

CHALLENGES TO THE FEDERATION OF INDIA

Dadaram Laxman Khokale

Assistant Professor & Head, Dept. of Political Science Modern College of Arts, Science and Commerce (Autonomous) Shivajinagar, Pune- 05., dadaramkhokale@gmail.com

Abstract

Federalism is a system of government in which power is divided between a central authority and constituent political units. Indian Federalism is different from the type of Federalism practiced in the countries like the United States of America. In this post, we analyze in detail 15 issues/challenges pertaining to Indian Federalism. Indian model of federalism is called quasi-federal system as it contains major features of both a federation and union. It can be better phrased as 'federation sui generis' or federation of its own kind. Article 1 of the Constitution of India states that 'India that is Bharat shall be a union of states'. Indian federation was not a product of coming together of states to form the federal union of India. It was rather a conversion of a unitary system into a federal system. It is a compromise between two conflicting considerations such as autonomy enjoyed by states within the constitutionally prescribed limit (State List) and the need for a strong centre in view of the unity and integrity of the country (Union List). There are certain issues that challenge Indian federation. I will discuss such challenges which create hurdles for federation of India.



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Objectives

1. To investigate the causes and impacts challenges to Indian Federal System.
2. To Review the journey of Federalism in India.

Methodology

To compose this paper, I have utilized auxiliary medium to gather information, which incorporates Articles, reference books, periodicals, news papers, and web.

Issues and Challenges faced by Indian Federalism

- **Regionalism**

It is considered one of the significant challenges to federalism in India. Federalism best thrives as a democratic system when it mitigates the centralization of power sharing between the centre and the states. The pluralist character of India gives rise to many factors including regionalism. People from far northeast sometimes feel themselves at a formidable distance from New Delhi and people in southern part of the country with bigger states feel neglected having been within larger states. Regionalism or love for one's area, despite India's tradition of successful federal rule over the years since independence, still raises its head in

different parts of the country. The voice for the demand of more states has become more prominent in recent times, especially after the formation of Telangana in 2014. Recent demands like four-fold division of Uttar Pradesh and the creation of Gorkhaland from West Bengal are instances of aggressive regionalism that pose a threat to the federal structure of India. The agitations for Gorkhaland, Bodoland, and KarbiAnglong have been revived. This is apart from the new demands for a separate Vidarbha State in Maharashtra, and Harit Pradesh and Poorvanchal in Uttar Pradesh. The more the number of states the more the centre will be held hostage to state parties on matters of national importance. For instance, West Bengal threatened India's Teesta river waters treaty with Bangladesh because of its possible potential costs for West Bengal. Even growing regional powers may affect effective foreign policy as the federal government may bow to the will of an individual state. India had to vote in favour of UNHRC resolution for Sri Lanka in 2012 for a backlash from Tamil Nadu.

- **Division of Powers**

Unlike the USA and Australia, in India distribution of power is made under three Lists found in the Seventh Schedule of the Constitution. The powers of both the Central and State Governments are specifically enumerated in the Union list and State list respectively while powers mentioned in the Concurrent list are enjoyed by the two sets of governments. The residuary powers are vested in the Central government. The general principle underlying the division of powers is that all matters of national importance, e.g. defence, foreign affairs, railways, currency are allotted to the Central government while matters that are primarily of local or regional importance e.g., education, public health, police, local administration are assigned to regional governments. Some matters which require the involvement of both the centre and states like criminal law, forest, economic and social planning are assigned in the Concurrent List. However, in the case of conflict over the legislation on any of the subjects mentioned in the Concurrent List, the Centre supersedes the States. Article 200 (reservation of State Bills by the Governor for consideration of the President), emergency provisions under Article 352, 356 and 360 and compulsory compliance by the States with the executive power of the Centre under Article 256 and 257 amount to centralisation of power which has been the major concern among the states. Centralisation is as such a threat to Indian federalism.

- **Absence of Fiscal Federalism**

The Indian Constitution, while expressly vesting the Centre with greater powers of taxation, also provides for an institutional mechanism, the Finance Commission to determine the share of the States in the Central tax revenues by way of correcting this imbalance. While deciding the devolution of taxes and the provisions of grants the Finance Commission is required to address both the vertical imbalance between the Centre and the States and the horizontal imbalance between states. At present, about 40 percent of Central revenues (tax and non-tax) is transferred to the States, and this includes the grants they get from the Planning Commission and the Central Ministries. Despite the enlargement of the shareable pool under the 80th Amendment which includes all central taxes, the revenue accruals of the Centre and the States have not seen any major changes. Asymmetrical sharing of revenue and resource crunch at the periphery results in uneven development across the country. The current Goods and Services Tax measure is feared by many states to be against fiscal federalism in India. It has amalgamated the various taxes into a single tax, procurement of which will then be divided among states in a prescribed ratio. Many states in India demand for more financial autonomy in India.

- **Unequal Representation of Units**

With a view to preventing the evil of predominant influence of larger units over smaller units in a federation, most federations in the world have resorted to some constitutional mechanism like an equal representation of units or states in the Second Chamber and ratification of all amendments to the Constitution by states. In India, there is no such provision of an equal representation of states in the Rajya Sabha, the Second Chamber and nor the states have any substantial say over the amendments done to the Constitution from time to time.

- **Centralized Amendment Power**

In a typical federation, the power of amendment to the Federal Constitution lies on a shared basis between the federation and its units. In India, the power of constitutional amendment lies with the Centre under Article 368 and other provisions. Although ratification of half of the states is sought for in some limited areas, the states in the Indian Union have virtually no power in this critical area of governance.

- **The Indestructible Union with Destructible Units**

Unlike successful federations, India Constitution doesn't have the provision for the secession of states from the Union of India. The Union has been made indestructible with a view to protecting unity and integrity in a country like India. However, this typical Indian arrangement checks the growing demand for secession from the Indian Union. The simmering demand for 'Dravida Nadu' comprising southern States and voice of separation in the eastern and western part of India pose a great threat to the unity and sovereignty of India. Even if it appears anti-federal in content, it has proved a blessing in disguise for if states would have given plenary power in deciding their geographical territory, there would have been much chaos and impasses leading to serious law and order problems in the country. All major federal democracies have in their Constitutions the provision that a state cannot be divided or merged with another state without its prior consent. This is the essence of federalism. However, the power of making, remaking states lies with the Union Parliament. Our nation-builders were wise in drafting the Constitution to suit our requirements. While prior consent of the state was not necessary under the Constitution, in practice every state has been formed with prior consent, in most cases after a detailed, impartial examination by an independent commission. However, in certain cases, states concerned are often being ignored by the Union Government in a matter of division of their geographical territory. The recent formation of the State of Telangana is a case in point. The resolute efforts of the Union government and its frequent declarations that Andhra Pradesh would be divided irrespective of the legislature's views pose a grave danger to Indian federalism and unity. In the sensitive matters like redrawing the territory of a state in India the views of concerned states should be given due weightage by the Centre. Any arbitrary decision of the Centre without the consent of the State and a negotiated settlement in this regard will effectively convert states into municipalities, and India into a unitary state. Neither the Constitution-makers nor nation-builders intended such an outcome. India's future will be in danger if such an effort is made to make the nation effectively unitary at this stage.

- **Office of the governor**

The office of the Governor for each state in India has been a sensitive issue as it sometimes poses a threat to the federal character of Indian Union. Centre's visible arbitrariness in misusing such constitutional office has been the subject of acrimonious debates and divergent opinions in the country. The imposition of President's Rule in

Arunachal Pradesh in January 2016, while there was an elected government in the State, created a bizarre incidence in the constitutional history of India. The Supreme Court on July 13 termed Governor's decision unconstitutional ordered restoration of Congress government in Arunachal Pradesh. The overt support of the Central Government to the Governor in this critical matter speak volume of the inbuilt weakness in India's quasi-federal structure. The abuse of the power under Article 356 by the Central Government is replete in the political history of the country. This has resulted in cementing of centralized forces and disaffection of constituent states towards the federal character of the Indian Polity.

- **Single Constitution and Citizenship**

Unlike the Constitution of the USA, the Constitution of India lays down the constitution for the States as well and no state except Jammu and Kashmir has right to decide its own constitution. The Indian Constitution, unlike the other federal constitutions of the world, introduces single citizenship. It is based upon the idea of 'one nation one citizenship'. All are citizens of India irrespective of whichever state he/she lives in. The States don't confer any separate status as a citizen of the State.

- **Integrated Services**

The integrated judiciary is a typical feature of Indian federation. Unlike typical federations, in India Supreme Court is the apex court and all other courts are subordinate to it. The States don't have separate independent courts dealing specially with state matters. Also, the machinery for election, accounts, and audit in India is integrated. The All India Services and central services are also considered by many states and critics as anti-federal. However, considering the nature and scope of administration in India, such services are essential as they impart all India character to governance. These services are meant for the administration of the affairs of the Union Government.

- **Centralised Planning**

Although economic and social planning is found in the Concurrent List of the Seventh Schedule to the Constitution, the Union Government enjoys unbridled authority over national and regional planning in India. Centralised 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 Centre's mercy, the administrative inferiority of the states make the states meek and weak. The States only fill the blank spaces meant for in the text for planning. There is no special planning commission for

the states in India. It also adds to the misery of states and poses smooth functioning of federal spirit across the country.

- **Language Conflicts**

Diversity in languages in India sometimes causes a blow the federal spirit of the Constitution. There are 22 languages constitutionally approved in India. Besides, hundreds of dialects are spoken across the country. Trouble arises when the strongest unit of the federation attempts to force a particular language on others. The tussle for official language in India is still a burning issue. The southern states' opposition to Hindi as the official language of India has led to deep-seated language crisis in India.

- **Issue of Religion**

India is a fine example of religious heterogeneity that sometimes gives rise to turmoil to weaken the federation. But the religious process need not be always divisive. So long as there is a reasonable tolerance on the part of the people and a genuine secular policy on the part of the government, religion may not cause imbalances in a federation.

- **Economic Incompatibilities of the units**

Differences economic standards and relative economic and fiscal incompatibilities among the constituent states also pose a threat to a federation. The forces of imbalances in the field are demands for economic planning and development and for regional economic equality and financial autonomy of states. Demand for a financial equality of a region creates problems in a federation. In India, some states are declared as poor and on the principle of equalization, are getting grants-in-aid. But the dilemma in a federation emerges that if the principle of equalization is adhered to, the national income and the total income growth will suffer. Again, if much attention is paid to economic development, equalization of all units cannot be attained.

- **Physical Environment**

Physical environment may also create hurdles for a federation by affecting communication. A federation in which the lines of communication are long and difficult has to face the difficulty of keeping in touch with all the units. It is easy for creating misunderstanding and conflict and perhaps this was one of the important causes for the separation of the east wing from Pakistan. Moreover, in the absence of good communication, the poorer units tend to develop a complex of neglect and feel that they are receiving less

than their fair share of resources for development. In India, the North- Eastern states are having similar feelings and creating problems for the federation.

- **External forces**

External forces also create hindrances for a federation. The tension in the North Eastern States in India is due to the interference of neighbouring countries. China's claim on some portion of the territory of Arunachal Pradesh on LAC threatens the territorial integrity of India. The Tamil issue in Sri Lanka creates disruptive forces in India. The alleged Pak hand in Khalistan movement in the past also has a say in weakening the Indian federation.

Conclusion

A federal constitution is a document that is drafted and ratified for the purpose of stating as precisely as possible the relationship of the federal government to the governed in effect, the people and the relationship of the federal government to the individual political entities (the States) that collectively comprise the nation. India is a federal country. But not once in the constitution is the word "federation" ever mentioned. Instead what is said is that India is a "Union of States". Actually many historians believe that India is a quasi-federal country. It means it is a federal state with some features of a unitary government. Let us see the reasons. In conclusion, a federal constitution is the document that, by definition, enjoys the legitimacy of the governed, and that spells out the rights of the governed relative to the government the document is establishing. It may or may not specify divisions of responsibility, or establish a "separation of powers" between branches of government. The constitution of India has essentially prescribed a federal state of government. As you already know we have several levels of government, The Government at the center, which is the Lok Sabha and the Rajya Sabha. Then the various state governments, the Vidhan Sabhas, and the Vidhan Parishad. And finally, we have the Municipal Corporations and the Panchayats, which are forms of local governance.

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