

REVIEWING INDIAN FEDERALISM: A SUMMARY OF CURRENT CONCERNS AND CHALLENGES

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Abstract: This paper attempts to examine a thorough review of how Indian federalism functions in general and in the modern era in specifically. This includes all of the problems that have recently been raised repeatedly. As a result, there is a great deal of discussion and argument surrounding the Federalist issue of whether the country has adopted a suit-style or ultra-verse federal government. On the other hand, significant emphasis was placed on the fundamental principles of federalism and constitutional norms. As a result, in a federal system, the central government and the states are partners who are absolutely equal. Additionally, they pledged to accept the premise of “self-rule” and “share-rule.” However, a number of controversies and dichotomies have developed as a result of the uncertain character, according to our practice, which regularly posed a challenge to India’s federal working structure. In conclusion, a recent trend has taken several of its key viewpoints to consider the primary federalism worry. Such discussions have, however, been going on for more than 70 years. It is also a kind of federal form effort. Critics have also pointed out the system’s varied advantages and disadvantages. Additionally, it included certain clear trends that have come our way to upset the cooperative nature and power dynamics of Indian federalism. For instance, more recent political developments centered on the Citizen Amendment Act of 2019 and other similar topics have led to several discussions over how federalism should be understood. Additionally, there is some conflict between the state and the union over the execution of the NRC-CAA. The opposing states, such as Kerala, Punjab, Rajasthan, and West Bengal, speak to how Indian federalism has evolved over time to become more competitive than cooperative.

Keywords:- India, Federalism, CAA-NRC, Inter-State Disputes, Cooperative Federalism, Challenges

1.0 Introduction

Generally, the term ‘federalism’ connotes a constitutional system of power distribution between two or more levels of government in the contemporary modern nation-state system. It also deals with a written constitution along specifies the power and functions of government accurately. The Indian Federation is not an exception above that. India adopted a federal system of government where central government at the national level and regional governments at the state level have existed. This is one of the notable features of the Indian constitution. It is also a system of governance under which the structure of dual polity smoothly works within their respective jurisdiction. The federal arrangement also enjoys the independence of power autonomy and cooperation among the governments (Kashyap, 2010: 49). However, Federalism is not merely a ‘dual form of governance’. It is in turn a ‘multi-level of governance’. These two varieties of comparison have taken wider implications by some of the major governments of the world. That is likely to be accepted on the basis when the federal units of any government create unity and cooperation with various organs and independently put a greater importance while in organizing people and its public sector. In economic terms, recognizing profit out of any common market, and in political language, protection and promotion of individual rights and furnishing democratic values are some unique practices to the ends of federalism (Bagchi, 2000). Similar to this, India has also embraced a certain type of political structure, with the “constitution” of India as a result. Therefore, it is difficult to adequately convey the constitution’s enormous magnitude on a smaller scale in this manner. On the other hand, numerous significant federal state governments around the world have institutionalized the structural and functional aspects of such constitutional machinery. The constitutional assembly had proposed to establish a federal government rather than a unitary one by taking a look at other governments and their pattern of federal structure. Despite this, India believed that nations like the USA, Canada, Switzerland, and Australia had long before adopted these methods. Their practices can also be referred to as “the policy of select and chose to what would suit the genius of the nation best.” Two sets of presumptions serve as the foundation for this constitutional evolution of federalism. While the second assumption describes the relationship between the constitution and its subsidiary federal apparatuses, the first assumption describes the

function of the federal government. In the first instance, it makes an attempt to define the idea of federal planning. Similar to this, it goes on to explain how the constitution correctly incorporates a federal dimension that stems from such a constitution. To summarize, neither the member of the constituent assembly actually introduced their own kind of federalism nor did they totally adopt the western structure of federalism. However, in order to cater to India's particular needs, we have evolved our own brand of federalism (Austin, 1972: 223). The national government and the regional states, on the other hand, share the authority of the government within their respective jurisdictions and distribute it among themselves in a constitutional manner under the federalism political system (Singh, 2015).

In conclusion, Granville Austin, a proponent of the federal design, noted that the authors of the Indian constitution created a powerful central government while relying on a low degree of autonomy for the states and that they neither desired to weaken the provisional government by reducing their level of power (Austin, 1972). According to Kumar, the Indian constitution has chosen to provide the union legislature and the government a larger range of authority going forward. These bodies will also support preserving the nation's strength by addressing concerns related to the numerous differences within the nation's cultures, faiths, languages, ethnicities, and so forth (Kumar, 2014). In other words, federalism has outlined its philosophical component as well as undercutting its structural and functional system. The goal of federalism is to ask questions in a way that, in our eyes and minds, takes on a variety of distinct forms. For instance, K.C. Wheare described one such viewpoint; an English writer described his insight into the Indian constitution as "Quasi-Federal." This indicates that India is not a true federation in the traditional sense. In actuality, none has been entirely built on federal and unitary laws. However, is the amalgamation of all federal and unitary features. That refers to "Non-Federal." Therefore, it is a type that is neither federal nor unitary to be viewed as a "semi-federal" state instead. He further stated, "Indian unity is a unitary state with subsidiary federal features rather than a federal state with subsidiary federal features" to make his point more apparent. To put it another way, it recognizes the importance of the Indian constitution's fundamental essence as a synthesis of both unitary and federal maxims.

2.0 Objective of this Paper

The Study's Goals Include Some of the following.

- To know the Theory and Application of the Indian Federal System.
- To Know Changing and new inputs in Indian Federalism.
- To Know Cooperative and Conflictual Federalism in India's Federal System.
- To Talk about the Problems and Difficulties that Indian federalism Currently Faces.

3.0 Indian Federalism's Problems and Obstacles

The Indian federal system's ever-increasing centralization of authority has gone so far as to treat the states more like subordinates than as equals. There are issues in India that have frequently led to conflicts and tensions between the center and the states as well as inside the states. Accordingly, it appears that Indian federalism must deal with a number of modern issues in order to truly function in light of evolving policies and institutions of central government. However, the following are some aspects of India's federal issues. Which are:

1. Regional sensitivity within federal entities is becoming more prevalent, endangering both the federal system and India's sense of nationalism. Political ideology, which largely concentrates on the normative interests of the specific region and subnational unit, also plays a role in this. To put it another way, it is a positive criteria for that area but continues to be a concern for Indian federalism in general.
2. The federal government of India has always vested an unequal basis for the division of power between the center and the states. As a result, the union government would have more power than the states. Even so, the units' link only allows for a small amount of impact. For instance, when they disagree, the rule of the center always applies because its units are deemed lesser. As a result, the state no longer has the ability to act independently and is now seeking to demand an equal power split that reinstates inferiority. Due to the federal system being unbalanced, Indian federalism is anti-federal.
3. States are always center-oriented, a trivial truth. States rely on the center in financial affairs as well. In actuality, the constitution makes no reference of any explicit state fiscal autonomy clause. Therefore, the states have relied heavily on the union to run the institutional structure and conduct daily business. Additionally, there is a tax and revenue issue that the state must address and obtain the consent from the center before spending any money. This is how the Indian federal crisis has developed.

4. There are currently 28 States and 9 Union Territories that make up the Union of India. To fulfill their regional demands, however, is one of the states' common complaints. However, due to unequal representation based on a state's population and area, there may be inequalities between states or anti-state discrepancies in the center. Furthermore, due to the states' representation in party politics, the central sentiments toward states can occasionally be insignificant. Therefore, each state encountered both privileged and underprivileged situations while acting as a state in front of the center. Interest is currently in danger, and local interests are encroaching on the center more and more.
5. The primary foundation of Indian federalism is the Indestructible Union of Destructible States, as opposed to the Destructible Union of Indestructible States in the USA. The nature of the state is not permanent in India. The union has the absolute right to divide a state in accordance with national needs. Due to the nature of the union government, Indian federalism struggles to function as intended.
6. The Indian federal system is a fiery illustration of religious issues. Across the nation, there are severe institutional disputes between the many religions. For instance, the dispute between Muslims and Hindus over the Babri Masjid and Ram Janma Bhoomi started because of the religions' unique interests. In terms of the fundamental natures of Indian federalism, this represents India's toughest challenge to date.

4.0 Current Problems and Threats to Indian Federalism

Despite the aforementioned difficulties, Indian Federalism faces the following modern problems and difficulties:-
NRC-CAA implementation problems

Recent political events involving the Citizenship (Amendment) Act (CAA) and the National Register of Citizens (NRC) in India have highlighted some of the most notable flaws in Indian federalism. Regarding the genuine nature of Indian federalism, the NRC-CAA implementation issue is now one of the federal conundrums. The "competitive-cum-cooperative federalism" the federalism's primary foundation must be worked with if India is to achieve the highest level of federalism. Given the diversity of the states' political systems and the federal government, it is possible to say that India exhibits this tendency in the twenty-first century. There has recently been political disagreement between the Union and the state over the NRC-CAA's implementation in India's four states of Kerala, Punjab, Rajasthan, and West Bengal. From the standpoint of the union and the state, these states make Indian federalism more competitive than cooperative. The states have approved resolutions opposing the Citizenship Amendment Act (CAA), 2019 and have formally requested that the center repeal it.

Following that, they made an effort to communicate their unique viewpoint on the NRC-CAA implementation issue. According to Rodrigues (2020), Kerala initially thought that the CAA's implementation was a problem because it had breached the principles of freedom, equality, and secularism not just among Indian states but also nationally. Kerala claims that if the NRC-CAA were to be implemented, it would be in violation of Indian federal laws and principles and pose a serious threat to the country's federal system. It should be noted, nevertheless, that Kerala became the first state in India to encourage residents from all walks of life to petition the Supreme Court to determine if the Citizenship Amendment Act of 2019 is constitutional. On December 31, 2019, the Kerala Government approached the Supreme Court for the first time, barely around 15 days after the state's legislative assembly asked the center to repeal the CAA in the state. The state government filed a lawsuit in accordance with article 131 of the Indian constitution, which deals explicitly with the Supreme Court's original jurisdiction in conflicts between the center and state(s) (Rajgopal, 2020). In this case, the Kerala Government blatantly asserted that the implementation of CAA would be required by article 256 of the Indian Constitution (which deals with the obligation of states and the Union - the executive power of every state shall be so exercised as to ensure compliance with the laws made by the parliament and any existing laws that apply in the state, and the executive power of the union shall extend to the giving of such directions to a state a). It would probably ensure adherence to laws, regulations, and orders that are illogical, impossible to deal with the present situation, and that violate the fundamental rights of Indian citizens. The state government of Kerala also asserted that this Act breaches the fundamental precepts that define Indian secularism (India as a secular state). According to the Central Government's decision, this act excluded Muslims from three nearby countries Afghanistan, Pakistan, and Bangladesh and made only Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians. According to their religious prejudice, naturalization becomes a requirement for qualifying for Indian citizenship. It had set a deadline for immigrants, which was December 31, 2014. The Kerala government once more stated in the case to the Supreme Court that the CAA was solely discriminatory in character because it only covered persecutions for religious grounds and not for other factors like race and linguistics. According to the Kerala Government, the central government passed this irrigation law, which is in violation of India's federal principles (Tripathi, 2020).

Rajasthan is the third state to launch a nationwide protest against the 2019 Citizen Amendment Act's implementation, unlike Punjab and Kerala. The Rajasthan Congress government filed a petition with the Supreme Court challenging the Act's legality. It argued that the central government's adoption of the CAA law violated the secular foundation of the nation and violated the fundamental rights of Indian citizens. Manish Singhvi, Additional Advocate General, emphasized once more how the state of Rajasthan had accused the federal act of being designed to harm the populace through its ignorant provisions. He reiterated that this central government decision was null and void and that it was ultravirulent. It accords citizenship based on religious identification, violating constitutional guarantees and fundamental rights. It goes against the Indian Constitution's guarantees of freedom of religion (Art. 25), protection of life and personal liberty (Art. 21), and equality before the law (Art. 14). In fact, the state of Rajasthan considers that this action is unfair and goes against state policy (The Hindu, 2020).

After Kerala, Punjab, and Rajasthan, West Bengal became the fourth state to adopt a resolution opposing the CAA and calling for its repeal. The West Bengal state assembly unanimously adopted the resolution, with the BJP opposing it and the congress, left, and members of the AITMC directly supporting it. West Bengal's Chief Minister, Mamata Banerjee, stated that "the union government's decision on CAA is totally against the spirit of the constitution, not a Hindu-Muslim issue, it is an issue of humanity, being a secular state, it does not provide any respect to the sense of secularism" (Singh, 2020). She reiterated her claim that the BJP (Ruling Party) does not have the authority to alter the fundamental character of the nation and that this law is actually a "politics of hatred" that seeks to split the nation along religious lines. Swadhin Sarkar, a BJP MLA from West Bengal, cited her statement in opposition to the state government's decision and noted that the Citizenship Amendment Act of 2019 would not have any impact on the nation's departing citizens. Because some regional parties were passing anti-CAA resolutions in their assemblies, which are undemocratic, unconstitutional, and a conundrum in the true nature of Indian federalism, Joyprakash Majumdar, State BJP Vice President, called this resolution of the state government on CAA a "dangerous Phenomenon." The West Bengal state government shows resistance against the federal act, which would be a risky trend for the Indian political system. As a result, the state of West Bengal has emphasized how the act has caused turmoil and massive popular outrage throughout the nation and threatens to topple the entire foundation of a polity regulated by the rule of law.

But it's obvious from the fact that these states have stated they won't help collect data for the National Population Register (NPR) if it has anything to do with the National Register of Citizens (NRC). Even. Some states want to express their disagreement with the implementation problems of the NRC-CAA, especially the Non-BJP party of the constituent units. Since 2014, Prime Minister Narendra Modi has made a number of promises, one of which is the idea of cooperative federalism. However, it is important to understand that the state resolutions against the CAA are not merely a sign of their disagreement to the act's substantive provisions; they are also a call for India to once again adopt a federalist mindset (India Today, December 2019). According to some electronic media, the CAA-NRC's nationwide implementation in India has negative social and political repercussions, especially for the states that do not support the BJP. State participation varies according to their various ideological perspectives, and it is believed that this act stokes discontent among the states and separates the Indian people.

5.0 Growing Interest in the New States

Arguments have been common in recent discussions on India's federal system. The federal system's ability to function effectively is in danger due to the ongoing rise in demands for new states. Indian federalism is primarily based on self-rule and shared rule. Conflicts between the share rule and the self-rule develop when state demand rises significantly. Indian federalist scholars contend that demands for new, smaller states have an impact on federal institutions and their dominance in the nation. According to Sreenivas (2020), the need for new, smaller states has been a major topic in Indian politics today. The system of administration that has evolved from many regions, political parties, and cultural identities now includes a voice for separate statehood. The 2014 formation of the new state of Telangana brought this issue to the forefront. The impact of the creation of new states on regional sentiment has always been a sensitive subject for the Indian Union. The need for a new state arises as a result of prejudice or neglect on the part of state governments that have come before them in the area of administration and their perception of development gaps (Agrahari, 2014). The Union administration is currently under pressure due to the many demands of the state, which many refer to as independent statehood across the nation.

Sreenivas (2016) claims that since the passage of the State Reorganization Act in 1956, there has been an increase in the demand for separate statehood. The Maharashtra area of Vidarbha has been calling for its own state since it

began to experience underdevelopment. In a similar vein, the desire for statehood for the Gorkhaland region of West Bengal (three subdivisions of the Darjeeling district, namely Darjeeling, Kurseong, and Kalimpong) has increased generally on the issue of the region's distinctive hill culture. The Bodoland region in the state of Assam is demanding separate statehood due to issues with the distinctive tribal culture of the area. The Koshal state is another persistent demand from the western region of the Odisha state. Ten districts in western Odisha are Koshali or Sambalpuri-speaking and want their own state. With the assistance of one political party called Koshal Kranti Dal (KKD), which was established in the year 2007, around 42 organizations have initiated agitation and protest movements in order to fully satisfy this demand. It is therefore clear from the fact that these are the types of aggressive regionalism that pose a threat to India's federal system. These new demands from the states are a threat to India's national spirit and the process of establishing its nation, as well as a regionalist aspect. Indeed, regional imbalances and the underdevelopment of many regions are merely the causes that bring out regional sentiment and prompt the state to launch an agitation for separate statehood against the federal government. It does not represent the county's cohesion and integrity well.

6.0 Conclusion

According to the explanation above, Indian federalism is dynamic and constantly adapts to the demands of the country and the situation. In a similar vein, it examines both theoretical and practical issues related to modern federalism. From a practical standpoint, it is essential that Indian federalism closely mirrors the intergovernmental setup, distributing power equally, and assuring cooperation with every component of the political system. We cannot, however, contest the claim that federalism occasionally breeds conflict and draws inspiration from opposing ideologies. The most recent issue, however, won't become apparent until we have a better understanding of how stable federalism is overall in light of the current issues, which mostly manifest themselves in its outward appearance. The populace in the surrounding areas and later the political leaders of non-BJP states are hostile to the contentious CAA issue. It is only because of the anti-constitutional nature that CAA has emphasized. If nothing of the sort is taking place, center-state relations may become contentious. After conducting a thorough investigation of the potential harmful effects, the Kerala government takes this issue particularly seriously, whereas Punjab, Rajasthan, and West Bengal take the situation more seriously. An important problem with Indian federalism is the growing need for additional states. From a developmental perspective, the smaller states are making the most of their efficiency to maintain their autonomy and have demonstrated independence without constantly relying on central financial resources. On the other hand, without the aid of centralized financial resources, the larger entities of the Indian federal system do not have nearly as much authority to carry out each and every activity. Due to the necessary and systematic nature of dependent and autonomous units within a federal structure, it is important to keep a healthy balance between the federal government and the states as well as among the states to ensure that federal administration runs smoothly.

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