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## Administrative Overreach in the Appointment of Kerala's Secretary for External Cooperation

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*In July 2024, the Kerala government appointed IAS Dr. K. Vasuki as Secretary for External Cooperation. This article examines the appointment. The claim is that this is administrative overreach. According to India's Constitution, the power to handle foreign affairs lies solely with the Union Government, as set out in the Seventh Schedule and Articles 245 and 246.<sup>1</sup> By creating this new position to directly coordinate with foreign governments and the Ministry of External Affairs, Kerala seems to be stepping into an area that constitutionally belongs to the Centre. The article examines whether this appointment was legally sound, reviews the existing laws around it, and points out where executive accountability falls short. It also looks into possible legal actions, like judicial review or invoking Article 256, and suggests reforms to stop such overreach in the future. Overall, this case shows just how important it is to have clear boundaries and better cooperation between different levels of government in India's changing administrative setup.*

**Keywords:** *administrative overreach, federalism, constitutional law, Kerala, foreign affairs, executive power, judicial review.*

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### INTRODUCTION

In a constitutional democracy such as India, the separation of powers is an essential concept that ensures the legislative, executive, and judicial departments of government remain in a

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<sup>1</sup> Constitution of India 1950, arts 245–246, sch VII, List I entries 10, 14

state of equilibrium with one another. When the executive branch's authority exceeds the bounds set by the law, problems arise. It is possible for this to occur when laws are disregarded, when actions are taken without sufficient justification, or when the government enters territory that is the responsibility of other branches. This could upset the balance built into our Constitution, leading people to question how transparent, accountable, and lawful the actions are.

The recent July 2024 appointment of an Indian Administrative Service (IAS) official as the secretary in charge of matters concerning external cooperation by the Government of Kerala is investigated in this paper.<sup>2</sup> This case study offers a possible example of administrative overreach, more especially with reference to an administrative entity (the State Government of Kerala) engaging in a sphere constitutionally reserved for the Union Government (international affairs) without clear legislative authorisation.

At the same time, the appointment sheds light on more significant issues that are associated with Indian federalism. The most significant of these issues is the absence of any clear norms or safeguards that govern situations in which states attempt to intervene in matters that are officially the responsibility of the Union. This is part of a developing trend in which the decisions made by the executives may occasionally go beyond what the Constitution permits, particularly when those choices can have an impact on people all around the world. The purpose of this article is to examine the appointment through the lens of constitutional and legal concerns to determine whether or not it was legitimate, whether or not such presidential decisions are appropriately monitored, and the potential hazards that may result from allowing nations to participate in global events on their own. Consequently, it contributes to the larger conversation that is taking place concerning how state governments need to handle their role in India's evolving political and administrative structure.

## THE CASE STUDY

On July 15, 2024, the Kerala government appointed Dr. K. Vasuki, a senior IAS officer, to a newly created role: Secretary for matters concerning external cooperation. This position was added to her existing responsibilities as Secretary of the Labour and Skills Department.<sup>3</sup> The

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<sup>2</sup> Kallol Bhattacharjee, 'MEA Tells States Not to 'Intrude' into Foreign Affairs After Kerala Appoints Senior Officer for 'External Cooperation' *The Hindu* (26 July 2024) <<https://www.thehindu.com/news/national/mea-tells-states-not-to-intrude-into-foreign-affairs-after-kerala-appoints-senior-officer-for-external-cooperation/article68446899.ece>> accessed 02 April 2025

<sup>3</sup> *Ibid*

government tasked her with overseeing all international cooperation initiatives of the state and coordinating with the Ministry of External Affairs (MEA)<sup>4</sup>, Indian embassies and other global entities.

The order also assigned the General Administration (Political) Department to assist her in these matters until an alternate arrangement was put in place. In addition, the Resident Commissioner at Kerala House in New Delhi was given the specific directive to assist her in her dealings with the Ministry of External Affairs and other diplomatic missions from other countries.

In spite of the fact that this appointment would appear to be a typical administrative action, it became the subject of much controversy and criticism almost immediately. Concerns were voiced by both constitutional law experts and opposition leaders, as well as officials from the central government, including the Ministry of External Affairs.<sup>5</sup> By following the Constitution, they brought attention to the fact that the Union Government is entirely responsible for matters of international relations.<sup>6</sup> They stated that Kerala's decision was not just legally questionable, but it could also interfere with the overall consistency of India's foreign policy.

This circumstance raises grave questions regarding administrative overreach. It demonstrates how an administrative body can legislate or make rules and intervene without any legislative authority to do so. By appointing a full-time Secretary for 'external cooperation' and giving her the responsibility to work directly with central authorities and foreign agencies, the Kerala government seems to be stepping into the domain of foreign affairs. An area that falls under the Union Government's authority, not the states.

Despite the fact that the state later indicated that the appointment was intended to foster collaboration linked to development, the fact that such a prestigious role was created without explicit consent or support from Parliament raises major problems. This raises an important question: Is the action still within constitutional limits, or does it cross the line of what administrative authority allows?

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<sup>4</sup> 'Home' (Ministry of External Affairs) <<https://www.mea.gov.in/>> accessed 26 April 2025

<sup>5</sup> 'MEA Takes Exception to Kerala Appointing Secy for 'External Cooperation' (Mathrubhumi English, 25 July 2024) <<https://english.mathrubhumi.com/news/kerala/mea-tells-kerala-foreign-affairs-sole-prerogative-of-centre-dda44302>> accessed 02 April 2025

<sup>6</sup> K.P. Saikiran, 'Kerala Govt Appoints Vasuki as Foreign Secretary in State' *Times of India* (20 July 2024) <<http://timesofindia.indiatimes.com/articleshow/111876006.cms>> accessed 24 April 2025

**Order Accessibility Note:** Credible news sources reported the order, including *The Hindu*, *The Indian Express*, and *The Times of India*; however, government websites did not have the official document. Thus, the case study depends on verified media reporting and government comments, showing a public access gap to executive orders.

## LEGISLATIVE AND CONSTITUTIONAL FRAMEWORK

The Constitution of India and the laws that are connected to it provide a clear definition of the framework for the management of India's foreign relations. Entry 10<sup>7</sup> List I (Union List) of the Seventh Schedule of the Constitution indicates that the Union government is solely responsible for matters of foreign affairs. This means that any matter that involves India's interaction with other nations falls under the purview of the Union government. Additionally, Entry 14<sup>8</sup> of List I grants the Union the authority to enter into treaties and accords with other states and to carry out the terms of those agreements and treaties. This states that the Union government is in complete control of everything in diplomacy and international relations.

The allocation of legislative powers between the Union and the States is further clarified by Articles 245<sup>9</sup> and 246<sup>10</sup> of the Constitution. Article 246(1)<sup>11</sup> Grants Parliament the sole ability to pass legislation on issues that are included in List I, which includes matters of foreign relations. Also, the Allocation of Business Rules 1961<sup>12</sup> transfers all topics of foreign affairs to the Ministry of External Affairs (MEA), making it the primary body responsible for administering India's diplomatic relations. This is done to guarantee that the ministry functions in a seamless manner.

There is no room for misinterpretation after reading these entries, which state clearly that the topics of diplomacy and international affairs are solely the responsibility of the Union Government. The Constitution and laws governing foreign affairs are clear and constitutional. The fault lies not in the law, but in its violation by the State. No reference or provision in either the State List (List II) or the Concurrent List (List III) gives state governments the authority to engage in direct communication with foreign governments,

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<sup>7</sup> Constitution of India 1950, sch VII list I entry 10

<sup>8</sup> Constitution of India 1950, sch VII list I entry 14

<sup>9</sup> Constitution of India 1950, art 245

<sup>10</sup> Constitution of India 1950, art 246

<sup>11</sup> Constitution of India 1950, art 246(1)

<sup>12</sup> Allocation of Business Rules 1961

entities, or diplomatic missions. Therefore, the action of the Kerala state government is *ultra vires* (beyond the powers) as defined by the Constitution.

Although the Kerala government explained the order as a step toward promoting development and international cooperation, it did not refer to any specific law, constitutional provision, or legislative approval to support its action. The order was passed without backing from the State Legislature or the Union Parliament. It also did not involve making any rules or regulations under powers usually delegated by law. Because of this, the action cannot be seen as an exercise of quasi-legislative power. Instead, it reflects a clear case of executive overreach into the domain of foreign affairs, which the Constitution assigns solely to the Union Government.

**Statute Accessibility Note:** The Constitution of India and the Allocation of Business Rules, 1961, are available on the websites of the Ministry of Law and Justice and the India Code portal. These legal texts were easily available and publicly accessible.

## COMPARISON OF FACTS WITH THE LAW AND IDENTIFICATION OF LEGAL ISSUES

The central issue is whether the Kerala government stayed within its constitutional limits when it appointed a senior officer to handle external cooperation. When this decision is examined alongside the Constitution and expert opinions, it appears that the state may have exceeded its authority. Foreign affairs fall entirely under the Union Government. This helps make sure that India presents a united and consistent voice on the global stage. When a state creates its system to deal with foreign entities, even under the label of external cooperation, it risks stepping into a space reserved for the centre.

Dr. K. Vasuki, a senior IAS officer, was given duties that involved direct dealings with the Ministry of External Affairs, Indian embassies, and international organisations.<sup>13</sup> These kinds of responsibilities typically fall under the central government, not the states. Assigning them to a state official raises serious constitutional questions.

Another major issue is that this role was created without legal backing. No law was passed by the state assembly or Parliament to support it. In India, the executive is not allowed to

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<sup>13</sup> 'Kerala appoints "foreign secretary"; BJP calls out CM Pinarayi Vijayan for "blatant overreach"' *Hindustan Times* (20 July 2024) <<https://www.hindustantimes.com/india-news/kerala-appoints-foreign-secretary-bjp-calls-out-cm-pinarayi-vijayan-for-blatant-overreach-101721470433082.html>> accessed 03 April 2025

create new roles or powers in sensitive areas like foreign affairs without clear legal backing. Without such approval, this appointment seems to overstep what the Constitution allows.

The order appointing Dr. Vasuki also failed to clearly define her duties. It failed to clarify the scope of her role, how she would coordinate with the Ministry of External Affairs, or what kinds of engagements she would be involved in. This lack of clarity opens the door to confusion and makes accountability difficult. It also increases the risk of conflict between the state and central governments. The Ministry of External Affairs publicly criticised the move. This reaction showed that the issue was taken seriously at the national level.

The core of the issue lies in how the term external cooperation is understood. If the role is meant to support areas like trade, investment, cultural exchange, or diaspora welfare, and it is carried out in coordination with the central government, then it might not be an issue. However, if it involves direct dealings with foreign governments or organisations without the involvement of the Union Government, then it becomes a clear case of administrative overreach. Appointing a full-time senior official to handle these tasks without proper legal backing only makes the issue more concerning.

There is also a broader concern. If each state begins to set up its systems for international cooperation, it could lead to confusion in India's foreign policy. Different messages and approaches from different states could harm the country's image and create difficulties in global relationships. While it is reasonable for states to want to attract foreign investment or partnerships, this must be done in coordination with the Union Government and in line with the Constitution. Failing to do so not only breaks constitutional rules but also puts the country's unity and international reputation at risk.

## **NATURE OF THE ADMINISTRATIVE OVERREACH**

This case falls into the category where the executive intervenes in a subject matter without any legislative authority, as well as an act that exceeds constitutional limits (*ultra vires*). This particular case is a glaring illustration of administrative overreach, as it demonstrates how the executive action taken by the Kerala government has crossed into a territory that is solely reserved for the Union, without the support of any legislative framework. Here, the state administration went over its authority when it established a new post because there was no enabling law to back this step. Beyond the legal issues, this move by the Kerala government also risks undermining the core principle of the separation of powers.

The borders between state and central authority were blurred, which undermined the constitutionally mandated division of powers. Because it lacks parliamentary approval, this action is legally flawed and raises serious concerns about the health of India's federal structure. By sidestepping constitutional checks, the executive has encroached on the Union's exclusive domain and disrupted the balance that the federal system is meant to uphold.

## **REMEDIES AND REFORMS IN ADDRESSING THE ADMINISTRATIVE OVERREACH**

Several different remedies can be taken by the Indian administrative law if the appointment of a dedicated secretary in charge of external cooperation is deemed to be an unlawful administrative overreach. One of the most effective remedies is judicial review, which can be carried out per Article 226<sup>14</sup> and 32<sup>15</sup> of the Constitution. It is possible to dispute the executive order issued by the Kerala government by submitting a writ petition to either the High Court (under Article 226) or the Supreme Court (under Article 32). In such a petition, the petitioner could contend that the action taken by the state is beyond the scope of the state's legal authority, as outlined in the Seventh Schedule of the Constitution.

Specifically, they may claim that foreign affairs is a domain that is solely reserved for the Union Government. In addition, the absence of any legislative support from the Union Government to authorise the action taken by the state will be a significant factor. In this particular case, the relief that is being sought would most likely consist of a writ of certiorari to overturn the order that was issued by the government of Kerala, as well as a writ of prohibition to prevent the designated secretary from performing any tasks that are associated with foreign affairs and that are typically the duty of the Union.

Furthermore, according to Article 256<sup>16</sup> under the Constitution, the central government has the authority to intervene in situations when a state government exceeds its authority and interferes with topics that are intended to be handled alone by the Union, such as those of foreign relations. As the article points out, state governments must use their executive powers in line with the laws passed by the Parliament. If necessary, the Union has the ability to issue directives to the State in order to ensure that it adheres to the laws and keeps within the constitutional boundaries that have been established.

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<sup>14</sup> Constitution of India 1950, art 226

<sup>15</sup> Constitution of India 1950, art 32

<sup>16</sup> Constitution of India 1950, art 256

The effectiveness of judicial review is a matter of debate, despite the fact that it is an important instrument for preventing administrative overreach. All legal actions in India have the potential to be drawn out and lengthy, which means that any challenge to the decision issued by the Kerala government might take a considerable amount of time to settle. During this interim period, the designated secretary may continue to perform their duties, which may further muddy the waters about power.

Ultimately, the outcome of any judicial review will depend on how the court interprets the Constitution's definition of foreign affairs and applies its relevant provisions. When it comes to the question of whether or not state-level foreign collaboration constitutes an infringement, various courts may have different perspectives. In addition, judicial review is a reactive procedure, meaning that it addresses concerns after the action has already been taken.

A strategy that is more proactive may entail the creation of rules that are more explicit and the encouragement of conversations between the Union and the states in order to prevent problems of this nature from occurring in the first place.

**The following detailed reforms are suggested to address this issue constructively:**

**Union Guidelines on International Engagement:** The central government, in cooperation with the states, outlines the permitted number of actions at the state level (such as cultural contact and welfare for the diaspora), except for treaty-making and diplomatic functions.

**Mandatory MEA Coordination Mechanism:** State-level initiatives involving foreign players must get Ministry of External Affairs approval and prior consultation.

**Empowerment of Inter-State Council:** Improving the Inter-State Council might provide a platform for assigning federal duties and resolving disputes.

**Legal Clarification:** The Union may file the matter with the Supreme Court for an approved reading of foreign affairs under Article 143<sup>17</sup>, which allows the President of India to seek the SC's advisory opinion on any public interest law or fact likely to or already arising.

**Constitutional Capacity-Building at State Level:** States may be urged to develop capacity for global participation (e.g., tourism, investment) but via legally approved, MEA-guided paths.

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<sup>17</sup> Constitution of India 1950, art 143



## CONCLUSION

The Kerala government's decision to appoint a secretary for external cooperation may have been driven by forward-looking goals, but it appears to have stepped beyond the boundaries set by the Constitution. Matters related to foreign affairs are not just routine administrative concerns. They are connected to the country's sovereignty, national security, and diplomatic relations. If individual states begin to take independent initiatives in this area, it could weaken the coherence of India's foreign policy, which is meant to represent the nation as a whole.

This situation stands out as a clear instance of administrative overreach. It points to the growing need for greater constitutional understanding within state governments. At the same time, it shows why stronger systems of cooperation between the Union and the States are essential. As India continues to evolve, it would be helpful to develop clear, codified policies that allow state-level innovation without compromising the structure and principles of the Constitution.

Addressing issues like this in a timely and thoughtful way through legal remedies, institutional improvements, and well-designed policies can help strike a balance. It ensures that our governance stays true to constitutional values while keeping pace with the complex demands of a globalised world.

With that in mind, this incident should prompt both legal clarity and thoughtful policy reform. It is a chance for courts to weigh in and for the Union government to work more closely with states to avoid similar situations in the future. It is possible that this type of action can cause the lines that are outlined in the Constitution to become hazier, and it can also make it more difficult for the nation to manage its international relations. The way in which India operates and the way it appears to the rest of the world are both affected by such issues, which is not just a technical legal concern. The consequences may be felt far beyond Kerala and go to the core of how federalism works in practice.