

Challenges to Federalism in India

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Abstract

This article analyzes the basic structure of India's federal system and seeks to explain the relationship between the centre and states which has always been complex and problematic. The basis of location of power state is very often classified as unitary and Federal state. While in an unitary state, the power is located with one centre. In a federal state, it is fragmented and dispersed at different levels. In fact, there exists the difficulty of determining whether India is a federation with a unitary spirit or a unitary state with a federal structure. To overcome this difficulty, it becomes essential for us to discuss both the federal and unitary features of the constitution for deciding the true nature of India as a union of States. The union government can give directions to the states regarding the construction and maintenance of means of communication. This article examines the federal process in India, structure and steps towards economic growth and Social Justice

Keywords: Federalism, Union of States, Government Of India, Sovereign State, Administration And Law, Foedus, War and Peace, Shipping and Navigation, Agreement of Treaty, Provincial Diversity, Indian economy, socio-economic, Modernization, Regionalism and Parochialism, Sabka Sath Sabka Vikas.

Introduction

The Constitution of India, Article 1 clearly mentions that, "India that is Bharat, shall be a Union of States". India is declared to be a federal state. On the basis of distribution of power, a government may be as classified as unitary or federal. In a unitary system all powers are vested in the hands of the central government, In a federal state the powers are distributed between the centre and states where as the regional government enjoys some original powers. Federal form of government is considered to be more democratic than of unitary government. „Union of States“ does not mean a federation. Before independence, India was ruled by the government of India Act, 1935 which envisaged a federal character of the state.

The term 'federation' is borrowed from the Latin word 'Foedus' which means agreement or treaty. In simple words a state which is born out of a treaty or agreement is called a federal state. When a number of small states merged by an agreement to constitute a big sovereign state, the federation is created. Though it is the agreement, the small states surrender their sovereignty only but retain their own identity and respective systems of administration and law. The centre which is created is a powerful one that deals with subjects like currency, foreign relations, war and peace, shipping and navigation etc. Sometimes, a federation is created when a big state reorganizes itself with one, centre and several states, each having a uniform system of government in their respective spheres.

Here also the state governments so created enjoy their internal autonomy in matters of administration.

Aims of the Study

1. In a federal system there are some specific objectives that of safeguarding and promotion of the unity of the country
2. To accommodate and assimilate the regional or provincial diversity of the country.
3. In this system to form conditions for the globalization of the Indian economy.
4. To assist government in achieving socio-economic goals of removing poverty and increasing employment.
5. The study reveals to work for deregulation of economy by persuasion the government to lift administrative controls.
6. To develop healthy interface between the business community and the government.

7. To assist members in export promotion modernization, pollution control, equality and justice.

Review of Literature

Dr. B.R. Ambedkar observed that: "There were certain advantages in describing India as a union of states and this expression indicates two important facts, first, that federalism in India had not been the result of an agreement among the units and second, that two constituent units of Indian federal federation had no right to secede from it".

According to K.C.Wheare "A federation is a state in which the powers of the government are divided between the government for the whole country and governments for the parts of the country in such a way that each government is legally independent within its own sphere."

Alexanderowics also observes, "India is undoubtedly a federation in which the attributes of sovereignty are shared between the centre and the states."

Lord Acton says that "Of all checks on democracy, federalism has been most efficacious and the most congenial. The federal system limits and restrains the sovereign power by dividing it by assigning in the Government only certain define rights."

G.N Joshi writes "The Union is not strictly a federal polity, but a quasi-federal polity with some vital and important elements of unitariness."

An analysis of the above definitions reveals that a federal system naturally involves various relations between the Union and States. As in the system two sets of authorities exercise control over the same body of people, there are some common meeting grounds between the two.

India as a federal state

Written Constitution

India has a written constitution which lays down the division of powers between the union and the states. Dr. Rajendra Prasad was the chairman of the constituent Assembly. The constituent assembly had its first meeting on December 9th, 1946. The Drafting Committee was constituted consisting of 7 members, headed by the chairman Dr B.R. Ambedkar. The constitution was finally drafted and completed on 26th November 1949.

Rigid Constitution

Article 368 clearly says that special procedure of amendment and most of the articles of the constitution can be amended only after the concurrence of two third members of both the Houses of Parliament. There are still certain articles which need a very tough process to amend. It requires not only the concurrence of 2/3rd members of both the Houses of Parliament but also requires the concurrence of at least half of the states before amendment is affected.

Bi-cameral Legislature

It consists of two houses such as House of people and council of states. The upper House represents the interests of the states of the Indian Union. Its members are elected by the state

Legislative Assemblies and it represents the interests of the states at the national level.

Distribution of Powers

It follows that the very object for which a federal state is formed, involves a division of authority between the federal Government and the states, though the method of distribution may not be alike in the federal constitutions.

Supremacy of the Constitution

A federal state derives its existence from the constitution, just as a corporation derives its existence from the grant of statute by which it is created. Every power executive legislative or judicial whether it belongs to the Federation or to the component states is subordinate to and controlled by the constitution.

Authority of Courts

In a division of powers the legal Supremacy of the Constitution is essential to the existence of the federal system. It is essential to maintain the division of powers not only between the co-ordinate branches of the government, but also between the federal government and the states themselves. This is secured by vesting in the Courts a final power to interpret the constitution and nullify and action on the part of the federal and state governments. The apex Court has observed that Indian Constitution is basically Federal in form and is marked by the traditional characteristics of a federal system, namely, Supremacy of the Constitution, division of power between the Union and the states and existence of an independent judiciary.

Dual Government

It means two sets of government; one is Union Government headed by the Prime Minister and his Council of Ministers. Besides the various state governments are headed by their respective chief ministers and their Council of Ministers. The head of the state in case of centre is the President of India in whom all executive powers of the centre have been vested. In the same light, the Governor is the executive head of the state.

Challenges posed to India

On the basis of concentration or distribution of power, a government may be classified as unitary or federal. Federalism is the most relevant factor of modern constitutionalism. The central objectives of Indian federalism are unity in diversity, devolution in authority and decentralization in power. In federalism the state pursues welfare steps towards economic growth socio-cultural development and Social Justice.

Provincialism or Regionalism

People of different provinces consider themselves as separate from national mainstream and give priority to provincial interest in place of national interests. This often hampers national integration and unity. The political speeches of regional leaders often fan up regionalism and parochialism. The best is Punjab which has posed a serious threat to national integration. Power seeking politicians and fantastic opportunist leaders take opportunity of the ignorance of people and try to mislead by regional slogans.

Linguism

India is a multi-religious and multi lingual country. There are many languages and dialects in India which make Personal contact and exchange of idea among the people very difficult. Regionalism is often expressed through language issues. People from one area find difficulties to establish contact with other areas due to difficulties in expression. Violent opposition to Hindi in the southern States is a sign of disintegration.

Religion

In India there is different religions. The religious differences among the Hindus, Muslims and Christians etc. often manifest in the political field and create difficulties in the way of national Integration and unity. The periodic occurrence of communal riots, Shia-Sunni conflict and other factors harm national integration.

Centralized Planning

The states have their planning boards which finalizes the plan proposals for their respective States after consultation with the planning commission of India. The economic and social planning is found in the concurrent list of the 17th schedule to the constitution. The Central or Union Government enjoys unbridled authority over national and regional planning in India, Centralized planning through the planning Commission, now NITI Aayog appointed by the centre considerable preponderance in legislative power for the Union, the financial dependence of the states on the center's mercy. There is no special Planning Commission for the states in India.

Control over States through All Indian Services

The dominance of the centre in administrative matters is also witnessed through All India Services like IAS, IPS etc. These personals are appointed by the centre though tough competition conducted by the Union Public Service Commission. Their salary and service conditions are determined by the center. But they are mostly posted in different states, who draw their salary and allowances from state governments. No disciplinary action against them could be taken without the permission of centre. These officers, while working in different states, seldom forget their identity as an agent of the centre.

Control's through Governor's Office

The centre also exercises control over states through the Governors. The Governor is appointed by the President. His transfer, posting and dismissal is at the hands of the central government. He acts in a dual capacity-as the agent of the centre and second, as the head of the state administration. But as the agent of the centre he sends confidential report to the President in every 15 days about the administration of the state. He may also recommend the imposition of President's rule in the state. During constitutional emergency, he becomes the real head of the state.

Single Constitution and Citizenship

The Indian constitution is a single unified common constitution for the union as well as for the states. The states do not have their separate constitution. In true Federations, like the US and the

Swiss federations, the states have their separate constitution. Lack of a provision for separate state constitutions is a Unitarian feature of Indian Polity. Unlike a truly Federal constitution the constitution of India provides for a single uniform citizenship to all the citizens irrespective of their domiciles. In federations like that of the U.S.A., the people enjoy a dual citizenship.

Intervention in State Subject

At any time the centre has the power to interfere in the state subjects. If the Rajya Sabha by passing a resolution declares a subject under state list as of national importance, the Parliament is authorized to make a law on that item and the states are virtually debarred from passing any law relating to that matter. Similarly during national emergency and state emergency, the centre gets ample opportunity to intervene in state subjects. If states do request the centre to make law, then also the centre can legislate upon items included in the state list.

Financial superiority of the Centre

The Constitution of India lays down in detail the financial allocation of taxes to the centre and the states. In doing so added importance has been given to the centre. It has been given a bigger share in revenue. The states have been made dependent upon the centre for grants-in-aid. The center uses this power as lever to control and influence the policies of each state of the Union.

Central Directives

The Centre is more powerful than the states in Indian Federation. The centre can give directions to the state governments which are under obligation to abide by such directives. The State Government exercise their administrative powers in such a way that it do not contravene the laws made by the Parliament or decrees issued by the President.

Common Comptroller and Auditor General

The President has the power to appoint the Comptroller and Auditor General of India. The CAG verifies and checks the accounts of the Union and of States. He formulates the rules laying down the manner of maintaining the accounts and records.

Suggestions

1. The centre state relations must be designed for an open economy that is being driven by the private rather than public sector.
2. The re-scheme the fiscal Federal setup is to give states a role in the regulatory framework of the country. Assigning a greater role to the market in economic activity has necessitated diffusion of economic power of the union government and more active participation of state and local government.
3. In the market-led economy, natural resources- minerals, oil, natural gas and hydropower are the key revenue drivers of and major constraints to growth and its spread across the sub national economies.
4. In a Federal system of government economic Liberalization has caused huge regional imbalances across States. But state governments have no instruments to redress these imbalances.

5. In the two sets of government, parallel to the economic and financial centralization is the trend of political decentralization. The emergence of regional parties across the country leads to a coalition rather than single party rule at the centre.

Conclusion

The constitution of India is neither purely federal nor purely unitary but is a combination of both. It is a Union or composite state of a novel type. The trends of federalism have changed with time. Gone are the days when there was competitive federalism between centre and states in which both the governments struggle and bargain for each other's power and sphere of action. But nowadays we are heading for co-operative federalism where both the governments coordinate with each other for the all round growth and development of the nation. Niti Aayog has been created to work towards participative governance. All States have been given representation in GST Council; Inter-state Council has been working for holistic centre-state relationship. A shift has been witnessed towards "Cooperative federalism". States are being given more centrally sponsored schemes. The vision of Modi government "Sabka Sath Sabka Vikas" is the

priority of the government to move towards inclusiveness. The present context of covid-19 pandemic has witnessed better collaboration and cooperation between Union and States. It presents an optimistic vision of India in the 21st century.

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