
Doctrine of Territorial Nexus

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Abstract

Human Body Organs do work in a coordinated manner through our body and elsewhere, working in a subsequent way together gives it guiding direction to act accordingly as per demands and situation. Indian democracy which is world's largest and progressive, works in a similar accordance and similar fashion, Federal structure emphasizes more profoundly on coordinated efforts and in making democracy successful by proper division of work alongside emphasis on results and progress. Different States too work in a coordinated manner with some exception being language, trade, culture, production, season, market although there are lot of differences that desperately take them apart but one associated singular feeling of being Indian and common goal of running democracy and federal structure smoothly conserves the best out of states working together in a nexus, to make India.

Key words: Federal, democratic, nexus, culture, coordinated, conserves.

Introduction

Maintaining international relations in current world is one of the toughest and most important task any country might have and to be on wrong foot with any country may harm reputation of not just country, but people living there too feel the wrath of being on the negative side. Nexus can be on both the fronts territorial as well as international, International nexus happens when two countries having association being connected to multiple issues and results in well being of citizens. When any law is made its not just confined to territory of India but also to any country associated with the same, when any law is considered its confinement restriction would mean two fold increase in crime as well as culprits by running away with evil crimes committed by them. One of the most important aspect and Purpose of making such valedictory laws applicable and making suggestions to carry them out forward in time being is a simple looking by view yet one of the most tough task to go on with. In a quite similar way International nexus is accompanied by territorial nexus which is in relation with states concerning India and federalism existing in middle of centre state and state- state relationship.

Under Indian constitution Article 245¹ specifies the following:

Parliament has got power to make laws regarding extraterritorial operations or regarding laws for any singular part or whole of the country being secular as well as democratic.

¹ INDIA CONST. art. 245

State has got power to make laws in relation to state fully or any part of state. Being federal in form democracy is exercised in a impulsive form of distribution of power.

It can be hence concluded that both the state and centre have got authority cum jurisdiction and power to make such laws with regard to country and state respectively by virtue of maintaining respect, dignity, peace, collaboration, coordination, unity as well as prosperity throughout.

And as aforesaid any legislative decision that is concerning territorial jurisdiction cannot be countered or brought into question. It is hence mentioned in article 245(2)².

Article says if any law is made by the parliament in relation to the extraterritorial operations concerning our country as well as other country aligned no questions can be issues and put forward on its validity and applicability. Thus it can be said that the validity of a legislation can't be put to question. In the following case, a court is in position and bounded to enforce the laws which are made forward with regards to extra-territorial operations. This legislation hence can't be invalidated.

Article 246³ states that,

Parliament posses explicit power of making laws in relation to the subject matters which shows its presence in the union list (list I of 7th schedule)

The state posses the power to making laws in relation to the subject matter which shows its presence in the state list(list II of 7th schedule)

But Both the state as well as union have the power of making laws in relation to the subject matter which is present in the concurrent list(list III of 7th schedule) of Indian Constitution.

In this day and age its equally important for both state and centre to have relation with each other on working terms for making lives of citizens successful and peaceful in the time being. In the advancement of time and science government too have to establish peace and security with data being top priority so any nexus that would include data will be subject to laws being made by different states, in a similar fashion other topics which acquire action by states and require to be considered before making such laws for formulation of validated results within purview of state as well as union legislatures, need to be looked after and considered. And in the meaningful time which we are witnessing and making our journey in association with that we should be well aware of law of land and security. With every year we are getting close to ambit of religious issues, violations of law and loosing integrity of constitution with respect to other countries and these issue arise with nexus of certain issues pertaining to states and landmark with different culture as well as cultures. As discussed over in the article 245(1) centre has got power to make laws in relation to country or part of country whatsoever

² INDIA CONST. Art. 245, cl. 2.

³ INDIA CONST. art. 246

deems necessary and possible in relation to any situation that is needed to be addressed in the time being.

One such case describing the aforesaid situation in terms of law making power of centre where it was considered essential judgement is required for making further classification of nexus before making laws, it was important to look after and make laws within ambit purview that is constantly in lookout by legislature was AH Wadia V police commissioner, In this particular case it was held by court that question of extraterritoriality of enactment cannot be put forward or put into issue against supreme legislative authority on the ground of its validity. As the following case said about validation of judgement not to be put forward or issued challenge on sole ground of its validity embarking its disrespect as well as jurisdiction of central legislation.

Doctrine of Territorial Nexus

State-state relation as well as law making and its implementation also plays a major role in making coordination successful, territorial nexus is linked with a Nexus or any object that needs to be present between two states for legally functioning of law across the boundaries of states. This nexus so formed link will play huge role in making laws applicable throughout boundaries of other state as well as coordinating combined efforts for proper implementation. It is one of exception states have that gives them power making laws outside their territory as it was previously held that states and centre can make laws in relation to their territory its part or as a whole, but this exception of nexus between countries gave power to centre and nexus between states gave territorial law making as well as extra territorial law making exceptional power to states. One of the most important question here arises that whether any law comes toward ambit of states power of law making or not and if doubt arises how to come to conclusion about the same problem. Its a simple step by step regulatory point head manual of finding law ambit of states that can be taken under consideration by states and can be enacted legally:

The nexus that arises should be legitimate enough to be considered as well as taken into consideration.

The liability in relation to that should be in relation to territorial connection.

Current situation

In current situation more than ever this issue have been pertaining to a big clock opportunity, when in such instance any issue arises between the two states, it can be water, land, trade, occupation, jobs, manufacturing, transportation and other viable source of issues and any dispute arises whatsoever, Nexus or issue is witnessed to be linked to law making or legislation. Court has got power to entertain cases under such circumstances and make a conclusion out of similar facts with the cause being common and validation of law would depend on situation where it happens to be associated with the same.

One of the most active cases running throughout the country would be related to water dispute between two states and river cauvery, the disputed zone between two states have been considered for a long time and issue has been violating peace and integrity over a period of time as well as the decision and situation could and have been impacting people of both the states from a long long time. The states involved are tamil nadu and karnataka and issue arising out have been furious in stages, laws being made by any state legislature may impact livelihood of other state and vice versa, to avoid the situation a judgement with mediocrity needs to be addressed and made available, nexus here is definitely water and issue arising is control over for population. Another bitter dispute has been oxygen cylinder that has been in news for quite sometime in corona virus scenario, oxygen cylinder being manufactured and supplied for other states or own personal use has been nexus of issue too be considered and has caught many eyes on decision being taken by respective governments. Another valued lesson would be taxation policy before GST, VAT rates being involved CST being taken by states law made forward to take charge from receiving states with manufacturing products being transported.

Issues

- Laws being made are genuine or hoax
- State legislature have ultra vires being bound or not.
- Laws so made can be arbitrary or not
- Nexus so made is genuine or made up.
- Nexus should be concerning states and important and legally established else it would impact the legislation.

Solution

- The source of nexus and interpretation should be verified for authenticity.
- States should have laws formulated and defined keeping in mind different states and their situation being impulsive would create tension and strain to law of land and would harness harm to society.
- Genuine nexus is being a part of issue.
- Court decides in favour of legislation that ultimately benefits general public at large and interest of states been ignored for public good.

Cases to relate the situation:

State of Bombay V. RMDC

Facts: respondent was residing in state of bombay, he used to conduct competitions by prize money source of which was newspaper print and published in Bangalore, and it was widely circulated in bombay throughout. State government sought after levying tax for conducting business in state.

Issue- The question regarding the decision put before the Supreme Court was whether the respondent, the one who was the organizer for the competition, who was outside the state of Bombay, could be validly and originally taxed under the Act or not.

Decision: decision that was held was that as all the associated activities which the concerned competitor on a similar grounds was expected to undertake the measure there was sufficient evidence and sufficient Nexus that was taken to be consideration and tax imposed may be validated.

State of Bihar vs Charusila Dasi⁴

Facts: State of Bihar legislature did enact the Bihar Hindu Religious Trusts Act, 1950, forward for the ultimate protection and valued preservation of properties that have been appertaining to the Hindu religious trusts. The following act so applied to all trusts alongside any part of the following which was situated in the state of Bihar. The Respondent did create a trust deed of her properties regarding several houses and land acquired in the states of Bihar and Calcutta. The trust that was situated in Bihar.

Issue-The main question regarding the ultimate decision was whether the following Act applies to trust properties in location, which are situated outside the banked state of Bihar. Can the legislature and under ambit of power can Bihar make a law with respect to such a trust situated in Bihar and other such properties appertaining to such trust when each simultaneously situated outside Bihar?

Decision- Applying the preserved **doctrine of territorial nexus**, the honourable Supreme court of India held, that the following Act could be affecting the trust property which is situated outside the state of Bihar, but appertaining to a trust situated in Bihar, where the main and functional trustees functioned. The following Act aims and targets to provide for the better administration and look after of Hindu religious trusts in the state of Bihar. The trust is situated in state of Bihar the state has legislative power and ultimate law making control over it and also over its trustees or their servants and agents who must be present in the state of Bihar to administer the trust and validate the working.

Tata iron and steel company V Bihar state

Issue: whether the sale that was conducted was concluded within the state, or outside knowing to manufactured, produced in the same state.

Decision: Court here held that there was enough and sufficient territorial nexus to be considered and upheld the decision declaring that the following Act was valid and considered forth fair and responsive. Whether there is sufficient nexus between the law and the object put forward and be taxed will be ultimately depending upon the ultimate facts and circumstances of that particular case.

⁴ Legal service india <http://www.legalserviceindia.com/legal/article-1343-doctrine-of-territorial-nexus.html> (last visited 13 June 13, 2021)

It was factually pointed out here that the sufficiency of particular territorial connection here involved consideration of the following two elements- a) the connection must be eventually real and not mere illusory and imaginative b) the liability sought after to be imposed prominently here must be pertinent to be associated to that connection taken forward.

Forward Analysis:

Doctrine of territorial nexus does not bar states from making jurisdiction of particular laws being extra territorial it just gives states power to confer the law and prove in front of court, that there was sufficient nexus that law was implemented extra territorial basis and was considered further for the implementation in a peaceful and successful purpose for ultimate law of land and general public. The reason suffices the comment of being a state and making laws for state or part of it but the following here being exception and providing nexus to the source and issue making extra territorial power for states and making the following resolutions to avoid the crank or meltdown of laws in land of Indian states.

In a fast paced and rapid world its equally important to evolve over time and make provisions for national and international security as well as peace and trade, where nations are engaging in war our Indian propaganda in association with our constitution has been to maintain peace and solidarity between states as well as countries outside our international boundaries. Making peace in our constitution has been part of Article 51⁵ of Indian Constitution, which enables country to maintain International peace and relation with solidarity and magnificence of prosperity with other associated and relative countries which have been part of Indian propaganda.

Federalism is a complex situation and division of power is never absolute in a country like India. Its division of power that takes due in form of legislature, judiciary, executive and each one of them playing significant role in making country like india what is it and striving forward with rapid pace, secularism, resonance of progress and prosper whip of development and both the articles 51 and 245 and have been keeping pace with international relations.

One of the most important aspect is of judiciary, where analysis of facts of different case depends on interpretation by judgement and analysis where one wrong decision can lookout the future of laws being made by state legislature, and implementation turn by turn in state, parts of state, and other state as well. When established a nexus with legal dissolution its important to legally procure validation upon it turmoil of being held as valid nexus.

Executive part also plays an important part in implementation of those laws where laws being formulated extra territorial as well as law of land within confined boundaries, laws being placed should be confined and if not should be formulated for being in peace with other states as well. Legislature being third hand should be analyzing laws, formulating laws, and

⁵ INDIA CONST. art. 51

presume beneficial before formulation of such laws in exact and relevant format whatsoever deems necessary.

Conclusion

One common motive plays an important role government too works over the main objective as well as purpose, for coordinated efforts to work in chain mechanism its equally important to make assembly over issue and work with due diligence. States working forward with nexus and in accordance with law, making laws for proper implementation and avoiding mismanagement and breaking up of laws in the time being. Nation policy has been in question with regard to different countries and face value of decision being taken to make extra territorial laws that are progressive in nature and in the time being does not acquire retrospective cascading effect. One such thing that is undermined are relations between states that happen after law being made and tension boiling in case of negative review of law such made. One extra power being conferred over states giving them extra power constitutionally is being able to make laws over extra territorial affairs by its public over the course of time, on basis of common nexus or objective existing legally and naturally. Recent times being evident of the same where nexus have been health and security and making more headlines and politics out of issue, above all public needs laws working in conciliation. Laws being formulated by states as well as country as a whole are more inclined towards solving issues related to extra territory issues and making common objective more than diverse subjects, when laws are made up they have got chance to approve the reason and issue of formulation of such valued law. In current generation nexus have been evolved with objects being common and bilateral, even generation and odd workings have combined to form association, value, for states as well as countries.