



INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHTS (IJCRT)

An International Open Access, Peer-reviewed, Refereed Journal

Emerging Opportunities and threat to The Indian Federal Structure

¹Dr.Sumanta Bhattacharya Research Scholar at MAKAUT ,C.E, Ch.E ,CCIO , Zonal Advisor at Consumer Rights Organization. ORCID ID : 0000-0003-2563-2787

²Bhavneet Kaur Sachdev Political Science (Hons) and post graduation diploma in Human Rights

Abstract

India adopted a federal structure which is disintegrated in nature and based on the Canadian model of federation . India has a quasi-federal structure with a unitary bias with a written constitution , dual polity and Independent judiciary where there is division of power between the centre and the state , and the items are divided into three list union list , state list and the concurrent list ,India adopted federal structure because of its huge size and socio-economic diversity however we see the union has the power to overrule the state government in certain matters , when the state allows the central to make decisions. It totally depends upon the union whether to accept or reject a decision of the state government . There are situation where the central tries to overrule matters mentioned in the state list which rest in conflict and rivalry between the state and the central . Regionalism , Unequal representation of units , religion , language , demand for the formation of more states , absences of fiscal federalism and so much centralisation have acted as an hurdle in the smooth working of a federal structure and challenges which require actions.

Keywords: Federal system , quasi-federal , regionalism , division of power , unitary bias , socio-economic diversity.

Introduction

A Federal structure can be defined as a system where the power is distributed between the union and the state. A federal structure has a written constitution , dual government polity ,Supremacy of the constitution ,bicameral legislation and a federal code of conduct to resolve disputes between the Union and the State . USA has a federal structure and India has a federal structure with a unitary Bias , hence India is declared as a quasi federal country , according to Article 1 of the constitution India that is Bharat shall be union of state with power distributed between Union and the state , we see in many cases, during the time of emergency or on the request of the chief minister of state the power is shifted in the hands of Central Government. In India the Supreme Court acts as the code of validity when there exist a dispute between the central and the state .Quasi-federal can be defined as a mixture of Unitary and Federal structure and India has both the features of a unitary and federal system like division of power is not equal between the central and state , the central is made more powerful and has a strong opinion , the states are depended on the central government in many matters ,with an Independent judiciary, India is a balance between a rigid and a flexible constitution .The powers of the central and state are given and guaranteed by the constitution of India , where as the legislative parts is distributed into three list : Union list , State list and Concurrent list.

Union List comprises of 100 items over which the parliament has revelation right over it , there are 61 items which fall under the state list in which the state has complete authority to take decisions, and Concurrent list which incorporates 52 items where consistency is required but not compulsory on items on the list.

The Union and state have independent executive staffs under their respective governments. The Union cannot overrule the states in legislative and administrative matters , except when the presidential rule is declared. The same is applicable in financial powers. Under Article 293 the state can borrow money from the Union which has no limitation

Federalism is the most pertinent factor of modern constitutionalism. The main aims of Indian Federalism are unity in diversity , distribution in command and disseminate in administration. Federalism helps the state to pursues the goal of mutual welfare in the centre of wide diversity in socio-cultural economic sphere.

Research Methodology

For the purpose of this exploration , I have used a amalgamation of two of the archetypical social sciences research tools application –as they are authentic and brilliant method to assemble statistics from multiple appellants in a methodical and convenient way . Question were asked to the parents and their children , survey , interviews –consisting of several interrogation which were dispersed among representative of each contender group .

Objective of the Research Paper

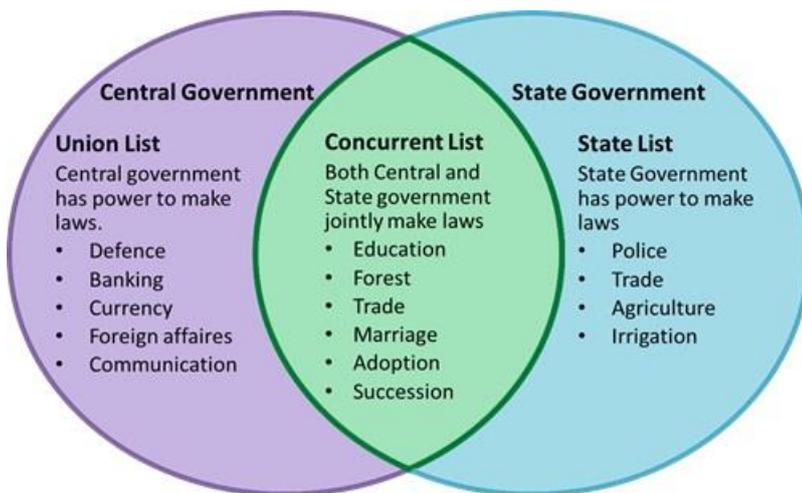
The main areas of exploration in this paper incorporates

1. Understanding federal structure and its nature
2. Federal structure in the Indian Content , quasi-federal nature of the India system
3. Challenges faced by the federal structure in India

Literature Review

The word Federal comes from the Latin word Foedus which means agreement or treaty .There are two types of federation Integration and Disintegration , Integration is combining different states and bringing the power under one nation ,for instance in USA , where as in disintegration , there is division of power between different states and centre as in the case of Canada . India is not a complete federation , it has adopted features of Unitary government as well . India is based on Canadian Model of Federation and is disintegrated in nature, where the centre has more power compared to the state . India adopted Federal structure because of it's huge size and socio-economic diversity . Federal structure will ensure efficient governance of the country and reconciles national unity with regional autonomy .There is Division of powers ,Unlike USA and Australia, in India division of power is made under three lists in the seventh Schedule of the constitution . The powers of the central and state is clearly mentioned in the given list over which they have exclusive power . Union and the state list where as power mentioned in the Concurrent list is enjoyed by both equally .The residuary powers are vested with the central government . The general principal underlying the division of powers is that all matters of national importance for instance defence, foreign affairs, railways currency are under the supervision of the central government , matters which are of regional and primary for the states are under the state list which incorporates education, public health, police , local assignment , and some requires the consideration of both the government which are

mentioned in the concurrent list those involves criminal law, forest and economic .In cases of conflict on matters of legislation the centre over rules. Article 200,352,356 and 360 and compulsory compliances by the states with the executive power of the state under Article 256 and 257 amount to centralisation of power has been a serious issue among the states which acts as a threat to the federal structure in India .



Findings

The Federal structure of India experiences many challenges to its existences which are as follows

Regionalism –It is one of the most note able challenge to federalism in India .Federalism flourishes as a democratic system when alleviate the centralisation of power between the central and the state . The pluralist nature of India gives rise to many components including regionalism .Regionalism can be defined as love for one’s area .India’s successful federal rule over the past years since Independence , has now given rise to regionalism in many parts of the country .Demand for more states especially after the formation of Telangana in 2014 . Recent demands for the creation of Gorkhaland from West Bengal and four fold division of Uttar Pradesh are produce of regionalism that has serious threat to the federal structure of India .The perturbation for Gorkhaland, Bodoland and KarbiAnglong have been revived . In Maharashtra there is a demand for separate Vidarbha state and Harit Pradesh and Poorvanchal in Uttar Pradesh . The more the states , the more the centre will be held hostage to state parties on matters of national importance.



Absences of Fiscal Federalism-The Indian Constitution provides the centre with greater power and strength in matters of taxation and provides an institutional mechanism called the Finance Commission of India to determine the share of the states in the central tax revenue to prevent imbalance. While deciding on the distribution of taxes and the provisions of grants the Finance Commission is requisite to address both vertical disparity between the central and the state and horizontal inconsistency between states. Presently 40% of the central takings (tax and non-tax) is delegated to the states and this incorporates the taking from Planning Commission and the Central Ministries. Despite the increase in shareable pool under the 80th Amendment which incorporates all central taxes, the revenue accumulation of the centre and the states has not seen much changes. Uneven sharing of revenue and resources crunch at the periphery results in imbalance development across the country. The present goods and service taxes system is feared by many states to be against fiscal federalism in India. It has combined various taxes into a single one, acquirement of which will then be divided among states in a prescribed ratio, many states in India demand more financial autonomy in India.

Unequal representation of Units- In order to restrict the influence of larger units over smaller units in a federal system, most federal countries across the world have restored to some constitutional mechanism like equal representation of units or states in the second chamber and ratification of all amendments to the constitution of states. In India, there exist no such provisions of states in the Rajya Sabha, the second chamber nor the states have any substantial say over the amendments done to the constitution from time to time.

Centralized Amendment Authority- In a federal structure, the authority of amendment to the federal constitution is done by 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 state is required in limited areas, the states in the Indian Union have virtually no power in this critical area of governance.

The Indestructible Union with Destructible Units- The Constitution of India doesn't provide succession of states from Union of India, like other countries. The Union has been made shatterproof with a view to protect unity and integrity of a country like India. There has been a growing demand from Southern states for Dravida Nadu and demand for separation of eastern and western part of India which causes a threat to the unity and integrity of India. Even if it is against the nature of federalism, it has prevented major conflict leading to serious law and order problems in India if states were allowed to decide their own geographical territories. Under the federal structure, in all democracies in the constitution is mentioned that on state can be divided or merged with another state without its prior consent. This is the ethos of federalism. However, the power of making, remarking the states lies with the central. In the constitution of India prior consent of the state is not required but in actual practice every state has been formed with prior consent, after a detailed, impartial examination by an independent commission. In many cases the central government has rejected the appeal of the states in matters of division of their Geographical territory like in the cases of Telangana.. The determination of the union government and its frequent declaration that Andhra Pradesh would be divided irrespective of the legislature views had a serious impact on India's unity and integrity,

In matters like redrawing the territory of a state in India, the views of the concerned states need to be taken into consideration and given utmost consideration. Any erratic decision of the centre without the consent of the concerned state and a negotiation settlement in this regard will effectively convert India into a unitary state. Neither the constitution nor the nation-builders intend such an outcome. India's future will be in danger if such an effort is made to make the nation unitary.

Office of the Governor-The office of the governor for each state has been a serious matter of discussion as it poses serious threat to the federal structure of India Union. Centre's visible inconstancy in embezzling such constitutional office has been a topic of caustic debates and varying opinion in the country. The imposition of President's rule in Arunachal Pradesh in January 2016, while there was an elected government in the state generated an odd occurrence in the constitutional history of India. The Supreme court declared the governor's decision as against the constitution and ordered for the restoration of Congress in Arunachal Pradesh. The utmost support of the central government to the Governor in this analytic matter indicates the weakness in India's quasi-federal structure. The misuse of power under Article 356 by the central government is well stocked in the political history of the country. This has evolved in connecting of Centralized forces and discontent of constituent states towards the federal nature of the Indian Polity.

Single Constitution and Citizenship-The Constitution of India lays down the Constitution for states as well as no states except Jammu and Kashmir had the right to decide its own Constitution but after the abolishing of Article 370, Jammu and Kashmir are now under the constitutional rule of India. India like other Federal system doesn't provide dual citizenship. India Constitution is based on the belief in the theory of one nation one citizenship. All India citizens have one citizenship insomuch as which part of the state they live in, the state doesn't provide a separate status as a citizen of the state.

Integrated Services- The integrated judiciary is an attribute of the Federal Structure. However in India, it is the Supreme Court who has the utmost power, the apex court and all other courts are subordinate to it. The states don't have separate independent courts to deal with states cases. The machinery for elections, accounts and audit in India is integrated which is anti federal in Nature.

Centralised Planning-Economic and socio planning falls under the concurrent list as mentioned in the seventh schedule of the constitution, still we see a domination by the central government over National and

regional Planning , Centralised planning through Niti Aayog appointed by the central government is considered predominance in legislative powers and financial dependence of the states on the centre , the administrative domination of the centre makes the state weak and less powerful .There is no separate planning commission for every states which adds misery for the states and poses smooth functioning of federal spirit across the country , but arise disputes between the central and the state government.

Language Conflict- More than 1500 mother tongues languages are spoken in India out of which 22 languages are officially approved by the Constitution of India which causes a serious threat to the federal character in the India content where we see the strongest unity of federation tries to force a particular language on others. The scuffle for official language in India is still a burning issue where the Southern States are opposed to making Hindi as the official language in Hindi , Hence causing serious rivalries on the issue of Language. Till now India doesn't has an official language. Hindi and English are considered as the most common language used in India and in the Parliament , which acts as a challenges to India's federal structure.

Issues of Religion-Religion has been a burning issue in India and a acts as a weapon for politicians to gather sympathy and vote during elections which acts as a tool to weaken the federal structure of India which is co related wit the issue of Language and hampers the secular character of India .

Economic Incompatibilities of the Units- Economic disparities and fiscal inconsistent among the constituent states pose a serious threat to the federation . Demand for economic planning and development , regional economic , equality and financial autonomy , demand of financial equality are some of the factors which acts as a challenge to the federal character of India. In India some states are declared as poor and given grants to come on equal scale with other states , if money s equally distributed on the concept of equalization , it is estimated , the central at the national level will suffer a lot in terms of National income and total income growth . Economic development is not the tool by which equalization of all units can be attained.

Physical Environment can also create obstacles for a federation by affecting communication . Lack of communication can create misunderstanding and conflict and this was one of the causes which resulted in the separation of east wing from Pakistan . Moreover in the absenteeism of communication , a mindset is created within the poorer states that they are receiving less than their share which creates a feel of neglect . In India north Eastern states feel this which poses a question to the existences of a federal structure in India.

External Forces- External forces creates problems to a greater extent which has an indirect impact on federalism. The North Eastern states of India due to the interference of neighbouring states like China in Arunachal Pradesh or Tamil Nadu in Sri Lanka creates unruly forces in India which weakness the India Federation.

The above challenges poses a threat to the federal structure in India which requires immediate action to keep the standards of a federal structure alive in India.

Conclusion

India has a quasi-federal structure with a unitary bias which should also limit the interference of central government in the states affairs to main the nature of federalism where there exist distribution of powers between the Union and the state following the three list as mentioned in the seventh scheduled of the constitution of India. Regionalism , corruption , biased towards the governor , where religion and languages have also acted as a hurdle for the smooth working of the federal structure in India . India has a mixture features of both the federal and unitary form of government , in most cases and plans central tries to overrule state in matters which falls under the state list which result in conflict and demands are made for the construction of new states . Coordination between the central and state is very important to maintain

the federal structure of India , to avoid inter-state conflict and rivalries between states and uphold the democratic values of the Nation where India is said to have the largest democracy in India .

Reference

- 1.Indian Federalism -15 issues that challenge the Federal Structure of India , Indian Polity
- 2.Roshni Duhan , Federal System in India and the constitutional provisions .
- 3.Quasi –federal Nature of the India Constitution – the Legal service India.
4. Asok Chandra , Federalism in India - A study of union state relations
- 5.Federations in India : Steps to the future , SAGE journal

