

FEDERALISM IN THE AGE OF GLOBALIZATION - REFLECTION OF QUASI FEDERALISM DEMOCRACY

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ABSTRACT

Federalism can be alluded as a form of government that encompasses a division of power between the centre and other units of states. Fiscal federalism hits a snag as there is supreme domination of the centre on other units. The coercion on state imposed by the centre to heed is being perceived recurrently. Excessive exertion of dominance by the centre has made federalism fade away. This paper analyses the views regarding the federalism in the country.

Key Words: *Federal government, Domination, Fiscal policy, Public Finance discipline.*

1. INTRODUCTION

Fiscal federalism is considered as a public finance discipline. Fiscal federalism hits a snag as there is supreme domination of the centre on other units. A familiar instance is the levy of GST, which is a destination-based tax due to which the manufacturing states are overblown. The cardinal mechanism of any country, even the educational policy is not left regarded at the hands of the state, as there is a vehement influence of the centre upon them. Every state has its own language and is considered linguistic and religious. Whereas, the coercion on the state imposed by the centre to heed is being perceived recurrently. Even the state government's constituent heads' non-cooperative gesture resembles in restraint to federalism. India being a quasi-federal government, but is put to a spot where excessive exertion of dominance by the centre has made federalism fade away?

2. FEDERALISM AND ITS GRAVITY

The federal principle is the predominating factor in the concept of Federalism. It comprises of a complex mechanism for the governance of the country. Thereby seeking to draw a balance between the forces that work in favour of the concentration of power in the centre and those urging a dispersal of it in numerous units. The framer of Indian Constitution attempted to evade the hardships faced by the federal constitution of the U.S.A., Canada and Australia and embodied certain unique features in the working of Indian Constitution. Thus, our Constitution contains novel provisions suited to the conditions of India. The suspicion which emerges about the federal nature of the Indian Constitution is the powers of intervention in the affairs of states given to the Central Government by the Constitution.

The constituent Assembly, being aware that notwithstanding a common cultural heritage without the political unity the country would disintegrate under the pressure of various forces therefore it addressed itself to the immensely complex task of devising a union with a

strapping centre. Article 1 says that – India will be union of states.¹ The constitution thus postulated India as Union of states and consequently the existence of federal structure of governance for this Union of states becomes a basic structure of the Union of India.

3. FEDERALISM AND UK

Discourse surrounding United Kingdom regarding the membership of the European Union (EU) has often been centred on the federal nature or otherwise of the EU. This tendency has made the conventional assessment of federalism in the domestic British context more strenuous to achieve. Yet at the same time, the departure from the EU that this point of interpretation of the concept of federalism has helped to bring about the increased the political salience of the idea of a UK federation. Politicians might feel more able than they once did to talk openly about a federal UK now. But the required thorough consideration of how to apply this model to the UK, and its plausibility and likely outcomes, has yet to take their places. One of the repercussions of the decades-long crusades against European integration in the United Kingdom has been a contamination of the political language and perception of the concepts as it conveys. Considered dispassionately, the federal label is plausibly appropriate to the EU says the source.²

Such angst focused is on the federalism in its centralising aspects. While the inducing concern about tendencies of this type can be apt, to employ the term federalism in this context and is to regard that it is such a model that the powers of the centre and of the states which are constitutionally defined, and that federalism therefore contains an inbuilt protection against the excessive centralisation. Such criticism of European federalism rested on the belief that this character of the integration part made it incompatible with the long existing traditional autonomy of the UK constitution. According to this rhetorical viewpoint, membership could be seen, by extension, as infelicitous.

The premise that the concept of federalism was in some way a problem that commanded consensus across different sides of the European debate. Those who diverged with this characterisation of the European Union and the UK relationship with it tended to do so by declaring that the EU either was not as federal as it claimed, or that it would be possible to resist such a proclivity, or discharged it from the UK. In this context the idea of a UK federation is found increasingly alluring across various fragments of the political spectrum.

4. INDIA AND FEDERALISM

India is a country that follows federalism, or considered as a federal country. But not once in the constitution, the word “federalism or federation” is used. Whilst, the expression “Union of states” is used. The historians tend to believe that India is a quasi-federal country. It means, a federal economy with scattered features of the unitary government. The constitution of India has indispensably prescribed a federal state of government. We have different levels of governments. The Central government, which consists of the two major houses namely, the Lok Sabha and the Rajya Sabha. Then the various state governments. And finally, the municipal corporations and the panchayats, which are the forms of local governance.

¹ Constitution of India, drafted by Dr. B.R. Ambedkar, in 1950.

² <https://fedtrust.co.uk/federalism-for-the-uk-an-answer-that-raises-questions/>

4.1. Necessity of Federalism.

- Emergence of various set of states.
- Evident scientific developments.
- End of the British Colonization.

Our constitution makes a crystalized demarcation about the legislative powers and jurisdictions, through the three lists. They are classified as

1. Union List,
2. State list,
3. Concurrent list.

4.1.1. Union list.

Union list is subjective. It includes aspects that carry importance to the Nation. For instance, subjects like finance, defence, banking, railways, etc. So, when it comes to the Union list, only the Central Government has the authority and powers to make laws or amend them.

4.1.2. State list:

The state list is personalized. It includes all the crucial matters vital for the functioning of every individual states. Trading aspects like transport, trade, agriculture, commerce, etc., comes under this criterion. The State has the power and is the deciding authority for framing laws regarding these subject matters.

4.1.3. Concurrent list:

Under the concurrent list, both the State and Union Governments can make laws. Subjects that require both the State and Centre's cooperation for the betterment and implementation of policies at ease, comes under this head. Education, Trade unions, Forests, etc., comes under the Concurrent lists' power. One thing that is to be noted is that, when the state and the central governments conflict with these laws, the decision is left in the hands of the Union Government, considering all the aspects and outcomes to implement or finalize the decision to make laws. Thereby making it the final authority.

5. UNITARY BIAS AND INDIAN CONSTITUTION

It is a kind of mechanism which accommodate two sets of politics, one at centre level and another at state level. Usually, federalism can be divided into two types,

1. **Holding Together Federation** – Where the powers vested with central authorities are known as Holding together federations. Usually, the powers are share between the various constituent of the countries in order to accommodate the diversity in this whole entity. Countries like India, Spain, Belgium is practising this type of federalism.
2. **Coming Together Federation** – When it comes to coming together federation, the independent states are forming together as a larger unit, where states enjoying more autonomy when compare to holding together federalism. Australia, United States of America and Switzerland are best example for Coming together federation.

Unitary bias refers to where the state and the central government derive authority from the constitution of any country. There are different constitutions for union and the state. India is a country that has constitution in a form that is federal and spiritually unitary due to the features possessed by the constitution in an implied manner.

5.1. Unitary Features under Indian Constitution.

- **The flexibility of the constitution** – though Indian Constitution is addressed as rigid constitution, it will be flexible as well. If the parliament thinks fit, the provision of the Indian Constitution can be easily amended.
- **Unequal representation of states in the Rajya Sabha** –In ideal federal system, all the states should have equal number of representations. But in India, the upper house's representations is totally depends on population of the state, since then it creates the domination amongst the parties, so this goes against the federalism.
- **More power vests with the Centre** – Union list under Indian Constitution ensured central government holds more powers when compared to State governments. Even though, the states can enjoy their powers as listed under State list and Concurrent list, the parliament can override the laws which make by state governments. Likewise, the parliament can also interfere and make laws in subject matters listed under State list.
- **Lok Sabha is more powerful than the Rajya Sabha** – when compared to Rajya Sabha, the Lok Sabha is more powerful which shows the unequal distribution of powers between the two housed of the parliament, which against the principle of natural justice.
- **The executive is a part of the legislature** – In both centre and state, the executive is the part of legislature, which directly affects the concept of division of powers between the different government organs.
- **Emergency powers** – Under Article 356 of Indian Constitution, the central government is provided with the emergency powers. The central government has increase the control over the states, when as emergency is imposed, which undermines the autonomy of the States.
- **Governor's appointment** – The appointment and functions of Governor of the state is directly influenced by the Central government. It leads to influence state governments to opt for the manifesto of the Central government. Eventually the Veto power over the bills passed by states is in favour of Centre. Certainly, the governor of a state can able to reserve certain kinds of bills which passed by State government for the president's consideration. And the president enjoys the absolute veto power on those bills. Likewise, the president can even reject those bills, after reconsideration by the state legislatures.
- **New states formation** – As per the Indian Constitution, parliament alone hold the power to alter the territory of the state.
- **Integrated election machinery** – Even though, the duty of Election Commission of India is entitled for conducting free and fair elections at both the central and the state levels, the members of the Election commission is appointed by the president alone, which shows the supremacy of the Centre.

6. STATES AND FEDERALISM

The practice of Federalism in India is followed over several years, in several dimensions, such as language policies, in linguistic characters and restructuring of the center state relationships. States have general police powers, but in practical they cannot make laws that conflicts with the federal laws. Usually, the different levels of government may have the concept of federalism can lead to conflict with state government may have different laws and policies, the concept of federalism may lead to the conflicts. The object of Federalism in India

is unity in diversity, the concept of federalism. The more the number of states the more the Centre will be held hostage to state parties on the matters of national importance.

In the concept federation, the power of divided to the Federal Constitution lies on a shared basis between the federation and following under their units. Under Article 368 of Indian Constitution Centre has holding the power to amendment the Constitutional provisions likewise the centre government can deliver the same with other provisions. It makes it clear that federal form of the government must have a written constitution. As a federation is a political partnership of various states and consequently there must be a written agreement in the form of a written constitution³.

Comparatively the written constitution eradicates the problem of Federalism, which must spell out the concept as well as the nature of federalism, the concept of federalism should be written constitution, so in order to avoid the conflicts. However even though the Indian Constitution is written constitution and practicing the democracy, some of the countries like United States, Mexico, Switzerland, Brazil, Germany, are still practising the concept of democracy, since then federalism seems to be one the best system. The division of the country into autonomous regions or states under a federal constitution encourages dual citizenship, double civil allegiance and divided loyalties. All these tend to strengthen ethnic diversity and weaken national unity⁴.

7. CONTEMPORARY ISSUES

Is India a true federation? In India we following the concept of the quasi-federal system. Since India is following the quasi-federal system, the concept of cooperative federalism is vanishing. The below mentioned are a few scenarios where there is absolutely no cooperation between the union and the state.

7.1. Regionalism:

Since the constitution of India did not directly address the religion and leaving it to the state legislation, federalism and religion have complex relationship in India. When it comes to the federalism the religion playing the vital role in this, it influences and shapes cognitive understandings and ideational power. If secularism is perceived as anti-religion, religious forces may demand a religious state⁵. In short, religion has affected the form of state institutions and federal institution building. We can even make the bold statement that federalism in Asia must be 'religious' in the sense that it must accommodate religious demands and work with religious forces and institutions. Asian states must create multi-nation states, and in some cases, federal states. Asian federalism stems, in part, from the necessity of dealing with religious diversity, managing the relationship between different religions, and working with diverse religious traditions to facilitate the development of federalism⁶.

According to forty second amendment of Indian Constitution, enacted in 1972, India is regarded as a secularised country. Since the concept of Secularism is promised by the Constitution of India, practice of following the secularism is highly influenced in countries like India. The concept of secularism is giving equal importance to every religion and protecting

³ Roshni Duhan, R.(2006). Federal System in India and the constitutional provisions.

⁴ Aidstotrade, (2023). <https://aidstotrade.com/problems-of-federal-system-of-governemnt/>

⁵ Michael, G. (23-June-2023). Comparative Federalism in Asia.

⁶ Federal Law Review-2018

the rights of people practising it, regarding it as a kind of positive approach towards protecting the faith of citizens. Unlike the western secularism, it does not separate the religion and the states and an extensive interference of the state in religious practice has implied by Constitution of India and it inest that the state should be secular and only the secular state can ensure the eradication of religious and community dominations.

Every individual owes their religion, and the right to choose their religion is an independent will and is vested in every single person. Country like India is considered as religion-based. Here we follow numerous religions arisen from the land and cultivated from several other countries, without any agitation. Every religion boasts their own culture and beliefs. Proving them wrong changes everything for one, personally as well as in a societal purview. Religion and beliefs differ from region to region depending on the ancestral habitat and other circumstances. In today's era, the intervention of the centre in particular region has gone forest fire. Some of their acts and intercessions portrays the act of dominance of imposing a religion onto one and thereby refuting the secularism of the country. The government implementing schemes and policies targeting particular religions in a region results in riots, where the chaos begins between people of targeted and inferiorly regarded religions.

7.2. Taxation

Not just the religious criteria, it affects the taxation aspects as well. The centre interfering in the taxing area, hits a snag in various states. Since India is regarded as a quasi-federal state, the centre has excessive power in crucial areas such as allotment of funds and levying the taxing rules, regime, and powers.

One of the best instances for this is the 'One Nation One Tax' branding, put forth by the centre. Even when the concept of GST was introduced, it was a forceful implementation on all the states by the centre. There was no place for the state's approval. Many states were against the concept of GST, as it is solely a destination-based tax. Beyond all the oppositions, 5 major manufacturing states namely, West Bengal, Uttar Pradesh, Maharashtra, Tamil Nadu, Karnataka, and Andhra Pradesh strongly opposed the concept of GST, terrified by the cut from their revenue. On the account of compromising such majorly opposing states, the centre promised on providing compensation for such states for the purpose of setting off the loss of revenue. But there is no solid proof that the promise by the centre has been fulfilled.

It is crystal clear that, though the cooperative federalism is managed by the GST council, compensation- price and timing, all those are decided and finalized by the centre. This shows that the concept of federalism barely exists only in the paper and is not practically happening nor followed.

7.3. Bills

In a brief study of the forceful implementation of GST, it is concluded that not just GST but there are even other laws that were forcefully implemented by the centre, with or without the consent of the states. Such laws are,

- Environment (Protection) Amendment Rules, 2023
- The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020⁷
- New Education Policy 2022.

⁷ Parliament, Indian. "Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020" (PDF). egazette.nic.in. Retrieved 26 December 2020.

- Citizenship Amendment Act. 2024

It is inferred that the states had no part in a cooperative federalism, where implementing these were totally undertaken by the centre.

7.4. Governor

The Governor is considered as the Constitutional head of the State, as he is directly appointed and controlled by the Central government. So, the non-cooperation of Governor is against the concept of federalism. In the ground reality, it more common now a days, Governors opposing the legislative bills which passed by the state governments. It portraying as, non-cooperation of the governor, show that mere influence of the Central government. Likewise, the Central government will try to impose their laws and their own regulations using Governor as the mediator. It clearly explains, it's the act of natural justice and its against the concept of federalism.

8. DISCUSSIONS

Globalization has acutely impacted the concept of Federalism. The countries of the world have become more tightly integrated. Thereby resulting in limiting the freedom of action on the part of states. It is more likely reflected in the weakening of public institutions. This has also resulted a phase of 'Competitive federalism.' The provincial or the state governments compete with the centre to attract investments, capital garnering and improve technologies for their benefits.

India on the other hand, has chosen the concept of 'Cooperative Federalism' by eventually slacking up the control of the central government, over the states in financial matters, thereby restricting itself and more to the policies in certain areas requiring interference. Firstly, the 73rd and 74th constitutional amendments in 1992 have created a tier three local governments, that have no impact on the centre – state relations whereas they encourage the federal tendencies at base. A centre-state commission in 2007 has again constituted, which looked after the developments since the last commission, surfacing especially in the light of globalization.

9. CONCLUSION

The concept of federalism itself dividing the same number of functions as well as the powers between the Central and State governments. Generally, a country's progress and development depend upon the cooperative federalism of the country. If it is not followed properly, it will eventually lead to an imbalance and a downfall in the economy of a country and it will reflect as political imbalance also. As far as India is concerned, the unitary bias prevails as a pillar and the dominance of the centre on the other hand. The above inferred inferences and current issues, the supremacy and holding of powers lies in the hands of the central government solely. So isn't it now clear that in the name of the quasi-federal system, the centre has an upper hand over the states in the country.