of the Council are held in camera, and all questions, which come up for consideration of the Council in a meeting, are decided by consensus, and the decision of the Chairman as to the consensus is final. The Council has not been assigned the duty envisaged in clause (a) of Article 263 of the Constitution namely, inquiring into and advising upon disputes, which may have arisen between States.

4.6 The Standing Committee of the Inter-State Council was constituted in the year 1996 for continuous consultation and processing of matters for the consideration of the Council. Union Home Minister is the Chairman of the Standing Committee, and has five Union Cabinet Ministers and nine Chief Ministers as members. The Standing Committee was last reconstituted on August 21, 2009.

4.7 The Inter-State Council considered the recommendations of Sarkaria Commission. Out of 247 recommendations, 180 have been implemented, 65 have not been accepted by the Inter-State Council/Administrative Ministries/Departments concerned, and only 02 recommendations are still at different stages of implementation.

4.8 The Council has also considered other public policy and governance issues; these are:
(a) Contract Labour and Contract Appointments;



- (b) Blue Print of an Action Plan on Good Governance;
- (c) Disaster Management – Preparedness of States to cope with disasters;
- (d) Atrocities on Scheduled Castes and Scheduled Tribes and Status of Implementation of the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act, 1989.

4.9 The Council Secretariat closely monitors the implementation of the recommendations made by the Inter-State Council, and places the Action Taken Report before the Standing Committee / Council for consideration.

4.10 The Council Secretariat has commissioned a number of studies on public policy and governance issues:

- (i) Compensation to resource bearing States in respect of minerals including coal, hydropower and petroleum and natural gas;
- (ii) Sub National Governance;
- (iii) Creation of a common Indian market on agricultural goods and commodities;
- (iv) National Policy for Urban Street Vendors.

4.11 The Council Secretariat has also taken steps in consultation with the Union Ministries/Departments and the State Governments to generate new issues for consideration of the Council.

4.12 The Framework arrangement between the Forum of Federations, Canada and the Govt. of India (Inter-State Council Secretariat) has been renewed for another period of 3 years from the year 2008. The objective of this arrangement is to create an international partnership that would support the Forum and the partner government in improving governance and enhancing democracy by promoting dialogue on the practices, principles

and possibilities of federalism.

ZONAL COUNCIL SECRETARIAT

Role and Functions

4.13 The Zonal Councils, five in number, are statutory bodies which have been set up under the States Re-organisation Act, 1956 to provide a common meeting ground to the States and UTs in each zone for resolution of inter-State and Zonal issues problems, fostering balanced socio-economic regional development and building harmonious Centre-State relations. These Councils are high level bodies having Chief Ministers and other Ministers of the respective States as their members. The Union Home Minister is the Chairman of each of these Councils. The office of the Vice Chairman is held by the Chief Ministers of the member States of the respective Zonal Councils, by annual rotation. Each Zonal Council has set up a Standing Committee consisting of Chief Secretaries of the member States of their respective Zonal Councils. These Standing Committees meet from time to time to resolve the issues or to do necessary ground work for further meetings of the Zonal Councils. Senior Officers of the Planning Commission and other Central Ministries are also associated with the meetings depending upon necessity.

Meetings of Zonal Councils

4.14 The Zonal Councils have, so far, met 106 times since their inception. 39 meetings of Standing Committees have also been held. Deliberations of the meetings of Zonal Councils/Standing Committees have led to important initiatives in regard to Internal Security, Coastal Security, Mega City Policing, Sharing of information on crime and criminals by the concerned States, Jail Reforms, Communal Harmony and the resolution of the socio-economic problems like trafficking in



women and children, strengthening the preparedness for disaster management, implementation of Right to Information Act, Implementation of National Employment Guarantee Bill, Good Governance etc.

COMMISSION ON CENTRE-STATE RELATIONS (CCSR)

4.15 The Commission was constituted in pursuance of the commitment made by the Government of India under its Common Minimum Programme (CMP) considering the vast changes that have taken place in the society and economy of the country in more than two decades intervening between the submission of the Report by the Sarkaria Commission till date. The Chairman and Members were appointed on April 27, 2007. Justice (retd.) Madan Mohan Punchhi, former Chief Justice of Supreme Court of India was appointed as Chairperson, and Shri Dhirendra Singh, former Secretary to the Govt. of India, Shri Vinod Kumar Duggal, former Secretary to the Govt. of India and Dr. N.R.Madhava Menon, former Director, National Judicial Academy, Bhopal and National Law School of India, Bangalore were appointed as Members. Shri Vijay Shanker, IPS (retd.) has been appointed as a Member of the Commission in October, 2008 in place of Dr. Amaresh Bagchi who had been appointed as Member of the Commission in July, 2007 but unfortunately expired in February, 2008.

4.16 The Commission has to adopted a participatory and consultative approach for seeking responses from Central Ministries/Departments, State Governments, Political Parties, Constitutional Experts, Universities, Research Institutions and Academicians. It has categorized its mandate into 8 subject groupings, namely, Constitutional Scheme of Centre-State Relations; Economic and Financial Relations; Unified and Integrated Domestic Market; Local Governments and

Decentralized Governance; Criminal Justice, National Security and Centre-State Cooperation; Natural Resources, Environment, Land and Agriculture; Infrastructure Development and Mega Projects; Socio-Political Developments, Public Policy, Governance and Social Economic & Human Development.

4.17 The Commission has circulated a Questionnaire to all stakeholders. Parallel to the formulation and circulation of the Questionnaire, 8 Task Forces consisting of experts and corresponding with 8 subject groupings mentioned above have been constituted. The Commission organized 4 Regional Workshops, one each at Thiruvananthapuram on 'Local Governments and Decentralized Governance'; at Shillong on 'Criminal Justice, National Security and Centre-State Cooperation', 'Decentralized Planning and Governance with special reference to the functioning of Autonomous District/Regional Councils under the Sixth Schedule of the Constitution', and 'A Curtain-Raiser on Infra-Mega Projects'; at Chandigarh on December 10-11, 2008 on 'Constitutional Scheme of Centre-State Relations', 'Economic & Financial Relations', and 'Unified and Integrated Domestic Market'; and for the Eastern Region, a Workshop at Bhubaneswar on 20-21 January 2009 on 'Natural Resources, Environment, Land & Agriculture', and 'Problem of Naxalism'.

Research Studies assigned by the Commission on Centre-State Relations and ISCS

4.18 The Commission has so far awarded ten Research Studies and received reports in respect of these studies including a study on 'Fiscal Federalism' to National Institute of Public Finance and Policy, New Delhi; 'Impact of Recommendations of 8th to 12th Finance Commission on Fiscal Relations between Centre and States'; and 'Need and Relevance of Goods



and Services Tax subsequent to introduction of Value Added Tax Regime', to Madras School of Economics; 'Functioning of Coalition Governments in various Democracies of the World' to Prof. M.P.Singh (Retd.), Delhi University; 'A Study on Impact of the Legal and Jurisprudential Developments in the last 25 years on Centre-State Relations' to West Bengal National University of Juridical Sciences; 'A Study on 'Independent District Level Budgeting and Planning' to Institute for Social and Economic Change, Bangalore; 'A Study on 'Functioning of Structures of Local Governance in the North-Eastern Region with special reference to Autonomous District Councils/Autonomous Regional Council' to North-Eastern Hill University (NEHU), 'Preparation of Digest of Judicial Pronouncements relating to Centre-State Relations to Indian Law Institute (ILI), New Delhi, Study on 'Causative Factors Behind the Continued Backwardness of Certain States' to NIRD, Hyderabad and Study on 'Centre-State Fiscal Relations' to Prof. Abhijit Dutta.

4.19 The term of the Commission is till March 31, 2010.

CRIME AND CRIMINAL TRACKING AND NETWORKING SYSTEM (CCTNS)

4.20 With the aims at creating a comprehensive and integrated system for enhancing the efficiency and effectiveness of policing at the Police Station level through adoption of principles of e-Governance, and creation of a nationwide networked infrastructure for evolution of IT-enabled state-of-the-art tracking system around "investigation of crime and detection of criminals" in the real time, which is a critical requirement in the context of the present day internal security scenario, a new 'Crime and Criminal Tracking and Networking and Systems' (CCTNS) project

has been launched in the 11th Five year plan with an outlay of Rs. 2,000 crore. The details of this system are given in Chapter -XII (Paras 12.16 to 12.18)

HUMAN TRAFFICKING

Project on "Strengthening law enforcement response in India against trafficking in persons through training and capacity building"

4.21 A Project on "Strengthening law enforcement response in India against trafficking in persons through training and capacity building" has been taken up in the Ministry of Home Affairs as a joint initiative of the Government of India and the United Nations Office on Drugs and Crime (UNODC), in the five select States (Andhra Pradesh, Goa, Maharashtra, West Bengal and Bihar). The project initiated in April, 2006 has ended in December 2009. It has contributed towards developing of Protocols and Standard Operating Procedures (SOPs), and set up nine Anti Human Trafficking Units (AHTUs) under the police departments of the project States. The Steering Committee of the project is chaired by DG, BPR&D and held regular meetings to monitor the progress of the project. The project has had very positive outcomes in some of the States and the Anti-Human Trafficking Unit model has been particularly effective. So far, 396 training programmes have been conducted and more than 13,670 persons (Police and prosecutors) have been trained. Besides, 9 Anti Human Trafficking Units involving government officials and NGOs have been set up in the States of Goa, West Bengal, Andhra Pradesh and Bihar under the project and they are all functional. In addition 50 other AHTUs have been established by the State Governments in Andhra Pradesh and Tamilnadu. Grants had been given to all the project states for setting up Nodal Training Cells



(NTC). Two films have been developed under the project, one on Anti Human Trafficking and another on Anti Human Trafficking Units. Two workshops have also been organized for judicial officers for awareness generation on human trafficking.

Comprehensive Scheme on strengthening the law enforcement response to trafficking through “Training of Trainers” (TOT) programmes and by establishing Anti-Human Trafficking Units (AHTU)

4.22 A National Level TOT Workshop in June 2008, one International Level (for the officers of SAARC member countries) from 27 to 29 May, 2009 and five regional level TOT workshops have been organized in 2009 through BPR&D in close association with UNODC. The details of TOTs workshops are as under:

- (a) Punjab Police Academy, Phillaur (Punjab) – March, 2009.
- (b) Centre for Police Research, Maharashtra Police, Pune – June’2009.
- (c) Dr. B.R. Ambedkar Police Academy, Moradabad – August, 2009.
- (d) Police Training College, Ashok Nagar, Chennai – July, 2009.
- (e) Guwahat (Assam) – March, 2009.
- (f) SAARC ToT in Delhi – May, 2009.

Advisory to the State Governments on human trafficking

4.23 Government of India has issued an exhaustive and consolidated advisory dated September 9, 2009, in collaboration with Ministry of Women and Child Development (MWCD) enumerating various steps for improving effectiveness in tackling the criminal aspect of human trafficking and increasing respo-

nsiveness of the law enforcement machinery. The Advisory is also available on Ministry of Home Affairs website, www.mha.nic.in. Social aspect of the problem is being dealt by MWCD

A. Some of the specific steps suggested in the advisory are as under:

- Since Immoral Traffic (Prevention) Act (ITPA), 1956 is the main Act that can be used to book the accused for trafficking for commercial sexual exploitation, its implementation is essential for counter-trafficking. (Act is being administered by MWCD).
- Under Section 13, the State Government may appoint ‘Special Police Officers (SPOs)’ and the ‘Non-official advisory bodies’ to advise the SPOs for dealing with offences under the Act.
- Under Section 21, the State Governments may set-up ‘Protective homes’ and ‘Corrective institutions’ for ensuring proper implementation of the provisions of the Act.
- It is generally noticed that sections 8 and 20 of ITPA, which focuses on the victims, are more often invoked as a result of which the victim is re-victimized and the exploiters are not punished. It is, therefore, advised that sections 3, 6 and 7 which pertains to pimps, brothel owners, clients who are actual perpetrators of the crimes need to be invoked rather than sections 8 and 20.
- Law enforcement agencies need to adopt a victim centric approach in the investigations.

B. Implementation of Juvenile Justice Act (JJ Act), 2000: (Act is administered by MWCD)

- Juvenile Justice Act provides



comprehensive mechanism for care and protection of children including rehabilitation and social integration of children. Therefore, its implementation is essential to address trafficking of children. Following provisions of the Act require action by the State Governments:

- a) Under Section 62-A, the State Government shall constitute 'Child Protection Units' for the State and districts to fulfill its responsibilities as stipulated under the Act.
- b) Under Section 63, in each police station, at least one police officer may be designated as the 'Juvenile or Child Welfare Officer' to handle a juvenile or child in coordination with the police.

C. Implementation of Prohibition of Child Marriage Act (PCMA), 2006: (Act is administered by MWCD)

- Prohibition of Child Marriage Act (PCMA) was enacted in 2006 repealing Child Marriage Restraint Act, 1929. It is reported that traffickers in some pockets in the country are exploiting evil custom of child marriage to target innocent girls for trafficking. Therefore, it is essential to implement the Act to address this modus operandi of traffickers.
- a) On receiving a complaint about child marriage, police are required to follow the procedure laid down in the Code of Criminal Procedure, 1973, which include registering an FIR and carrying out investigation.
 - b) The offences under PCMA are cognizable and non-bailable, hence, immediate arrest of offenders is necessary.
 - c) Extra vigilance should be maintained during festivals such as 'Akshya Tritiya' to ensure that no child marriage takes place.

D. Capacity building of the State machinery:

- Implementation of the legal provisions in relation to applicable Acts- Child Labour (Prevention and Regulation) Act (CLPRA), Bonded Labour System (Abolition) Act (BLSA), Immoral Traffic (Prevention) Act (IPTA), Juvenile Justice Act (JJA) and Indian Penal Code (IPC) involves not only police but many other officials dealing with the Criminal Justice System - notably the executive magistrates, the labour officials, CWC members and in-charges of Homes. Therefore, the State government may initiate a time bound action plan to build the required capacity of the state investigation and prosecution machinery in this regard by organizing training/workshops/awareness campaigns to sensitize their SHOs/Dy. SP/ACP and other law enforcement officers/agencies towards the crime, safety and security of women and children.

E. Prevention of Trafficking:

- It has been noticed that people, especially women and children are vulnerable to trafficking during 'distress migration' and from 'disaster prone areas' - such as during floods, earthquakes, crop failures, riots, terrorist activities etc. Therefore, it is important to establish extra vigilance in this regard around transit points and at borders- inter-district/inter-state and international.
- Pro-active policing through information exchange with representatives from the local Government, community, NGOs with a view to raise awareness and garner active support of the community.
- Periodical checks on transporters to



prevent physical transportation of the trafficked persons.

- Prevention at the demand area by understanding/ addressing new forms of demand. For example, placement agencies providing domestic child labourers.
- Facilitating inter-State collaboration by sharing data on missing children/ kidnappings and suspected offenders. Development of victim and offender profiles on an inter-agency basis.
- In case of child trafficking, following provisions also need to be kept in view:-
 - (i) Identification of children at risk, (e.g. following raids on off-street sites, responding to referrals from other agencies, NGO or members of the public, following up reports of missing children).
 - (ii) Report instances of children in need of protection to relevant child protection agencies. For this purpose the Police Stations could be sensitized.
 - (iii) The development of victim profiling with other agencies.
 - (iv) Carry out checks on sponsors and people who claim to be the relatives of children identified as being at risk of trafficking.
 - (v) Participating in local child protection networks with related organizations (immigration, social services, NGOs, health, education) to develop joint approaches to the issue at local level and contribute to wider forums as appropriate.
 - (vi) Ministry of Labour & Employment has developed a detailed protocol for prevention, rescue, repatriation, rehabilitation and reintegration of migrant and trafficked child labour. The protocol has been issued to all State Governments for implementation.

F. Investigation & Prosecution:

- Standard operating procedures for Investigation have been developed under

the pilot project between MHA and UNODC as mentioned in para 4.24 above, which can be used for effective investigation in trafficking related crimes.

- One of the effective means of securing better conviction rates of perpetrators of crime of trafficking is to base the case on documentary, forensic and material evidence. At present, most of the time, the victim is being used as a witness and more often than not, he/she can easily be intimidated. State Governments are advised to encourage the law enforcement agencies to build fool proof investigation against the traffickers, so that, convictions can be guaranteed.
- Use of fast track courts and video conferencing to the extent possible.

G. Rescue and Rehabilitation

- Police should work with other agencies and stakeholders to ensure that those who are rescued or who choose to return are not re-trafficked; this should include a risk assessment of the danger to returning victims (child care authorities would prepare risk assessment for children).
- Identifying support services and referring victims/ potential victims to specialist NGO's and safe accommodation, where these are available. The Ministry of Women and Child Development runs short stay homes Swadhar shelter homes for women in difficult circumstances (wcd.nic.in/Comscheme.doc)
- A new scheme - UJJAWALA (wcd.nic.in/Comscheme.doc) – a comprehensive scheme for prevention of trafficking, rescue, rehabilitation, reintegration and repatriation of the victims of commercial sexual exploitation has been launched on 04.12.2007 by the Ministry of Women and Child Development which should be effectively



used by the State Governments/State Police. *

Regional Task Force to implement the SAARC Convention relating to Trafficking in women and children for prostitution

4.25 India has ratified the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution. The Regional Task Force of

SAARC for implementation of the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution met for the first time in New Delhi on 26th June, 07 in New Delhi, second time in July 2008 and third time on 28-29 May 2009 at Shimla. The main achievement of this conference has been the adoption of the SOP on Combating Trafficking in Women and Children for Prostitution by all SAARC Member States in its third meeting for implementation within 18 months. .

* *Statistics on Trafficking in Human Beings has been covered in para 5.13 and 5.14.*
