ASPECTS OF FEDERALISM AND EMERGING CHALLENGES BEFORE INDIAN CONSTITUTION

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Abstract
Nature of the Indian Constitution is a debatable issue for a long time. This issue was tried to be resolved through constituent assembly debates, different judgments and Law Commissions reports, but still it kept creating new challenges. This paper deals with the nature of the Indian Constitution and also flows with its journey from cooperative to neo-federalism. The issues which have been evolved in last decades and the challenges which the idea of federalism is facing in the present-day India have been discussed in length and width. This paper is an attempt to see the Indian federalism with a new perspective in the present challenging era of rising number of regional parties and coalition governments in the centre.

Keywords: Federalism, Indian Constitution, Law Commission Reports, Coalition Government, Regional Parties, National Party

Introduction
Nature of the Indian Constitution was in debate for a long time. It is still changing, still evolving and still challenging the judicial interpretations time to time. Form the era of one-party government in the Union and States to the rise of regional political parties at the State level and as a coalition ally at the central level the ‘Idea of Indian Federalism’ has seen several upheavals in past 75 years of the Indian independence. India received its independence on the pretext of the division into dominion of India and dominion of Pakistan through the Indian Independence Act of 1947\(^1\). At that point of time India was divided into Provinces and Princely States. Provinces were under the direct control of British government and Princely States were ruled by the native rulers\(^2\). At the time of

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\(^1\) Two important provisions of Indian Independence Act 1947 were-
1. British India will be divided into two fully sovereign dominions of Pakistan and India.
2. British government reorganises the right and free will of princely state to either join Pakistan or India.

independence India almost had 562 Princely States\(^3\). Due to the consistent effort of then Deputy Home Minister of India Sardar Vallabhbhai Patel, these Princely States were integrated in India through the Instrument of Accession\(^4\). Since the inception of the Indian Constitution a debate regarding its nature is going on. Some says it is Unitary, some says it id Federal and for some others it is quasi federal. Mr. K.C. Where, says that in practice the Indian Constitution is Quasi Federal and not strictly federal but according to D.D. Basu it is neither purely federal nor purely unitary\(^5\).

**Constitution - Kinds of working of Governments in the World**

To resolve the conflicts between the centre and the state in ascertaining the nature of the Constitution of India, it is very much required to take a glimpse of the governance across the world. Primarily there are two types of Constitutions in the world in strict sense - the first one is the Unitary Constitution and the second one is the Federal Constitution\(^6\). Unitary constitution is those constitution in which all legal sovereignty is contained at a single place that is the central government\(^7\). In recent years it has been noticed that for the purpose of convenience of administration even in unitary countries the central government is delegating their power to the regional bodies. For example, in UK, the Central government may choose to give power to the Local Council and if required may take it back also\(^8\). Similarly, in the unitary State of France, in 1982, regional governments were established which were less dependent upon the central government of State\(^9\).


On the other hand, in Federations there are separation of powers in a very strict sense. In federation all the federal units come together under certain terms and conditions. In federation units definitely remain more tightly connected to each other in comparison to confederation\textsuperscript{10}. Beyond the federation and unitary structure there is one more term which includes the political and philosophical aspect of governance and that is “Federalism”. The idea of federalism may consist with or without having all features for federation but federation is definitely going to keep the characteristic of federalism\textsuperscript{11} and it can be understood on the basis of abovementioned two examples of unitary states UK and France.

Obviously, the Constitution of America is an ideal model of federal government.\textsuperscript{12} Their constitution is a federal constitution where the powers are divided between the Federal Government and the State Units. There states are not subordinate to the federal government but they both work in coordination with each other. US has a written and rigid constitution which can be amended only after ratifying by three fourth of the states. In the federal country of Switzerland, no amendment can be brought without the referendum\textsuperscript{13}. Similarly, in the federal state of Germany, States play a major role in amending the constitution\textsuperscript{14}. In Federal countries authority of the federal Supreme Court is extremely relevant to resolve disputes between federal and state units. It is important to mention that till 1781 America was a Confederation which became Federation only in the year 1789\textsuperscript{15}.

At various times groups of nation state have formed unions that resulted in the creation of super national government agencies whose laws became part of the legal system of the member states like

\textsuperscript{15} Articles of Confederation, 1777–1781, available at: https://history.state.gov/milestones/1776-1783/articles (Last Visited on March 03, 2021).
European Union. The directives and regulations of European Union must be applied by the national courts and must take precedence over National legislation. Unlike state members of a true federal system, members of European Union may withdrawal from the Union at any point of time and Brexit is an example of the same. European Union is a unique economic and political Union between 27 European countries. The European Union constitution was adopted by 25 European Union heads of state in June 2004. Some people consider European Union as Confederation and some other as Federation.

Constituent Assembly Debate and Nature of Indian Constitution

Through the Cabinet Mission 1946 Constituent Assembly was created to make the Constitution of India. In this assembly there was exhaustive discussion over the nature of the Indian Constitution. In the constituent assembly debate issue was raised regarding whether India should be a unitary or federal state? Nehru was in the favour of a unitary state while Patel proceeded to device a Provincial Constitution.

While speaking in the Constituent Assembly Dr. Ambedkar has said that

“…. So far, I have drawn attention to the difference between the American Federation and the proposed Indian Federation…. All federal systems including the American are placed in a tight mould of federalism. No matter what the circumstances, it cannot change its form and shape. It can never be unitary. On the other hand, the Draft Constitution can be both unitary as well as federal according to the requirements of time and circumstances. In normal times, it is framed to work as a federal system. But in times of war, it is so designed as to make it work as though it was a unitary system.”

Article 1 of the Indian Constitution clearly prescribes that India that is Bharat shall be a Union of State. Term federalism has not been used anywhere in the entire constitution. The division of power

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17 Bhanu Dhamija, “India’s Constitution makers Nehru, Patel & Ambedkar were divided on parliamentary system”, available at: https://theprint.in/opinion/indias-constitution-makers-nehru-patel-ambedkar-were-divided-on-
between the centre and state and the distribution of the subject matters enshrined in schedule 7 of the Indian Constitution supports the idea of Indian federalism. In Indian Constitution States cannot claim any territorial sovereignty. This long debate regarding the nature of the Indian Constitution was largely settled by the Supreme Court in the case of *S.R. Bommai v. Union of India*[^19]. In this case Supreme Court has taken power to revive the dissolved legislative assemblies in those circumstances when Union misuses its Constitutional power of Art.356 against the State. Recommendation of Sarkaria Commission[^20] also proposed the same. Even in the case of *Kesavanand Bharti v. State of Kerala*[^21] then Chief Justice Mr. S.M. Sikri has declared federalism in Indian Constitution as the part of basic structure[^22].

Our constitutional mechanism provides more powers to the Centre but that doesn’t mean that States are at the mercy of the centre. Within their allotted sphere States are supreme and the Centre cannot encroach in their allotted power. Federal principles enshrined in the Indian Constitution are not just the matter of administrative convenience but they are an outcome of their historical evolution. These aspects were dealt in elaboration by Mr. M.C. Setalvad in his Tagore law lectures.[^23]

**Rise of Regional Political Parties, Rising Centre-State Conflicts and its Impact on Cooperative Federalism**

Till the time there was a rule of the same political party in the centre as well as in the states, there was no issue of conflict but by the passage of time due to the advent of different regional political parties in the centre as well as in the

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[^19]: AIR 1994 SC 1918.
[^20]: There were persistent tensions between the centre and the states. In response to that, the Ministry of Home Affairs of India on 9th June 1983 established a Commission to investigate and give recommendations on the relationship between the centre and the states. The commission consisted of Shri B. Sivaraman and Dr. S.R. Sen as members. The Commission was given the name “Sarkaria Commission” because it was chaired by Justice Ranjit Singh Sarkaria, a retired judge of the Supreme Court of India. It was formed to review the working of the existing arrangements between the Union and the States in the changed socio-economic scenario.


[^22]: It is important to be mentioned that the origin of the basic structure was found in the German constitution which after the fall of Nazi Regime was amended to protect some basic laws and new German constitution introduced with substantive limits on power of parliament to amend certain parts of the constitution considering as basic part or basic laws.

[^23]: The common law in India, available at: https://socialsciences.exeter.ac.uk/media/universityofexeter/schoolofhumanitiesandsocialsciences/law/pdfs/The_Common_Law_in_India.pdf. (Last Visited on May 03,2021).
State, bargaining power of the regional political parties was enhanced and a new kind of politics started at the centre where the larger national political parties were tamed by regional political parties in the name of political alliance. Misuse of Article 356 by the central government was also started as a tool of political vendetta. First such remarkable example of misuse of power can be seen in the case of *State of Rajasthan v. Union of India*\(^24\) where the Janata Party government has decided to dissolve all the Legislative Assembly which were led by the Congress in different states but in the petition filed before the Supreme Court, they could not receive any protection from there. After the fall of Janta Party Government when Mrs. Indira Gandhi came to the power she repeated the same. But now after the Bommai judgement such political misadventure is quite unlikely. Since the merger and integration of princely states into Union of India, this country has witnessed several conflicts between the centre and state and few significant are going to be discussed here.

**The Telangana issue**\(^25\)

In independent India States are organized of the basis of language. In 1953 the first State Reorganisation Commission was appointed to suggest the reorganization of States on linguistic lines. Report said that one of the principal causes of a position of Vishal Andhra was people of Telangana were educationally backward tribes, so they may be exploited by more advanced people of coastal areas. Report suggested that in the interest of Andhra as well as Telangana should be constituted as a separate state territory. But on 1st November 1956 then Central government decided to merge Andhra State and Telangana to form Andhra Pradesh. The people of Telangana believed that in last 50 years they remained neglected, exploited and backward. In 2010 Sri Krishna committee was constituted to submit its report on the above-mentioned issues. Telangana Rashtriya Suraksha President K Chandrasekhar Rao appealed to Mrs Sonia Gandhi to dissolve his own party after the creation of Telangana State. Srikrishna committee give two suggestions-1. keeping the state United by simultaneously providing certain definite constitutional and statutory measures for social, economic and political development of Telangana. 2.

\(^{24}\)AIR 1977SC1361.

\(^{25}\)https://www.telangana.gov.in/about/history (Last Visited on May 03, 2021).
bifurcation of State into Telangana and Seemandhra with Hyderabad as the capital of Telangana and Seemandhra with a new capital. Andhra was constantly opposing the idea of creation of Telangana State due to reasons - Telangana is very rich in natural resources, and renowned Cyberabad aka Hyderabad falls in Telangana. Andhra had serious objection to it. Besides this Telangana is very rich in natural resources and in case of division, Andhra was likely to be politically weak as it was losing 17 Lok Sabha seats which were going to Telangana. But despite of the resistance of Andhra Pradesh ultimately the Parliament has created a new state in the form of Telangana. The A.P. Reorganisation Bill was passed in 2014. Andhra considered it as a motivated political move on the part of UPA-II government in the light of coming Lok Sabha Elections of 2014.

**Teesta River Water Dispute**

India and Bangladesh share 54 rivers between them. Even after settling the Joint River commission for water management in 1972, tension on sharing of water resources came ahead in the form of Teesta River water dispute. In 1983 an ad-hoc water sharing agreement was reached between India and Bangladesh, where both countries were allocated 39% and 36% of the water flow respectively. Subsequently a new bilateral treaty expanded for equal allocation of the Teesta River water. The deal witnessed a trouble when the newly elected Chief Minister of West Bengal Ms. Mamta Banerjee refused to give her approval over the treaty fearing the loss of huge volume of water, which could cause a problem of water scarcity in the Northern region of the State during the summer season. On this decision of Ms. Mamta Banerjee, Bangladesh foreign minister warned India about future complication of the bilateral ties between both the countries if India fails to deliver Teesta water mains/teesta-river-has-become-an-important-factor-in-india-bangladesh-relations-what-are-the-hindrances-in-successful-implementation-of-river-water-sharing-agreement-and-what-are-its-possible-implication/ (Last Visited on May 03,2021).

28 Teesta River has become an important factor in India – Bangladesh relations. What are the hindrances in successful implementation of river water sharing agreement and what are its possible implications on India-Bangladesh relations? What could be the possible solutions? available at: https://www.civilsdaily.com/
sharing agreement. Thus, stand of Chief Minister of one State has created a situation of crisis to the foreign policy of the entire nation.

**Kudnamkulam Dispute**

This project was signed on 28 November 1988 by then Prime Minister Mr. Rajiv Gandhi and President of USSR Mr. Mikhail Gorbachev for the construction of two nuclear reactors. In 2011 from the vicinity of the plant, NGOs have protested against it fearing a nuclear disaster. And on Sep.22, 2012 Tamil Nadu Cabinet Committee passes a resolution urging centre to halt the work in the interest of the safety of locals. It was said by then Prime Minister Dr. Manmohan Singh that this protest was funded by US and Scandinavian non-government organisations to stall the work as US did not wish for India to work with Russia in establishing this project.

**Raghuram Rajan Committee Report**

Special status to States is always a bone of contention between the Union and States. For granting the special status to States ‘Gadgil Mukherjee Formula’ is being used since past several decades. As per this formula Ford devolution of Central assistance for state plans 30% of the total fund is earmarked for special category status. As against the composition of Central assistance of 30% grant and 70% loan for major states special category states receive 90% plan assistance as grant and 10% as loan. Similarly, special category states receive favoured treatment from the finance commission in respect of the devolution of Central tax revenue. The set of criteria includes hilly and difficult terrain, low population density and or sizeable share of tribal population, strategic location along border with neighbouring countries, economic and infrastructure backwardness and non-viable nature of state finance. There are 11 special category states and they are - Seven Sister States, Himachal Pradesh, Jammu & Kashmir, Uttarakhand and Assam.

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In 2013 then UPA government constituted an Expert Committee of the Ministry of Finance, under the chairmanship of chief economic advisor Mr. Raghu Ram Rajan. This was the six-member’s expert committee constituted to draw a new criterion for determining the backwardness of states and claimed in its report that Odisha, Bihar and Madhya Pradesh were the least developed States. Then Bengal Chief Minister Mamata Banerjee requested then Prime Minister Dr. Manmohan Singh to not to accept the recommendations of RRR Committee as these recommendations are driven by an attempt to bestow Central funds solely based on an underlying political agenda. According to Mamta Banerjee this report is clearly in the violation of the federal structure with a hidden political agenda to unduly favour a few targeted States at the cost of others with the eye of upcoming elections of 2014. Then Tamil Nadu Chief Minister Ms. J. Jayalalithaa also rejected the report and said it is a disguise attempt to provide an intellectual justification to deliver resources to a potential political ally.

Coalgate Scam & Role of States in allotment of Mines

Coal gate scam is one of the most discussed scams in the history of independent India. According to Comptroller and Auditor General report insufficient illegal allocation of coal blocks were made between 2004 and 2009. The estimated loss was of 1.86 lakh crore. The allocation of coal block was to be done through competitive bidding but government choose another route and avoided competitive bidding. CAG observed that it caused huge loss to the government exchequer. 194 coal blocks were allocated to public and private Enterprises but the process of allocating blocks was not transparent.

In this coal gate scam Supreme Court sought to know the role played by the seven coal producing states in the entire process of coal block allocation starting from allocation by the centre to commencement of mining operations by private parties. The three judges bench sought responses from Jharkhand, Orissa, Chhattisgarh, Madhya Pradesh, Maharashtra and Andhra Pradesh.

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Majority of these States ruled by parties who were not on the same political plan as the congress-led UPA.

The issuance of notice to the states was to understand their role in the coal block allocation. Mr. Vahanvati, then Attorney General had said that the centre had discharge its statutory role of a regulator by merely identifying the coal blocks while the rest of the formalities like signing of mining lease and all environmental and forest clearances squarely rested in the domain of States\(^{37}\). In this case the important point was the repeated request and recommendations of the Chief Minister of Orissa Mr. Naveen Patnaik for allocation of coal blocks in Odisha\(^{38}\) to local PSUs. The central ministry had decided to allocate coal blocks within Odisha to other state PSUs and NTPC without considering the already allocated 7 coal blocks to NTPC and 7 Coal blocks to other PSUs and their failure to produce coal.

**National Counter Terrorism Centre\(^{39}\)**

It is criticized on account of its perceived infringement of the Federal structure of the Indian Union. The States considered it as an unruly attempt to infringe in the area of law and order which is the subject matter of State List. NCTC as per them was an attempt to intervene in the domain of States. NCTC was an intelligence agency having much larger power than National Investigating Agency famously known as NIA. Then UPA government wanted to create NCTC even without passing a bill in the parliament under the existing provision of Unlawful Activities Prevention Act, which authorises centre to designate an agency to fight with terrorism. The State governments had serious apprehension over such unfettered jurisdiction of an intelligence agency equipped with police powers.

**Commissions Constituted to improve Centre-State Relationship**

As of now there are four commissions which have been constituted to ascertain the cordial relationship between the

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37 Supreme Court questions screening committee in coal block allocation, available at: https://www.livemint.com/Politics/fcbCnt4KyYyxwv8oTjx8tL/Coalgate-Supreme-Court-questions-screening-committee-in-coa.html (Last Visited on May 03, 2021).
centre and the state. The name of these committees are;

Rajamannar Commission\textsuperscript{40} (1969)

In 1969 at the instance of CM M Karunanidhi, 3 members expert committee was founded by the government of Tamilnadu under the chairmanship of Dr PV Rajamannar examine the working of Indian Constitution. Committee called for the abolition of article 249, 312,356, 357 and 365 to stop interference of Union into State. The commission submitted its report in 1971 also suggested that a few Union entries should be transferred to the State list including the power to levy some excise taxes - entry 84. It also suggested to transfer Residuary Powers to the State.

Sarkaria Commission\textsuperscript{41} (1983)

In 1988 Justice R.S. Sarkaria Commission submitted a 1600-page report carrying 247 recommendations spreading in 19 Chapters for improving Centre state relations. The main recommendation was related with Inter-State Council and appointment of Governor in States

National Commission to review the working of constitution also known as Venkatchalliah committee\textsuperscript{42} (2000)

In 2002, then BJP led National Democratic Alliance decided to constitute a National Commission to review the working of the Constitution. Through this Commission government gave ample attention to the Union-State relation. Committee gave specific recommendations on important subjects like finance, commerce and trade resolution of disputes and Union and State executive. Commission suggested to create an organization to resolve Inter-State Trade and Commerce dispute. It was also suggested to constitute a special committee comprising of the Prime Minister, Home Minister, Speaker of the Lok Sabha, and the Chief Minister to appoint the Governor of a State.

M.M. Punchhi Committee\textsuperscript{43} (2007)

In April 2007 the UPA-1 government decided to constitute a new commission

\textsuperscript{40} https://www.gktoday.in/topic/rajamanar-committee_29/ (Last Visited on Aug.01,2021).
\textsuperscript{41} https://sites.google.com/site/errajanikantissuediscussion/committee-commissions/sarkaria-commission-1 (Last Visited on Aug.01,2021).
\textsuperscript{43} https://blog.i pleaders.in/m-m-punchhi-commission-report-recommendations (Last Visited on Aug.01,2021).
on centre state relationship and former Chief Justice Mr M. M. Punchi was appointed as the chairman of the commission. The subject areas covered by the task force were 1. Constitutional scheme of centre state relations 2. Economic and financial relations. 3. Unified and integral domestic market harmonization of commodities taxes 4. Local government and decentralized governance 5. Criminal justice national security and center-state Corporation 6. Natural resources and environment land and Agriculture 7. Infrastructural development and infra structural projects 8. Social political development public policy and governance 9 Social economic and human development. The Commission made 273 recommendations and presented its 7-volume report 30 March 2010.

New Dimensions of Federalism

By the passage of time Indian Federalism has taken a new shape which shows the flexibility of this Constitution. Several new steps were also taken especially by Modi 1.0 government to strengthen the federal structure of this country. Few important have been discussed here.

Goods & Services Tax

GST is a tax on supply of Goods and Services. The person supplying the goods or services is allowed to take credit. India being a federal country, both the centre and the state have been assigned the powers to levy and collect taxes. Parliament finally passed the Constitution Amendment Bill which had been pending in Parliament since March 2011 and finally implemented on July 1st, 2017. A Constitutional Amendment Bill regarding the tax reforms was passed in Parliament with two third of the members present and voting and by more than half of the state legislative assemblies.

The objections of the developed states where they used to believe that they will suffer in form of their revenue losses. States felt that it could drop their discretionary fiscal power and they will suffer major revenue losses after the implementation of GST. Main issue of the developed states like Maharashtra, Gujarat or Haryana was the probability of losing their revenue. To prepare a design and roadmap for the implementation of GST an empowered committee of state finance minister was constituted. GST is a dual structure divided between Central

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GST and state GST. Also recommended for the dual levees imposed currently by the centre and States, but independently. To promote cooperative federalism both the central GST and state GST should be levied on a common and identical basis. The central GST and state GST should be credited to the accounts of the centre and state separately. Under GST exports will be zero rated and imports will be labelled at the same rate as domestic goods and services.

**Water dispute Settlement**

Water dispute among the States is a very pertinent problem. In this regard Article 262 gives clear power to the Parliament to make law for the adjudication of any dispute regarding distribution of river valley and interstate rivers. Under article 262 (2) Parliament by law provides that “neither the supreme court nor any other court shall have any jurisdiction in respect of such disputes and complaints, relating to interstate rivers”. Using their power under article 262 Parliament has passed the River Board Act 1956, and Inter-State Water Dispute Act 1956, which empowers the central government to set a tribunal for the adjudication of such disputes which shall be final.

**Inter-State Council**

Article 263 of the Indian Constitution provides for the establishment of an Inter-State Council for effective coordination among the States. This President many appoint an Inter-State Council in case it appears to him that the public interest can be served by establishing it. This interstate Council is generally charged with the following duties;

i. inquiring into and advising upon disputes which may arise between States.

ii. investigating and discussing subjects in which some or all States have common interest.

iii. making recommendations on any subject and developing better coordination of the policy and action with respect to that subject”.

It consists of all the Chief Ministers as members and the Prime Minister as the chairman of the council. All the decisions of national importance except and the-states-issues-and-challenges-pertaining-to-the-federal-structure-devolution-of-powers-and-finances-up-to-local-levels-and-challenges-therein/issues-and-challenges-pertaining-to-the-federal-structure/inter-state-relations/inter-state-councils/ (Last Visited on Aug.01,2021).

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defence and foreign should be taken after consulting with the Inter-State Council. This council has capacity to remove so much of the strain existing between the centre-state relations and thus would help in improving the federal character of the constitution.

**Finance Commission**

Article 280 talks about Finance Commission, which is constituted after every five years. It consists of a chairman and four other members appointed by the President of India. The Finance Commission is to recommend to the President the requisite changes to be made in the distribution of the taxes between Union and States. It also defines the principles on which the union government can make grants in aid to the States. The role of the Finance commission is to distribute revenue of taxes between Union and State. Its function is also to grant in aid of the revenues of the States out of the Consolidated fund in India.

**National Development Council**

NDC is the Apex body for decision making and deliberations on development matters in India, presided over by the Prime Minister. It was set up in 1952. It is a non-statutory and non-constitutional body which came into the existence by the proposal of the Cabinet Secretary of the Government of India. Respected members of this council are-Prime Minister of India, all Union Cabinet Ministers, States Chief Ministers, Representative of Union Territories and members of Niti Aayog. The functions of the National Development Council are preparing guidelines for the formulation of national plan including the assessment of the resources, discussing important social and economic policy affecting national development, review the working of plans. It is a consultative body which acts as a bridge between the States and Union government, NITI Aayog and the State Governments.

**NITI Aayog - National Institute of Transforming India**

It is a policy think tank of India, established with an aim to achieve sustainable development goals with cooperative federalism by fostering the involvement of the State governments of India in the economic policy making.

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49 https://www.niti.gov.in/content/overview (Last Visited on Aug.10,2021).
using bottom-up approach. The role of NITI Aayog is to achieve, monitor and evaluate the implementation of programs and initiatives including identification of the needed resources so as to strengthen the probability of success and scope of delivery. This is very different from Planning Commission which had power to impose its policies on States and for the projects approved by the Planning Commission. The Governing Council of NITI Aayog comprise of CMs of all states, LG of UTs, PM (Ex-officio Chairman), Special Invitees like Ministers, full time Members like Experts and one CEO (Presently Mr. Amitabh Kant).

**Fiscal Federalism**

**Sharing of revenue between Centre-State**

In 2015 Modi Government accepted 14th Finance Commission Report to increase the share of States in the centre’s tax revenue from the current 32% to 42%, ever highest since independence. It gives more fiscal power to the States. The 15th Law Commission retained the same tax devolution to States at 41-42 per cent of the total pool. The purpose is to weigh all options for fiscal space for both Centre and States.\(^5^1\)

**GST Council\(^5^2\)**

The GST Council comprises of the Union Finance Minister and Union Minister of the State for Finance. It also includes Finance Ministers of all the States. This Council comprises 2/3rd voting power with the States and 1/3rd with the Centre, which reflects accommodative spirit of the cooperative and fiscal federalism. This Council takes decision with three fourth majority of the members present and voting. Under the GST regime centre and state will act on the recommendations of the GST council. This GST will unite entire country on the basis of One Nation One Tax and entire country as one market. It will be an economic integration of India. Now though India would become a unified market however constitution still provides room for States to levy tariff and non-tariff barriers.

**Neo-Federalism**

India has seen a tough covid crisis in past two years but this crisis has shifted the devolution to states: N K Singh”, *Economic Times*, March 06,2021.

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\(^{51}\) PTI, “15th Finance Commission opted for continuity, predictability in deciding tax

balance in the favour of its federal structure. The initial stage of the covid-19 response highlighted the tile of Indian federalism in the favour of Unitary Constitution. During this crisis the Central Government implemented a national lockdown using its special power under the central legislation of the Disaster Management Act, 2005. During this lockdown the Ministry of Home Affairs issued extensive guidelines to the states for controlling pandemic. During this period of pandemic crisis States ceded their considerable decision-making power in the favour of the Central Government. States squeezed their powers during this period though they have independent power under the Epidemic Disease Act ,1897\textsuperscript{53}.

During this lockdown the financial dependency of States risen over the Centre. The central government has enhanced the borrowing limit of State governments from 3% to 5% of their gross state domestic product. But only 0.5% of this increase was unconditional. Further 1% will be permitted to release only if the borrowing is linked to specific reforms such as debt sustainability, job creation, power sector reforms and urban development. A final 0.5% will be permitted only if States achieve key milestone in these areas\textsuperscript{54}.

**Challenges before federalism in India**

Though Indian federalism has evolved itself as per the available circumstances but challenges facing by this idea cannot be denied. Increasing socio economic inequality have created friction between different groups in society and different states, growth of regionalism, a number of political parties, linguistic and religious diversity and coalition politics has today acquired proportions which were unimaginable at the time of independence of India. Recently several incidents have been reported where States shown their unprecedented disregard for the office of Prime Minister and the welfare schemes of the central government. Resentment of states towards parliamentary legislations and stands of centre towards national integrity has also seen opposition from few non-NDA States like West Bengal and Union Territory of Delhi. Non implementation of the Central Schemes


like Aayushman Bharat\textsuperscript{55}, non-cooperation to centre during farmers protest and anti CAA protest by Delhi government\textsuperscript{56}, different stand of few States over citizenship amendment Act\textsuperscript{57}, and Rohingya\textsuperscript{58} issue and the most recent of security compromise of the Prime Minister in the State of Punjab\textsuperscript{59} are few examples, which raise serious concern towards the federal model of Indian Constitution.

**Conclusion**

So, on the basis of above discussion, it can be said that the purpose behind creating India as a Union of State was to strengthen the sovereignty, integrity and unity of the nation. That is the reason that up to a certain extends States are kept under the guardianship of Union. Cooperation between Union and States to strengthen the entire nation was the basis of cooperative federalism. We have seen that in the last 75 years this relation of Centre and States has witnessed several challenges but largely defended it successfully. But the recent challenges and disrespect of the States towards centre is a matter of grave concern and may give disastrous results in the future.

I conclude with the last speech of Dr. Ambedkar leaving behind a question for all and I quote -

\textit{“Will Indian place the country above their creed or will they place creed above country? I do not know. But this much is certain that if the parties place creed above country, our independence will be put in jeopardy a second time and probably be lost for ever. This eventuality we must all resolutely guard against. We must be determined to defend our independence with the last drop of our blood\textsuperscript{60}.”}

\textit{(Dr. Ambedkar’s final speech in the Constituent Assembly, dated November 25, 1949)}

\textsuperscript{55} Harsh Vardhan, “People in Delhi, WB, Odisha, Telangana not getting Aayushman Bharat scheme benefits”, \textit{Economic Times}, Dec.10, 2019.
\textsuperscript{56} Prasthi singh, “Farmers’ protest: Delhi govt says no to converting 9 stadiums into detention centers”, \textit{Hindustan Times}, Nov.27, 2020.
\textsuperscript{57} Manogya Loiwal, “Mamata Banerjee’s Bengal becomes 4th state to pass anti-CAA resolution”, \textit{India Today} Jan.27,2020.
\textsuperscript{59} Anil Balooni, “Breach in PM’s security in Punjab is a new low”, \textit{Indian Express}, Jan07,2022.
\textsuperscript{60} “If hereafter things go wrong, we will have nobody to blame”, Dr. Ambedkar’s final speech in Constituent Assembly, \textit{available at:} https://www.barandbench.com/columns/dr-ambedkar-1949-constituent-assembly-speech (Last Visited on Aug.15,2021).