

## Introduction

Madan Mohan Punchhi, better known as M.M. Punchhi was the 28th Chief Justice of India (CJI). He held the office as the CJI for a short period of ten months (January till October) in the year 1998. After his retirement, Mr Punchhi was appointed as the Chairman of the Centre-State Relations Commission in the year 2007 by the Government of India. This Commission dealt with matters involving the Centre-State relations and was popularly known as the Punchhi Commission. The Commission dealt with the responsibilities and jurisdiction of the Centre during major outbreaks of caste and communal violence. The Commission was set up by the UPA government in 2007 to take a fresh look at the roles and responsibilities of different levels of Government and their inter-relations. The report of this three-member Commission headed by M.M. Punchhi was submitted in 2010 to the then Home Minister P. Chidambaram.

The prime objective of the Commission was to examine the expected roles, responsibilities and jurisdiction of the Centre during prolonged and major outbreaks of caste-based violence, communal violence and other social conflicts. It reviewed various aspects of the Centre-state relations and issues regarding linking of river water. It also looked into the need for a central law enforcement agency; an agency that would take 'suo moto' investigation (by itself, without any prompting) of crimes that have interstate or international consequences or concern national security. Earlier these issues were looked into by the Sarkaria Commission that submitted its report in the year 1998.

## Sarkaria Commission

The Sarkaria Commission was the first commission ever to be appointed to look into Centre-State relations. It was expected to examine the Centre-State relations on major portfolios and suggest changes within the ambit of the Constitution. It was set up in 1983 and was headed by Justice Ranjit Singh Sarkaria, therefore it is popularly known as the Sarkaria Commission.

The Sarkaria Commission was a predecessor of the M.M. Punchhi Commission and also explored the same matters that were later examined by the Punchhi Commission. It gave its report containing 247 recommendations to be specific. The report was spread across 19 chapters.

## Composition of the Commission

- **Chairman:** Madan Mohan Punchhi (Retd.), Former Chief Justice of India.
- **Member:** Shri Dhirendra Singh, Former Secretary to the Government of India.
- **Member:** Shri Vinod Kumar Duggal, Former Secretary to the Government of India.
- **Member:** N.R. Madhava Menon, Former Director, National Judicial Academy, Bhopal, and National Law School of India, Bangalore.

- **Member Secretary:** Shri Vijay Shanker, IPS (Retd.), Former Director, Central Bureau of Investigation, Government of India.
- Amaresh Bagchi was a member from 4th July 2007 until his death on 20th February 2008.

## Major responsibilities of the Punchhi Commission

The key study point of the M.M. Punchhi Commission was to examine the possibility of giving 'sweeping powers' to the Central Government to deploy union forces in the states and investigation of criminal matters affecting national security.

To inspect the possible role, obligations, jurisdiction and responsibilities of the Center during major communal violence conflagration like violence and other social societal conflicts.

To find out if there is a need for setting up a "Central Law Enforcement Agency" to take the criminal matters up that are of national, interstate or international importance. Or matters that have implications on national security.

To look into the practicality of deploying central forces in the state whenever needed wherein the Centre takes *suo moto* cognizance of the matters.

To study the Centre's responsibilities and obligations towards the states in the efficient delegation of power and autonomy to the Panchayati Raj institutions and other establishments which are considered local government bodies.

To examine matters pertaining to the Centre-State relations. These should include matters like taxation and linking of rivers.

To encourage independent budgeting and planning at the district level. To create a link between Central assistance of States and the performance of the States.

To study the roles and responsibilities and the removal procedures with respect to Governors.

To establish unified domestic marketing by examining the relevance of separate taxes for freeing the inter-state trade.

## Recommendations of the Punchhi Commission

The Panchhi Commission submitted their report that contained 273 recommendations. These recommendations were submitted in seven volumes and four supplementary reports.

<b>Volume 1</b>	Evolution of Centre-State Relations in India
<b>Volume 2</b>	Constitutional Governance and the Management of Centre-State Relations

<b>Volume 3</b>	Centre-State Financial Relations and Planning
<b>Volume 4</b>	Local Self Governments and Decentralized Governance
<b>Volume 5</b>	Internal Security, Criminal Justice and Centre-State Cooperation
<b>Volume 6</b>	Environment, Natural Resources and Infrastructure
<b>Volume 7</b>	Socio-Economic Development, Public Policy and Good Governance

## **Major Recommendations**

### **Communal Violence Bill**

As per the Commission's recommendation, there should be an amendment in the Communal Violence Bill. According to this amendment, the Centre will have the right to deploy its forces in the State without the consent of the State for a limited period of time. Such deployment of forces can last only for a week and after that week 'post-facto' consent should be taken from the state. This was recommended so that the consent of the state does not become a hurdle in mitigating communal violence as soon as possible.

Communal violence is a recurring problem in India. The introduction of a bill that deals with Communal Violence would bring some good to the nation as often the violence spreads drastically and before action can be taken the casualties become too high.

### **National Integration Council**

Taking an example from the United States, the Punchhi Commission recommended the creation of a superseding structure for matters relating to internal security (like the Homeland Security Department in the United States). This structure could be known as the 'National Integration Council'. Further, it was recommended that this council should have at least one annual meeting and that a five-member delegation of the Council must, within a period of two days, visit any communally affected area.

### **Article 355 and Article 356 of the Indian Constitution**

The report also advised that [Article 355](#) and [Article 356](#) of the Constitution should be amended. Article 355 talks about the duty of the Centre to protect the state against any external aggression and Article 356 talks about the implementation of President's rule in case of failure of the machinery of the state. The recommendation seeks to protect States' interest by curbing centre's misuse of powers. It specified that the Centre should rather than bringing

the whole state under emergency, bring only the troubled area under its jurisdiction. The time period of an emergency should not be more than three months.

### **Subjects in the Concurrent List**

The division of powers between the Centre and the State is evident through the classification of three lists present in the seventh schedule of the Indian Constitution. These are:

- **Union List** – The Centre can make laws on the different subjects mentioned in this list. For example, defence, foreign affairs, currency, etc.
- **State List** – The State list contains subjects like roadways, agriculture, education, etc. The States have control over these subjects and can have their own approach towards them
- **Concurrent List** – This contains matters on which both the Centre and the State can formulate laws on. For example, forests, wildlife, education etc. However, in times of clash decision of the Centre is given more weightage.

The Commission recommended that the States should be consulted through the inter-state council before bills are introduced on matters that fall in the concurrent list. A concurrent list is one of the three lists; in this, the matters on which both State and Centre government can formulate laws on are mentioned.

### **Veto Power**

A provision should be made according to which the President's decision to exercise his Pocket Veto Power is communicated within a period of six months to the respective State. The President of India has three kinds of veto powers:

- Absolute
- Suspension
- Pocket

The President has the power to send any bill back in the Parliament for changes. This is a limited veto power and can be easily overridden by a simple majority in the Parliament. However, the Bill reconsidered by the Parliament becomes law in 14 days with or without the assents of the President. If the President chooses to take no action indefinitely on a bill, that is known as pocket veto power.

### **Appointment and Removal of Governors**

Appointment and removal criterion recommendations:

- The incumbent should stay away from active politics (even at a local level) for at least two years prior to his appointment.

- There should be a say of the State's Chief Minister while making the Governor's appointment.
- A committee should be formed that is entrusted with the task of appointment of governors. This committee may comprise the Prime Minister, the Home Minister, the Lok Sabha's speaker and the concerned Chief Minister of the State.
- Deletion of the Doctrine of Pleasure from the Constitution.
- The term of appointment should be five years.
- Governor could only be removed via a resolution by the State Legislature.
- Recommendation of provision for the Governor's impeachment by State Legislature.
- Right of Governor to sanction the prosecution of ministers against the advice of the State Government.

It was also recommended by the Commission that the convention of appointing governors as chancellors of universities must also come to an end.

### **Union's Power of Making Treaties**

As per the commission's recommendation, the treaty-making power of the union should be regulated with respect to treaties formulated in concern with the matters present in the State list. This way, the states will get more representation in their internal affairs. The Commission identified that the states need to be more involved in such kinds of treaties that are formulated in reference to their issues. This will ensure a peaceful co-existence between the different levels of the government.

### **Appointment of Chief Ministers**

The following recommendations were made in regard to the appointment of State Chief Ministers:

1. Clear guidelines should be made with regard to the appointment of chief ministers so that the governor's discretionary powers are limited in this aspect.
2. A pre-poll alliance is to be considered as a single political party.
3. The order of precedence while the State government is being formed should be the following:
  - The group/alliance with the largest pre-poll alliance with the highest number.
  - The single largest party with support from others.
  - The post-poll alliance with a few parties joining the government.
  - The post-poll alliance with a few parties joining the government and remaining including independents giving outside support.

## Conclusion

India's Constitution is based on the principles of federalism and warrants for a strong, indestructible Centre. In the system envisaged by the Constitution, the Governor of State is a key functionary. Even in the Constituent Assembly debates, granting the Governor discretionary powers was justified. This is justified on the ground that a provincial government is supposed to work in subordination to the Central government. The governor is a vital link between the Centre and the State. Our founding fathers had intentionally vested some extraordinary and special powers in the Governor. He plays a dual role under the Constitution.

Article 356 of the Constitution confers drastic powers in the hands of the Central Government. This article was inserted with a view of restoring democracy in the Parliamentary System. This is the reason why the makers of our Constitution vested more powers in the Centre with regard to Article 355 and Article 356 of our Constitution. The inclusion of the word "otherwise" in the article widened the scope of its interpretation which gave more authority to the Centre to intervene. During the Constituent Assembly debates, even Dr Ambedkar could not assure that the possibility this Article will be misused can be ruled out. The language used in Article 356 is wide and loose. The misuse of the drastic power conferred to the Centre via this article can harm the very fabric of the Indian Constitution.

The M.M. Punchhi Commission has given us an insightful report with wonderful recommendations for the flawless working and cooperation between the Centre and the State. It has provided us with a detail report that runs in seven volumes and explores important matters pertaining not only to Centre-State relations but also finances, national security, planning and decentralization, socio-economic policies for better development and good governance. These recommendations should be implemented with a proper framework to extract the most benefit we can out of them.

Courtesy: [M.M. Punchhi Commission : report and recommendations - iLeaders](#)