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**THE LINKAGE ASPECT OF FEDERALIZATION: A  
CASE STUDY OF FOREIGN POLICY IN INDIA**

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# The Linkage Aspect of Federalization: A Case Study of Foreign Policy in India

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**Abstract – The objective of this paper is twofold. First, it wishes to examine and compare the place foreign policy takes in the constitutional framework of two federal polities, namely the European Union and Canada. Second, it wishes to come to a fuller understanding of the meaning of the concept of 'federalism' as a means to reconcile consistency with subsidiarity in the context of internally divided polities.**

**To achieve these objectives, this study proceeds by exploring the ways in which the principle of conferred powers (in the following: conferral) manifests itself in the field of foreign policy in both polities. After having framed the question of foreign policy competence in its wider international and constitutional context, this paper first looks at the theoretical foundations of the principle of attributed powers. Next, it examines the mechanisms through which the principle of conferral is put into practice. Apart from the straightforward application of the principle, this paper also examines the correction mechanisms developed in both polities. After having collected the necessary 'raw materials', it then proceeds to an explicit comparative analysis.**

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## INTRODUCTION

A Paradigm shift is taking place in the debate on what should be the role of the constituent units in a federation in the making and implementation of its foreign policy. Not so long ago, the prevailing view was that while a country may adopt the federal system as a way of preserving its "unity in diversity," to quote Jawaharlal Netuu's oft-quoted and celebrated phrase about the Indian fedemtion, it was no less entitled than a unitary Government to speak with a single voice in the international arena and have a single unified, national and nation-wide foreign policy for the country as a whole, Now a contrary view is emerging that the constituent units of a federation should also have a role to play so that the country's foreign policy may reflect its domestic diversity. The Zurich statesman, Alfred Escher, succinctly summarised the fundamental concerns of the federal systems in the nineteenth cenhtry as "external unity, internal diversity." In a threatening international environment, the nation state was supposed to act as a single unit in its dealings wiih other countries, while upholding diverse cultural and regional identities existing within its borders.

This traditional approach is now increasingly questioned by the transformation of the international political system as well as changing notion of state. While the complex concept of globalization is the most striking reflection of this change, they *an* also getting reflected in the removal of international borders and the growing institutionalization of international politics. What is more, international organizations are moving across borders into new regulatory areas, creating an

expanding legal cage around international relations. International upheavals are also affecting individual states, as the traditional pillars of their existence - people, territory and government - are called into question. Where government is concerned, international elements an starting to encroach upon areas, which have traditionally been the preserve of domestic policy, just as national territory is affected by the re-definition of nation states' territorial structures. Integration on an international scale and - in Europe particularly - the "Europeanisation" of the member states of the EU are additional factors which are casting doubt over our current understanding of what actually constitutes a state.

The image of India in the Western world has altered radically over the past decade. Thanks to the cumulative effects of globalization, rapid and successful introduction of new technologies of communication and nuclearization, the picture of India has changed from that of a backward country with mass poverty to one with global ambitions.

No doubt, immediately after independence in 1947 India faced the challenge of developing the infrastructure required to sustain modern life. Barring some exceptions such as a network of railways, everything had to be built afresh. This is the challenge that independent India undertook as one of the first, important countries to emerge into the community of nations after the Second World War. During those early decades, with Jawaharlal Nehru at the helm of affairs, India engaged in providing leadership to the movement of non-aligned countries,

carefully looking for a middle path between West and East. At home, this was reinforced by a model based on the mixed economy that sought to combine the productivity of the market with the compassion of the welfare state. A structure of democratic planning sought to combine these two contradictory principles into a coherent design of development.

The profile of foreign policy alluded to above kept its course as long as it corresponded to the division of the political world, roughly speaking, into an Eastern and Western Bloc. But after the demise of the Soviet Union in 1991, it became necessary for India to formulate a new foreign policy to cope with the requirements of a changing international context that is differently described by scholars and politicians alike, as either multipolar or as one predominantly influenced by the United States of America.

This radically new environment demanded a major course correction on the part of India's foreign policy. The definition of the relationship between India and the United States had to be the pivotal point of the new orientation that Indian foreign policy has to undergo. There are three main reasons for this.

## A PARADIGM SHIFT

The apparent monopoly of the federal states as unitary sovereigns' in the international arena seems to have witnessed considerable erosion recently. Combining and connecting the State centric foreign policy paradigm with the insights of comparative politics in general and with those of comparative federation in particular gives the image that of the nation states as "multivocal actors, polyoliths rather than monoliths, audible beyond their sovereign boundaries as choirs of a sort, often polyphonic, and sometime cacophonous"<sup>2</sup>. Federating units have come to play gradually more significant role on the International scene and concepts like "constituent diplomacy" penetration of State boundaries." Transovertain linkages" and perforated sovereignties" have come to be used widely in this context.

Five major reasons for the contemporary assertion of the constituent units on the international scene can be identified.

(A) The expansion of the field of foreign policy from the traditional concerns with status and defence into economic, social, cultural and environmental issues/areas.

(B) the imperatives of contemporary global and regional inter-dependence.

(C) the inevitable consequences of the contemporary tutelary welfare roles of all government.

(D) the awareness of vulnerability to distance events and on the part of regional clients, the corresponding increase of knowledge about and skill to handle,

external threats to or opportunities for their territorial interests.

(E) Emulative "me-tooism" facilitated and accelerated by modern communications linking up the far corners of our planet.

It is argued that in the Indian context, that being the parliamentary federal form that gives the maximum scope for the diverse parts of the country to play a role in its foreign policy as well as other policies. There is no justifiable need as such to experiment with the conferment of diplomatic roles upon its constituents. "In three different ways this form protects and promotes the role of the constituents, particularly in a pluralistic society, without in any way impairing the sovereignty of the federation. First by being democratic: second by being parliamentary and the third by being federal.

However, the working of the Indian Parliamentary federal polity for more than five decades since independence did not corroborate this paper. As a matter of fact, the Indian constitution gives the federal government complete jurisdiction over issues of foreign and defence policy. The Indian parliament for instance has exclusive powers to legislate on foreign affairs and security of India, all matters concerning the Indian union's foreign relations; diplomatic, consular and trade representation, the Union participation in international conference, war and peace; citizenship, foreign loans and trade & commerce with foreign countries etc.

The Indian constitution confers on the Union of India legislative and executive sovereignty. In practice also the federal government has exercised control over India's external relations since the constitution came into force in 1950. However, it is also fact that the federal government of India can hardly afford to ignore the special interests and wishes of the constituent states. It is necessary for maintaining national integrity as well for effective implementation of foreign policy.

There are instances of foreign policy issues in which some of the states in India have shown special interests. These include the proposal concerning transfer of a part of the Berubari Union No 12 to Pakistan in 1958, transfer of 900 sq.km of the Rann of Kutch to Pakistan in 1958, the liberation of Goa (1961), the liberation of Bangla Desh (1971) & Status of Tamils in Sri Lanka.

## CONCEPT OF FOREIGN POLICY

While one often talks about foreign policy in any discussion in International Relations, it is difficult to precisely tie down the connotations of the words foreign policy. Various scholars define it variously. Hugh Gibson, for example, defines foreign policy as:

a well rounded, comprehensive plan, based on knowledge and experience, for conducting the

business of government with the rest of the world. It is aimed at promoting and protecting the interests of the nation. This calls for a clear understanding of what those interests are and how far we can hope to go with the means at disposals. Anything less than this falls short of being a national foreign policy.

George Modelski, on the other hand, views foreign policy as a "system of activities evolved by communities for changing the behavior of other states and for adjusting their on activities to the international environment.

F.S. North edge considers foreign policy to be "the use of political influence in order to induce other states to exercise their law-making power in a manner desired by the state concerned; it is an interaction between forces originating outside the wuntay's bordm and those working within them.'\* The term 'foreign policy' of a nation is used, according to the research staff of the *Brookings Institution*, to refer to "the complex and dynamic political come that a nation follows in relation to other state. The foreign policy of a nation is more than the sum total of its foreign policies (thought-out courses of action for achieving objectives), for it also includes its commitments, the current forms of its interest and objectives, and the principles of right conduct that it professes." According to Joseph Frankel, foreign policy "consists of decisions and actions which involve to some appreciable extent relations between one state and the others."

Thus consensus, hitherto, eludes the analysts and experts as to what precisely is meant by foreign policy. While some stress *ideas* (the plan of action) prior to *action* (Gibson), others emphasize the action, i.e., policy as executed (Modelski), and still others highlight both ideas and action (Frankel), In order to avoid such a loose use of the term, it seems desirable to look into foreign policy in sequence form. Three conceptions in the sequence of foreign policy behavior through which foreign policy elites link their states to events and situations abroad are: (a) their general attitudes, conceptions and orientations; (b) content, that is, concrete plans and commitments regarding foreign policy; and (c) implementation of those plans. In this sense, foreign policy represents the external aspect of a country's public policy.' However, the essential idea underlying all of them is that foreign policy is concerned with the behavior of a state towards other states. This behavior does not always mean to be friendly. Sometimes the states may be at loggerheads as well.

The aforesaid definitions also do not clarify as to whose plans or actions constitute foreign policy. While Gibson ignores the question altogether, Modelski indicates some vague entities such as communities. For Frankel, it seems to be the state. It is due to their neglect in identifying the foreign policy actors/elites that these writers tend to ignore the significant role of

"prime interests" in the making of foreign policy.'0 It may so happen that the foreign policy elites may tailor the foreign policy of that country to suit the chances of their own survival. Thus in a given situation, the interest of the ruling regime may converge or clash with the overall national interest of a country." In addition to it, miters like Frankel erroneously perceive foreign policy merely in terms of a country's behavior towards other states. In fact, foreign policy also refer to a country's dealing with international institutions such as the UN or the World Bank etc.

Foreign policy means a country's dealings with other countries and international agencies in order to promote its national interests. But the task of promoting national interest on the international arena is very complex because of the multiple attitudes and interactions. Not only that, a state doe not have any sure means of controlling the behaviour of other sovereign states. Also, we live in a changing world when new developments create fresh fmign policy challenges." The world after Soviet Union's disintegration is quite different from the world before that.

## CONCEPT OF FEDERAL STRUCTURES

Federalism, as Dicey put it, is a political contrivance intended to reconcile national unity with the maintenance of states' rights. In the words of Hamilton, it is 'an association of states that forms a new one.' As a particular type of constitutional government, federalism is a "composition system of government" characterized by a contractual and territorial anchored dynamic balance of power.

Federal principles are concerned with the combination of self-rule and shared rule, In the broadest sense, federalism involves the linking of individuals, groups and politics in lasting but limited union in such a way as to provide for the energetic pursuit of common ends while maintaining the respective integrities of all parties. As a political principle, federalism has to do with the constitutional diffusion of power SO that the constituting elements in a federal arrangement share in the process of common policy making and administration by right, while the activities of the common government arc conducted in such a way as to maintain their respective integrities.

In a variety of ways, federalism is now widely acknowledged to be the best founding principle of polities around the world. Its advantages are manifold:

Firstly, federalism is conceived as a means to protect liberty by the vertical separation of powers and thus understood as a restraint on governmental

jurisdiction. Secondly, federal systems additional levels for democratic input and civic participation.

**Political and Administrative Structures :** We preface a discussion of the institutions and mechanisms that govern fiscal federal arrangements in India, particularly center-state transfers and loans, with an overview of India's broader federal structure. India is a constitutional democracy, comprised of 28 states, and seven "Union Territories". Of the seven, two Union Territories (Delhi and Pondicherry) have their own elected legislatures whereas the rest are governed directly by appointees of the center. All the states have elected legislatures, with Chief Ministers in the executive role. Each state also has a Governor, nominally appointed by the President, but effectively an agent of the Prime Minister. The Governor normally has only a minor political role at the state level. However, Governors have, in the past, used special constitutional provisions (notably Article 356) to dismiss elected legislatures, though this practice has been reined in more recently. The constitution also assigns certain statutory powers to the states: the exact nature of this assignment, and how it has played out in practice, determine the extent of centralization within the federation.

To the extent that the essence of federalism is based on representative democratic politics at the sub national level, the role of political parties in the interactions between central and state level politics is a crucial aspect of federal structures. To illustrate, consider the extreme case where government powers are notionally decentralized, with all residuary powers assigned to the state level, but the national and all state governments are controlled by a single, rigidly hierarchical political party. Here the outcome will effectively be the same as in a centralized, unitary system, since decisions are made at the top of the political hierarchy.

The next level of governance that embodies aspects of federal structures is the bureaucracy. Just as elected politicians ideally act as agents of their constituents, bureaucrats in turn act as the agents of elected officials. Bureaucrats, as career employees, are partly insulated from political whims and pressures, but ultimately in a democracy must be subordinate to elected representatives. Therefore a unitary, hierarchical bureaucracy cannot by itself negate a federal political structure in the same way that a powerful, centralized, national political party might. However, a centralized bureaucracy can act as the agent of such a political party, against the requirements of a federal system. There are elements of such action in the workings of Indian bureaucracy.

The Indian bureaucracy is provided constitutional recognition. The central and state level tiers of the "public services" are given shape through the provisions of Part XIV of the Constitution. Since each political layer of government requires its own administrative apparatus, any bureaucracy in a

federation will have a federal character. In particular, state governments must be able to appoint and dismiss<sup>14</sup> bureaucrats to implement state-level policies. This is certainly the case in India, where there is a central bureaucracy as well as an independent bureaucracy in each state.

**Assignments and Transfers :** Assignments of authority include important non-fiscal dimensions, as we have briefly discussed in the context of politics, administration and law. However, control over how public resources are raised and spent represents a crucial aspect of any federal system. We describe the tax and expenditure assignments that form the basis of India's fiscal federal institutions, and consider the system of center-state transfers that results from, and complements the assignment of fiscal authorities in India. We also consider the nature of intergovernmental loans, and their importance as implicit transfers.

## FEDERALISM AND THE INDIAN CONSTITUTION

The framing of the Indian Constitution and enunciation of the principle of federalism would have weighed heavily on the conscious and subconscious minds of the members of the Constituent Assembly (CA), formed in December 1946.<sup>2</sup> Writing of the Constitution against the backdrop of the partition of the country, the accompanying communal frenzy and integration of 565-odd princely states with erstwhile British provinces into one functioning unit, would have made the task even more complex.

The Constituent Assembly, after prolonged debates, settled for "unitary" federalism in the backdrop of the challenges confronting the emerging or just emerged independent nation. Even though the framers of the Constitution were divided on the issue of federalism as indicated by the prolonged and passionate debates that took place in the Constituent Assembly, there was a general consensus towards building India as a nation and a comprehensive understanding of the nation as a whole; they did not approach the issue of constitution writing visualizing India in parts. Further, historical experiences, like the rise and fall of the Mauryan, Gupta, Mughal and other empires, could also have built the argument in favour of "unitary federalism".

Before the formation of the Constituent Assembly, the Cabinet Mission Plan had "outlined a central government with very limited powers to be confined to foreign affairs, defense and communications" However, the Indian National Congress and the Muslim League could not reach an agreement on the Plan. Further, the first report by the Constituent Assembly also envisioned a relatively weak Centre as advocated by the Cripps and Cabinet Mission Plans. "The passing of the India Independence Act and the eventual Partition of India led the Constituent

Assembly to adopt a more unitary version of federalism”.

The federal system brought the provinces together and placed them all on the same legal footing. “Use of the term 'union' indicated that Indian federalism did not come into existence due to some mutual agreement or compact among the constituent units. These units were also not given freedom to secede from the union. There were no provisions of safeguards for the protection of states' rights because the states were not sovereign entities at the time of the formation of the Union”.

## CONCLUSION

Our paper has sought to examine the interaction of India's federal system and its ongoing economic reforms in the context of globalization. In our analysis, we have explicitly recognized that the national government has sub national governments below it, and that all these layers of government simultaneously interact with foreign governments and corporations in a global economy. We have examined real and financial sector reforms, including assignments of regulatory powers, infrastructure reform and development, and privatization. Despite the incomplete nature of financial reform, we have presented some evidence this paper that liberalization is making a difference, with foreign and domestic capital together driving growth, and leading to some of the differential growth across states that has been observed in the last decade. However, we have also noted the problems created by government fiscal deficits and government control of the financial sector.

The benefit of an approach that explicitly takes account of India's federal institutions is that we have been able to identify some areas in which the states may be able to achieve positive reforms acting independently, and other areas where coordination between the central and the state governments in designing and implementing reform policies may be more appropriate. Furthermore, we have highlighted the challenges of greater openness to the world economy, and of perceptions of growing regional disparities. The former requires urgent attention to the financial position of the government in particular, as well as of the financial sector as a whole. The latter requires more efficient mechanisms for managing internal inequities. Together, they suggest the avenues of further reform that we have outlined in the paper.

Thus the issue concerning the relationship between federalism and foreign policy can be approached at two level. At a broader level, it concerns the operation of federal political systems. As the boundaries between domestic and international policy arenas become hazier, understanding federalism increasingly

demands that the international environment in which a given system functions be taken into account.

The traditional concern with relationship between central government and the constituent units of a federation now has to be expanded to embrace the international environment in which both levels of government operate.

One has to accept the fact that the Indian polity is more federated today than it was during the dominance of one party system. The politics of current federalism with a little scope that it is going to change in favor of a centralized federalism of early years, demands that the interest of federating units (state) ruled by different state/regional parties be accommodated within the broad consultation framework in formulating and implementing the foreign policy and international treaties of India for better results in time to come.

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