

History of Federalism in India

Dr. Arti Kaushik

GVM College of EDUCATION, Sonapat

Abstract-This article states the features of India's federal system and the process that seeks to explain the effectiveness in the terms of their collaboration with the estimation of building the nation and formation of state in India. This is done through the representation of the basic structure of federalism in India and its political curb. Federalism along with parliamentarism is axial principle of the Government in India. Federalism of the country cannot be considered as a static entity. It has been developing over the years form a predominantly parliamentary system. The flexibility of the federal process has made it possible for the state in India to accommodate ethno national movements in the form of new regions, thus gradually increasing both the number of states and the governability of the union. In this article, we can examine the federal Process in India, structure, asymmetric federalism, and the interaction between globalization and India's federal system, in the context of the country's past 10 years (estimated) of economic reform. The presentation will conclude by flagging a range of other disputes where the contest between the centralising and the federalising readings of the Constitution continues to play out and continues to contribute to the Constitution's overall centralising drift.

Keywords: Federalism, Asymmetric federalism, Indian federal system, Political curb, Centralising Drift.

INTRODUCTION

Federalism is a system of government in which power is divided between a central authority and various constituent units of the country. All these levels of governments enjoy their power some-what independent of the other. This form of government is also called a "federation" or a "federal state" in the common parlance. A federation has minimum two levels of government. These units are Centre, state and panchayat or the municipalities. The centre also is called union. Elements of federalism were introduced into modern India by the Government of India Act of 1919 which separated powers between the centre and the provincial legislatures. The Government of India

Act, 1935 introduced federal features and provincial autonomy in the legislature and also made provisions for the distribution of legislative powers. Between 1950, Indian federalism serves the second largest population in the world, comprising an unparalleled multiplicity of religions, culture, ethnicities and languages. Anxious that this new "idea of India" should not fall apart, the 1950 constitution gave ample powers to the Union legislature and executive to keep the nation united, promoting a degree of supremacy for the Union government, centred in the capital, which went well beyond the crucial time of economic planning. Federalism is a basic feature of the Constitution of India in which the Union of India is made to last and is permanent. Both the Centre and the States are co-operating and co-ordinating institutions having independence and ought to exercise their respective powers with respect, understanding, accommodation and mutual adjustment. Conflict and tension of the interests of the Centre and the respective units is an essential part of federalism. Amelioration as well as prohibition of conflicts is crucial. Federalism is a form of government that allows for more than one central entity to have power. What this means is that there is a federal government who is above all others, and smaller, more localized forms of governments that take control of local and regional issues. The idea behind this is to be able to better suit the needs of each area of the country, but some issues certainly arise.

DEVELOPMENT

According to Kumara Singham, there are three distinctive features of India's federalism. First, its origins in Partition and the Princely States. Second, its constitutional power over the borders. Third, its early compromise of different cultural elements in the first decade. The Constitution of India establishes the structure of the Indian government, including the relationship between the federal government and state governments. Part XI of the Indian Constitution

specifies the distribution of legislative, administrative and executive powers between the union government and the States of India. The legislative powers are categorised under a Union List, a State List and a Concurrent List, representing, respectively, the powers conferred upon the Union government, those conferred upon the State governments and powers shared among them. Thus, the Indian federalism was devised with a well-built core. Federalism with a strong midpoint was unavoidable as the agriculturalists of the Indian Constitution were aware that there were economic disparities as several areas of India were industrially as well as economically far beyond in contrast to others. The nation was committed to a socio economic uprising not only to secure the basic needs of the citizens and economic unity of the country but also to bring about an elementary changes in the structure of the Indian society in conferring with the egalitarian truth. As a policy theme, New Federalism typically involves the federal government providing block grants to the states to resolve a social issue. The federal government then monitors outcomes but provides broad discretion to the states for how the programs are implemented. With these considerations in mind the Constitution makers devised the Indian federation with a strong Union.

FEDERALISM: BRIEF HISTORY OF FEDERALISM IN INDIA

The study of the present day federal system in the country lies in the Simon Report of May “1930” which spotted the theory of the federal government in India. This support for the federal form of government for the India of the future was further affirmed in the first round table conference of 1930. Mr. Ramsay Mac Donald, the then Prime Minister of Great Britain, speaking at the final plenary session of that second round table conference said *“There is still difference of opinion, for instance as to the power and composition to the federal legislature, and I regret that owing to the absence of a statement of the key questions of how to safe guard the minorities under a central government who’s responsible the conference has been unable to discuss effectively the nature of the Federal Executive and its relationship with the legislature”*

After the Third Round Table also flopped significantly, the British Government issued a White Paper in March 1933, which proposed a new Indian

Constitution with an accountable government in the provinces and the principle of diarchy at the Centre. As a result of the publication of the White Paper, a Joint Select Committee of both Houses of Parliament was appointed by His Majesty’s Government in April 1933 to evaluate and survey the proposals of the White Papers. These proposals were enacted into law and received the assent of the British Crown and became ultimately the basis for the Government of India Act of 1935.

The significance of the Act of 1935 lies in the fact that the provinces were endowed with a legal personality under a national scheme, and that the character of the national scheme was ultimately a federal system. This meant the abolition of the principle of diarchy at the provincial level and its retention at the Centre. But the federal construction that India follows today is poles apart from what the British came to us with. The biggest hint of federalism in India lies in the history of its foundation in 1947 when after the Partition of Pakistan from the Indian subcontinent all the provinces, presidencies, and princely states were united under an instrument of accession that signifies that all these previously sovereign or reliant states came together to be called one nation-state. The development and the journey of India as a federal country can be broadly understood by dividing it into two parts: The constitutional/legal provisions and the face of federalist India brought in by the Judiciary.

FEDERALISM: DIVISION OF POWERS

In a federal government the powers of administration are divided between the centre and the units. The powers may be distributed in two different ways. Either the constitution states what powers the federal authority shall have, and leaves the remainder to the federating units, or it states what powers the federating units shall possess and leaves the remainder to the federal authority. The remainder is generally known as residuary powers. The first method was employed in America and the second in Canada. The federal government in U.S.A., for example, is weak in relation to the states whereas the federal government in Canada is more powerful. In a federation both the federal and state governments are independent and autonomous in the spheres of their powers. ‘One is not subordinate to the other. Both derive their powers from the constitution which is the supreme law of the land. The

powers enjoyed by the units are, therefore, original and not delegated by the centre.

In a federation, there are possibilities of constitutional disputes arising between the federal centre and the units or between one unit and another. All these disputes are to be adjudicated in the light of the constitution. For this purpose a special judiciary with wide powers must be established. It should act as the custodian and guardian of the constitution. It should be vested with powers of declaring any law, national or local, ultra vires if it is at variance with the articles of the constitution. The constitution is thus the supreme law in a federation to which both the centric and the state must adhere to.

FEATURES

- There are two tiers government i.e. Central and State.
- There is a separation/division of power.
- There is a written constitution.
- Powers and functions of each level of the government are guaranteed by the constitution.
- The supremacy of the Constitution.
- Rigid constitution; i.e. Provisions of the Constitution cannot be amended by any level of the government.
- Independent Judiciary.
- Bicameral legislature: Parliament of a country consists of two houses (upper or lower house)
- There are two or more levels of government. Each level of government has its own jurisdiction in matters of legislation, taxation and administration even though they govern the same citizens.
- Powers and Functions of each level of government are specified and guaranteed by the constitution. The Hon'ble Supreme court has been given the power to settle dispute between state governments.
- The framers of the Indian Constitution were keen on federalism as a functional instrument for the creation of an Indian nation and a strong, cohesive state.

MERITS AND DEMERITS OF FEDERALISM IN INDIA

Federalism is a diverse country like, India. The country has both merits and its consequences. Division of

power helps in the easy governance of the seventh largest country but then a country with the second largest population (India) needs a united government to govern people of almost every possible religion that exists. The integrated and independent judiciary is definitely a merit for the nation as it helps in proper remedy for rights. On the other hand, a written constitution with the kind of flexibility and rigidity possessed by the Indian constitution is a boon when it comes to the codification of rights but the same rigidity can stand as a bane if amendments need to be made. However, amendments to the Indian constitution are not that tough after all.

REFERENCE

- [1] Robert L. Hardgrave and Stanley A. Koachanek (2008). India: Government and politics in a developing nation (Seventh ed.). Thomson Wadsworth. p. 146. ISBN 978-0-495-00749-4.
- [2] Jump up to: a b c Fadia, Babulal (1984). State politics in India Volume I. Radiant publishers, New Delhi. pp. 92–122.
- [3] "Pages 311 & 312 of A. K. Roy, Etc vs Union of India and Anr on 28 December, 1981". Indiakanon.org. Retrieved 23 August 2014.
- [4] "Supreme Court Judgement: Bhim Singh vs U.O.I & Ors on 6 May, 2010". Indiakanon.org. Retrieved 21 March 2012.
- [5] "Article 293 and its application" (PDF). Fincomindia.nic.in. Retrieved 21 March 2016.
- [6] Kumarasingham, Harshan (2013). A political legacy of the British Empire: power and the parliamentary system in post-colonial India and Sri Lanka. I.B. Tauris. pp. 91–92. ISBN 9781780762289.
- [7] "The Constitution (Seventh Amendment) Act, 1956". Archived from the original on 1 May 2017. Retrieved 17 September 2017.
- [8] "Central acts applicable to J&K state" (PDF). Jklaw.nic.in. Archived from the original (PDF) on 22 June 2014. Retrieved 23 August 2014.
- [9] "Constitution of J&K state" (PDF). Jklegislativeassembly.nic.in. Archived from the original (PDF) on 3 September 2014. Retrieved 23 August 2016.

- [10] "Central acts applicable to J&K state". Livemint.com. 5 August 2019. Retrieved 5 August 2019.
- [11] Singh, Prabhat (11 February 2015). "Has Article 356 been the Centre's AK-56?". Livemint.com. Retrieved 18 October 2017.
- [12] "Fact-Check on the Use and Abuse of President's Rule in India". Thequint.com. April 2016. Retrieved 18 October 2017.
- [13] Hegde, Sanjay. "The Judiciary Can Stop the Misuse of Article 356, If It Chooses to Act – The Wire". Thewire.in. Retrieved 18 October 2017.
- [14] "Article 356: Its Use and Misuse". Jagranjosh.com. 1 April 2016. Retrieved 18 October 2017.
- [15] "Supreme Court refuses to stay order declaring L-G Jung Delhi's boss". Hindustantimes.com. 9 September 2016. Retrieved 18 October 2017.
- [16] "Gujarat opposes GST regime". Times of india.indiatimes.com. Retrieved 21 March 2016.
- [17] "There is merit in Jayalalithaa's arguments against GST bill says Subramanian Swamy". 15 June 2016. Retrieved 20 June 2016.
- [18] "Supreme Court rules states have right to levy entry tax on goods coming in". Dnaindia.com. 11 November 2016. Retrieved 13 November 2016.
- [19] Sinha, Aseema (2005). *The Regional Roots of Developmental Politics in India: A Divided Leviathan*. Indiana University Press. pp.114–. ISBN 978-0-253-34404-5. Retrieved 15 February 2013.
- [20] Government Of India (18 October 2017). "The Government of India Act 1935". Internet Archive. Retrieved 18 October 2017.
- [21] "THE CONSTITUTION OF INDIA" (PDF). Lawmin.nic.in. Archived from the original (PDF) on 16 April 2016. Retrieved 18 October 2017.
- [22] "Prez assents: Constitution (One Hundredth Amendment) Act, 2015". 1, Law Street. Archived from the original on 22 August 2015. Retrieved 3 June 2015.
- [23] "The constitution (ninth amendment) act, 1960". Indiacode.nic.in. Retrieved 23 March 2014.