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**INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH**

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**CENTRE-STATE DISPUTES: ARTICLE 131 AND THE NEED TO  
INTROSPECT**- Arjita Chaturvedi <sup>1</sup>**ABSTRACT**

Article 131 was implemented under Indian constitution in 1950 to provide the states with adequate power to question the regulations enacted by the centre in case they find any infringement in their rights through the enactment. It gave supreme court the authority to deal with the concerns of states and intervene into the matters between states and centre to resolve the same in a legal way. However, it did not include the provision of dealing with political disputes between state and central governments. It only allowed the supreme court to deal with legal or constitutional conflicts between states and centre. This enhanced states' power to practice federalism and make decisions on their own regarding adherence to the centre's legislation or non-adherence to that in case it invades their rights and collective interests. It is to be noted that, the article did not include proper statements regarding the types of issues that should be considered political. Fundamental objective of this study is to provide a proper analysis of the ways article 131 has enhanced states' power to practice federalism and challenge centre's decisions and loopholes in this article that are to be reviewed. This study is based upon a deductive approach that has aided in providing proper responses to the research questions generated in this study. The hypotheses in this study have been based upon determining the efficacy or non-efficacy of Article 131 in providing proper justice to both plaintiff and defendant in cases of disputes.

**Keywords:** Plaintiff, Madhya Pradesh Vs Indian Union, CAA, NIA

**1. BACKGROUND**

State and centre disputes stem from the violations of states' interests and legal rights by the centre through enactment of legislation for infringing states' power. In some cases, central

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government ends up implementing legislation that might seem to be unconstitutional to the states. Previously, states were not supposed to challenge the legislation enacted by centre and for this, the disputes between centre and state would remain unresolved. Thus, it threatened constitutional legitimacy, as citizens were unable to accept control by government if it did not adhere to constitutional commitments<sup>2</sup>. However, after the enactment of Article 131, states have got the power of challenging legislation enacted by central government in case the legislation invades rights and liabilities of states.

The states also found it possible to gain access to proper justice in case of a conflict regarding implementation of a regulation. In some cases, it was found that the article contained some errors in the statements, which restricted the defendants' rights. Further, it also made the power of Supreme Court limited. This often gives rise to significant complexities in resolving conflicts between states and central. Present study is aimed at providing proper analysis of effectiveness of Article 131 in resolving disputes between central and states. Major objectives include identification of flaws in this article and its scope.

## **2. Methodology**

### **2.1 Research Philosophy**

This study has been based upon positivism philosophy that has aided in ensuring generation of proper research outcomes as it does not include provisions of researchers' self-interests in analyzing or collecting information. It has also aided in analyzing all the data based upon factual knowledge gathered through review of articles associated with state-centre disputes and role of Article 131 in resolving these disputes.

### **2.2 Research Approach**

The deductive-approach has been selected for designing effective hypotheses considering major variables of this research including Article 131 and its efficiency in providing proper direction to supreme courts in resolving conflicts between states and centre<sup>3</sup>. It aided in

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<sup>2</sup>Abeyratne, Rehan. "Socioeconomic rights in the Indian constitution: toward a broader conception of legitimacy." 39BJINTL 2, 2-67, (2014)

<sup>3</sup>Casula, Mattia, Nandhini Rangarajan, and Patricia Shields. "The potential of working hypotheses for deductive exploratory research." 55 QQ 1703,1703-1725.(2021)

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deriving proper outcomes, which did not include provisions of biases as information was collected, based upon validity and suitability considering objectives of this study.

### 2.3 Research Design

Exploratory design was selected for collecting information from different sources based upon nature of this study. As a few studies were conducted for finding efficacy of Article 131 in resolving centre-state disputes, selection of exploratory-design was appropriate for adding new and proper dimensions to this study.

### 2.4 Data collection and analysis

Secondary data-collection technique was considered for gaining information from various sources including websites, books, case-studies and articles that aided in generating proper outcomes by considering the validity of all the data collected. Qualitative-analysis has been considered for this study through which cases were analyzed in an effective manner.

## 3. Literature Review

- Menell, Natasha G. "Judicial Enforcement of Socioeconomic Rights: A Comparison between Transformative Projects in India and South Africa." 49 CILJ 723, 723-743 (2016)

Socioeconomic rights of states are non-justiciable and improper social policy implemented by centre can develop a dangerous system causing problems in ensuring "*separation of power*" as found in the article by Menell and Natasha in their article, "*Judicial Enforcement of Socioeconomic right.*" Disputes between state and centre arise when centre infringes the power of states through enactment of legislation on a set of matters, which fall under the list of states when centre enacts any regulation, which affects constitutional or legal rights of states. In this regard, Article 131 came into effect providing states with the power to question the validity of regulations enacted by the centre in case these seem to violate states' rights. The Supreme Court was given the jurisdiction to delve into the states' concerns and come to a proper conclusion. It was given the right to give unique responses to states' objections against enforceable economic or social rights of states. Thus, Article 131 did not include provisions of dealing with mere political conflicts between states and centre. As centre's interventions in states started influencing federalism, Article 131 was enacted for providing states with the

power to challenge the decisions of centre. It is to be noted that state government was not given the authority to complain against the centre for violation of fundamental rights; rather states need to put forward the issue in front of Supreme Court to resolve it or provide proper judgment.

➤ State of Kerala Vs Union of India, 1977

Different state and centre disputes called for invocation of Article 131 for providing states with proper justice. Article 131 has been invoked in different cases and the most significant is the "*State of Kerala Vs Union of India, 1977*". In this case, Kerala challenged CAA or the "*Citizenship Amendment Act, 2019*" by going against the decision of the Indian Union<sup>4</sup>. In this case, Supreme Court laid down vindication test prior to assuming jurisdiction. Disputes revolving around legal rights of states should be tried through country's highest courts. Under the Article 131, state has the right to take action against infringement of legal right in front of court of law.

➤ Waghmore, Suryakant. "Humanizing Citizenship: Constitutional Principles and the Protests Against the CAA." *PS*: 54 PSP 640, 640-642. (2021)

In case of *Kerala Vs Union of India*, it was found that the resistance by Kerala to CAA is completely based upon political disagreement and hence, seeking intervention of the judiciary to settle such kinds of ideological wrangles could reflect outrageous intentions of the state that too without any cause of proper action. Legislative assembly of Kerala passed anti-CAA-resolution for mobilization of opposition to this act. Further, interventions by the court in this matter, raised questions regarding the principles and scope of Article 131 as it did not specify the rights of both the governments. However, it was also mentioned in the article that Supreme Court is supposed to intervene in cases where there is no political issue involved. Thus, the ambiguities in this article made it challenging for the court to determine which matters it should deal with in case of a dispute between states and centre. Legal rights of the plaintiff (states) and defendants were not mentioned clearly in the article that caused significant issues in deciding on issues such as problem occurred in providing proper

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<sup>4</sup>State of Kerala vs Union of India CAA, (1977)

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judgment to case of Kerala Vs India Union. Apart from this, Article 131 provided states with power to challenge acts passed by centre in case of violations in their legal or constitutional rights. On the contrary to this, it also provided the centre with the authority to pass legislation without considering the probable repercussions that others could have in case of any violation.

- Robinson, Nick, Anjana Agarwal, Vrinda Bhandari, Ankit Goel, KarishmaKakkar, ReebaMuthalaly, VivekShivakumar, Meera Sreekumar, Surya Sreenivasan, and Shruti Viswanathan. "Interpreting the constitution: Supreme Court constitution benches since independence." XLVI EPW, 27, 27-31. (2011)

In some of the cases, constitutional breaches occurred as one government brought cases against the other according to Article 131 as per the article by Robinson, Agarwal, Bhandari, Goel, Kakkar and others in their article "*Interpreting the Constitution*". Thus, this ambiguity in this article caused significant issues and Apex court often ended up making contradictory decisions regarding whether to allow states to challenge enactments of central government. Thus, it calls for necessary amendments in the provisions of this article to make it possible for the supreme court to make proper judgements<sup>5</sup>. Contradictions in the rights of both the parties (states or union) should be eliminated and there should be proper statements regarding which aspects the Supreme court should consider as legal and intervene into.

Judicial enforcements of the rights of states should not restrict space of maintaining a balance amongst the policy priorities within legislative procedure<sup>6</sup>. Further, one of the members of drafting committee has opined that adjudicator needs to be Indian government instead of Supreme Court as states are subordinates to centre. In a case, it was found that the provisions of Article 131 were limited to the rights of plaintiff. Thus, there exists an imbalance in the rights of two governments in this article, which needs an amendment. It was held that the litigants within Article 131 were narrowly limited. Under Article 131, it is mentioned that jurisdiction is only appropriate forum for making decisions regarding legal rights and hence, it should be responsible for settlement of any legal dispute arising between states and centre<sup>7</sup>.

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<sup>5</sup>Singh, M.P., Federalism: Constitution and Dynamics. 145. (*Indian Political System*, 2018)

<sup>6</sup>Menell, Natasha G. "*Judicial Enforcement of Socioeconomic Rights: A Comparison between Transformative Projects in India and South Africa.*" 49 *CILJ* 723, 723-743 (2016)

<sup>7</sup>Jain, Srimandir Nath, and Subhash C. Kashyap. The union and the states.4-5 (Shah, National Publishing House, 1972) (2015).

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However, there still remains different questions regarding whether the jurisdiction is the right adjudicator in settling different types of legal disputes between states and centre as a few disputes could be termed political, which need to be resolved through application of a specific policy instead of a settled legislation. Thus, the supreme court might not always be able to come to a proper conclusion in case of disputes between states and the centre.

#### 4. Research Question

This study has aimed at providing proper replies to the following research questions:

- What are the scopes and provisions of Article 131?
- What types of issues do not fall under article 131?
- How effective is Article 131 in resolving the disputes between state and union or intra-state conflicts?
- What are flaws in the statements of Article 131 that are to be reviewed for reducing risks of making improper judgements by the court?

#### 5. Hypothesis

**H0: Article 131** plays a vital role in providing proper resolution to the disputes that arise amongst states or between states and union

**H1: Article 131** does not include proper provisions of providing proper resolution to disputes between states and unions

#### 6. Critical Analysis

The major findings that could be derived through the review of Article 131 include:

- This article allows supreme courts to deal with union-state disputes
- It does not include provision of dealing with political conflicts at central level
- Inadequate explanation of the things (such as states' repercussions) to be considered prior to enacting any legislation

Article 131 has allowed states to practice federalism by making it possible for them to challenge decisions of central government if the enactments seem to violate states' interests or rights. However, this article does not provide states with the authority to question enactments of the centre directly. In case of disputes between central and states, it requires states to bring the dispute before "*court of law*" for gaining access to proper judgements. In

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some cases, Apex court could not come to a proper conclusion due to improper understanding of the kinds of union-state disputes that this court is supposed to intervene into. Further, there also remains a question regarding whether Supreme Court has the power to hold a legislation enacted by Central government as unconstitutional under 131<sup>8</sup>. For example, when dealing with a centre-state dispute, Supreme Court found it quite challenging to provide proper judgment as it involved the provision of deciding on if the legislation passed by centre is constitutional. Article 131 does not allow Supreme Court to hold decisions of centre as unconstitutional and this article also does not allow the states to violate the legislation of the central government. In case of *“State of Madhya Pradesh and Union of India, 2011”*, plaintiff applied for making amendments in a legislation enacted by centre<sup>9</sup>. *“Section 58(4)”* and *“Section 58(3)”* of *“Madhya Pradesh Reorganization Act, 2000”* allowed centre to apportion liabilities and assets of MP electricity boards without a proper guideline. For this, the government of MP challenged this act for being unconstitutional and void. This was unconstitutional as it violated *“Article 14”* of Indian constitution. Under Article 131, the state challenged this regulation and brought that forward to Supreme court and the court also found it unconstitutional. Moreover, as Article 131 does not allow supreme court to prove legislation of centre unconstitutional, the issue was brought to the higher court to resolve the issue. Hence, it is evident that the article contains inadequate explanations regarding rights of supreme courts. Similar type of issue raised in the suit of Chhattisgarh's challenge to *‘NIA Act, 2008’* in which implementation of legislation by centre was unconstitutional and beyond parliament's legislative competence. Thus, the issue was brought in front of larger bench for resolution.

In cases related to inter-state disputes as well, this article was invoked to allow supreme court to make proper decisions in cases of violation of states' interests. For example, in case of *“State of Jharkhand Vs State of Bihar, 2014”*, Jharkhand was the plaintiff as there was provisions for specifying rights and liabilities of both the states. One of the major provisions of this case dealt with pensionary rights and liabilities of formal staff of original Bihar state<sup>10</sup>. It wanted to set up federalism under the constitution. However, the court could not accept this view that constitutionality of legislation could not be raised under Article 131. For this, the

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<sup>8</sup>Vishwanath A. *Explained: Centre-state disputes and Article 131*, Indian Express, )January 16, 2022, 8:39 AM) Indianexpress<https://indianexpress.com/article/explained/explained-article-131-on-which-kerala-has-based-its-challenge-to-the-caa-6216611/>

<sup>9</sup>State of MP vs Union of India & Anr on 17 August (2011)

<sup>10</sup>State of Jharkhand Vs State of Bihar and Another, IA 5, (2014)

matter had to be brought in front of large bench, Thus, the provision of implementing acts without considering repercussions of state under the article is incorrect, which needs to be addressed. Hence, it is essential to make changes in Article 131 for correcting the statements regarding rights and authorities of supreme court, plaintiff and defendant.

## 7. Conclusion and Findings

Finally, it could be concluded that Article 131 has aided in providing adequate power to states for challenging the centre's regulations. Supreme court has been given the responsibility of acting as a medium for resolving these disputes between centre and states. The Supreme Court was given the power of responding to the issues raised by states regarding invasion of their interests by the centre through enactment of a specific legislation. However, this article includes a few ambiguous statements that could not provide Supreme Court with proper directions towards making proper judgements based upon the complaints of the states. In "*State of Madhya Pradesh Vs Union of India*" case, it was evident that Supreme Court could not prove the legislation implemented by Centre to be incorrect despite being unconstitutional, which caused the case to be forwarded to higher bench. Hence, it is essential to specify the kinds of issues that Supreme Court is supposed to deal with and the rights of both states and centre in relation to enactment of legislation.



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