

The State's veto: Why the Constitution gives the States executive authority

How Article 73 of the Constitution is violated by the Center's coercive methods of withholding funds over the National Education Policy.

Conflicts over the application of policies put India's federal structure to the test on a regular basis. Tamil Nadu's ongoing legal fight serves as an example of a recent flashpoint: the language policy in schools.

Tamil Nadu filed a lawsuit against the Center in the Supreme Court in May 2025. According to Tamil Nadu, the Center halted sponsoring a program that required both governments to make simultaneous contributions. It further claimed that this was because the Center was upset that the State was not using the three-language formula outlined in the National Education Policy (NEP). An deadlock on implementation authority is directly reflected in the Supreme Court's December 2025 order compelling both governments to seek consultations.

More precisely, the Union government aimed to create Jawahar Navodaya Vidyalayas (JNVs) throughout Tamil Nadu under a centrally financed program. They were denied land by the State. A legal argument lies at the heart of this rejection: state law requires Tamil Nadu schools to teach only two languages, English and Tamil, while JNVs teach three, including Hindi. In 2017, the Madras High Court looked into this claim and concluded that, because Tamil was the main language of instruction, the JNVs' syllabus did, in fact, comply with state legislation. Tamil Nadu persisted in its opposition in spite of this conclusion. Other states that do not speak Hindi have also voiced objections to the formula. Karnataka and Maharashtra also rejected the policy's criteria, citing convenience in local education and cultural values.

The Center wants joint schemes to be branded exclusively under its name, which is part of a larger trend of federal imbalance in policy execution. Otherwise, it delays funds or denies clearance for projects at the state level. Even though it isn't specifically addressed in Tamil Nadu's case, this brings up a more fundamental federal question: who has final say over how laws and policies are implemented within our constitutional framework? Is it the states that operationalize them or the center that enacts them?

The Constitution's Article 73 gives the states primary executive authority over concurrent matters. Although the Center may formulate policies, states have the final say over how they are implemented in their own states. Therefore, the Center cannot force the state to implement a concurrent policy through financing pressure. Therefore, by refusing to give land to JNVs, the Tamil Nadu government is acting within its bounds.

The importance of state execution and parliamentary lists
Legislation, or the authority to enact laws, and execution, or the authority to carry out laws, are two essential functions that the Constitution distinguishes. Execution also includes the authority to formulate and carry out policies. Three itemized lists—the Union List, the State List, and the Concurrent List—are used in the Constitution to divide up legislative authority between the states and the federal government. While the State List includes topics designated for states, the Union List includes topics on which only parliament can enact laws.

The Concurrent List is intended for topics that are related to common interests or do not cleanly fall into either the national or state categories. Therefore, the Constitution gives both parties the freedom to enact legislation on topics. It acknowledges that when an issue affects more than one state, the Center might have to intervene. Additionally, states can adapt a central legislation to meet their demands thanks to concurrency. This list covers topics like energy, forests, and education. This arrangement eliminates the need to amend the Constitution each time a shared problem emerges and allows for layered answers and collaboration.

However, the law of the parliament will have precedence when both wish to enact legislation on the same concurrent issue. The Center's "**legislative dominance**" keeps conflicting state laws from creating ambiguity in important areas. This is due to the fact that certain sectors, like criminal law, environmental regulations, or epidemic control, may call for a unified national response. On the other hand, other fields, like education, could need to do away with

irrational state-to-state differences. The Center is able to frame the JNV-related scheme and the NEP because of this supremacy.

Based on this division of legislative authority, the Constitution subsequently allocates executive powers. The executive authority to enact laws is granted to both the federal government and the states by Articles 73 and 162. Therefore, the Center and the states both gain equal executive authority over items on the Concurrent List.

When the states and the center want to establish policies on the same topic, Article 73 rules the issue. It stipulates that a state's executive power will always prevail over the center's in order to resolve any dispute, unlike in a legislative conflict. Interestingly, executive power also encompasses the authority to formulate a policy on a legislative topic without actually passing legislation on it. Therefore, the states have the last word over whether or not a law is executed, even if parliament passes it or the federal government creates a policy. Despite their legality, Tamil Nadu is essentially using this constitutional authority when it rejects land for JNVs and applies the NEP.

However, there is one exception to the default rule in Article 73: Parliament may enact legislation and give the Center permission to implement laws and policies in related subjects. This exception may be justified on the grounds that it is a "consensual intrusion," in which the state in question indirectly consents through its parliamentary representatives. Additionally, this enables the opposition and other states to assess whether the approval was obtained without undue influence. This does not imply, however, that parliament only needs to pass legislation. Rather, it indicates that the text of the statute must expressly provide for central executive control. By making it a limited exception, it upholds the more general principle that the state is mostly responsible for implementation. Notably, no state currently has a law that permits the Center to implement the NEP.

There are others who contend that in these circumstances, the Center does acquire executive control. This is due to the fact that the Center briefly has the "**authority to make laws**" for a particular state topic. According to Article 73(1)(a), this appears to be the only prerequisite. But this perspective would be wrong. To support central executive authority, the Constitution calls for an explicit, continuous legislative power rather than a situational license. Therefore, from whatever perspective, the compromise on state executive control is very modest.

Article 73 gives states the authority to determine how to implement the NEP because it is a central policy on a concurrent subject. It rests on the logic that implementation must follow local needs, not just Central intent.

Parliament may adopt standard legal frameworks, but implementation necessitates ongoing engagement with local institutions. This is the practical and constitutional foundation for state execution. This implies that laws and policies must be put into force as effectively as possible while avoiding unforeseen consequences. For this duty, state governments are always more suited. For daily governance, citizens hold state governments more accountable, as B Pocker said during the Constituent Assembly Debates. Therefore, before enacting policies, states must become aware of local requirements and conditions.

Tamil Nadu uses its Tamil Learning Act, 2006 to enforce a two-language strategy and steer clear of Hindi, which is not spoken by the people of the State, because of this local sensitivity. Second, the Center does not have the permanent, grassroots administrative apparatus that states possess, down to district collectors and local governments. Another argument for this stance is that it encourages decentralization. Accordingly, this is giving administrative duties in elected governments—which are more local in scope—priority.

Finally, this stance is consistent with the overall framework of the Constitution. Strict restrictions on when the Center can assume executive authority over a state have been placed in the document. Under Articles 324(6) (election conduct) or 352 and 356 (emergency provisions), it may only do so in extraordinary circumstances. The Constitution notably refrains from ceding executive control to the Center, even in the few instances when it permits parliament to enact laws on State List topics, such as under Articles 249 and 250 in situations of national interest or emergency.

Final thoughts

In its realm, the executive power of the state is paramount. This is due to the Constitution's recognition that states should be in the best position to decide on the most efficient methods of instruction in fields like education. As a result, it listed very few ways that the Center could take over executive authority from a state. In the context of the language row, none of those exist. Thus, Article 73 is violated by the Center's coercive methods of withholding funds over the NEP.

The Supreme Court's interim injunction is likewise constitutionally perplexing in light of this

discussion. It should make sense for the Court to uphold the State's executive authority under Article 73 if it has a convincing justification for rejecting a Central plan. Rather, the judiciary has turned a strong constitutional stance into a negotiating tool. By doing thus, it disregards the explicit prohibition on employing financial pressure to coerce a state to adopt a parallel policy imposed by Article 73. The denial by Tamil Nadu is a legitimate exercise of discretion under the constitution. Telling a homeowner, who has every right to turn down a salesman at her door, that she must now sit down and bargain with him is analogous to this.

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