

A Study of Constitutional and Legal Aspects of Fiscal Federalism in India

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Abstract - The legal and political structures that govern interactions within a society and between that society and others are collectively referred to as "government." These organizations are vested with the responsibility of determining the best course of action for the preservation of social order and the attainment of predetermined societal goals. The degree to which a government is unconstrained and unchecked determines how much power it has over its own populace. The human and material means by which a state can back its foreign policy determines the extent to which it can exert influence overseas. There has always been a wide spectrum of governmental structures, from the first ad hoc groups like clans and tribes to the modern global superpowers and international governments. Until quite recently, certain governments were powerful enough to build empires, over which they exerted control not just over their own people but also over those of other states, despite differences in geography, culture, and language. Before India won its independence from British imperialism, it was a colony of the United Kingdom. The modern Indian administration owes much to the influence of the British Empire. India's founding document, the Constitution of India, has its origins in the Government of India Act of 1935.

Keywords - Constitutional And Legal Aspects, Fiscal Federalism, India, political institutions

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INTRODUCTION

Whether or not India's constitution is truly federal or unitary in character has been a point of contention. However, the Indian constitution combines elements of both a federal and a unitary structure. However, in order to fully grasp this conclusion, it is necessary to first understand the differences between a federal and a unitary constitution. Explain what, if anything, in India's constitution makes it either a federal or a unitary government. For some in the Constituent Assembly, the question of whether or not the Indian Constitution qualified as a federal constitution was a major source of anxiety. To respond to this topic, it is necessary to first define federalism and examine the defining characteristics of a federal state.

FEDERAL CONSTITUTION

Power and responsibility are divided neatly in half between the federal and state levels of government in a federal system. Within a clearly delineated framework, the central government and the governments of the units coordinate and simultaneously act independently.

In many ways, India's federal system diverges sharply from other examples of the concept. There are defining characteristics of the Indian federal structure, such as the existence of sub- and super-federal structures. Unlike other aspects of federalism, the powers and duties of the many territorial and non-

territorial bodies under its remit are determined by a central authority. Relations between central states and the allocation of political power are largely under the direction of this centralized authority. This goes directly against the core principles of the competing federalist frameworks. In fact, in recent years we have been able to observe that the centralized power structure has been increasingly dominant, in conjunction with the growing federal deals by the constituent state governments or other sub-structures of local political constituencies. As a result of the redistribution of legislative authority, the states are weaker and the union is stronger. The Supreme Court's stance on the Federal Constitution is also ambivalent. When the government and a person go to court, the court almost always sides with the government, giving the government's legislative power (whether central or state) a broad meaning and upholding the law. However, when the federal government and a state are at odds, the court has always favored the federal government and downplayed the federal portions of the constitution.

FEDERAL FEATURES OF INDIAN CONSTITUTION

A. Supremacy of the Constitution: The Indian constitution includes this provision as a federal element. Since the Constitution is supreme, both the federal and state governments must adhere to the guidelines it establishes. Also, the Constitution is the

source of authority for both the Union Government and the Central Government.

B. Written Constitution: A written constitution is the most crucial aspect of any federal government. The Indian Constitution is the most complex written constitution in existence.

C. Rigid Constitution: One of the defining characteristics of a federal constitution is rigidity, and India's constitution is no exception. In a federal government, altering the Constitution follows a strict protocol. The Indian Constitution stipulates that certain changes need to be approved by a higher threshold of voters. Such an amendment has to be passed by majority of total members of each house of the Parliament as well as by two-thirds majority of the members present and voting there in. However, in addition to this process, some revisions must be accepted by at least 50% of the states. The President then signs the amended Constitution into law following this process. The method is vital in India since it allows for the adjustment of crucial amendments. For this reason, the description of the Indian Constitution as "strict" is entirely accurate.

D. Division of Powers: When it comes to enacting laws, the Indian constitution sets fairly specific boundaries between the federal government and individual states. Our constitution divides powers among three groups: the federal government, individual states, and a "Concurrent List." There are ninety-seven topics, including defense, railroads, postal service, and telecommunications, that make up the Union List. There are topics of state-specific relevance, including public health, law enforcement, and others. Including Electricity, Trade Union, Economic and social planning, etc., the Concurrent List comprises topics that are of equal importance to the Union and the State.

E. Supremacy and Independence of the Judiciary: The independence of the judiciary to interpret and uphold the Constitution is essential to any federal government, and the supremacy of the judiciary is a key characteristic of every federal constitution. It is the original jurisdiction of the Indian Supreme Court to hear cases involving the Union and the States. If any statute is found to be in violation of any clause in the Constitution, it might be declared unconstitutional by this body.

FISCAL FEDERALISM

Different tiers of government in a federation each take on specific responsibilities. There should be sufficient provision for sources of money and its efficient management since each government is responsible for its own domain of activity. There is a serious issue with federal finances since government duties are not coordinated with the revenue allotted to carry them out. However well-intentioned a scheme may be or how perfectly it may harmony with the abstract ideals

of Justice, if the tax does not work operationally, it is bound to failure, as prof. Seligman notes in his Essays in Taxation. Depending on the type of federal system in place, the federal government, the states, and the local governments share the financial burden. Federal finance, thus, entails the allocation and coordination of various forms of revenue and expenditure across the federal, state, and local levels of government. The term "fiscal federalism" describes this type of decentralized, multi-tiered monetary structure. According to Dr. R. N. Bhargava, "federal finance" means the money flow between the federal government and the individual states. However, there is still debate over what federal principles are and how they should be defined. Independence from federal control and budgetary responsibility are cornerstones of fiscal federalism. This means that both the federal and state levels of government need to be self-sufficient in their own right. The funding streams of every government ought to be autonomous. Each level of government needs unrestricted taxing, spending, and borrowing authority to carry out its duties. Professor Adarkar makes the astute observation that fiscal independence and discretion in spending should go hand in hand. Putting more money into the hands of the federal government makes sense in terms of the national interest as a whole. But it's not good for federal finance if states are overly reliant on the federal government for funding.

Intergovernmental fiscal issues have their origins in the concept of federalism, which allows for two or more independent governments to coexist under the same political system. It's not easy to figure out what tier of government should handle certain responsibilities based on public opinion. The revenue sources required to pay these expenditure functions also need to be distributed across the different levels of government in a predetermined fashion. It's not uncommon for governments in a federation to have vastly different revenue streams and functional expenditure commitments. As a result, certain governments may be better able to achieve their spending commitments from internal resources than others. This represents some kind of disparity between government receipts and outlays, and between governments at various levels.

GOODS AND SERVICES TAX (GST) FOR STRENGTHENING COOPERATIVE FEDERALISM

The CENTRAL GOODS AND SERVICES TAX ACT, 2017 is widely regarded as the most consequential economic reforms in the country since the economy was liberalized in 1991. India recently began enforcing a "National Value Added Tax" (also known as a "Destination Based Tax"), which is abbreviated as GST. This new law unifies the economy of the United States into a single marketplace, simplifying trade and facilitating economic growth. Goods and Services Tax is an example of Cooperative Federalism, which can be thought of as "a pool of sovereignty" in which the States and the Centre have

chosen to swim together for the greater interest of the people. Both the federal government and individual states in India gave up some of their taxing authority in order to create a unified market for the entire country. India's Goods and Services Tax was a watershed moment in the country's development as a major indirect tax reform was put into effect. The Constitution of India recognizes the distribution of taxation authority between the central government and the individual states. There would be significant benefits from consolidating numerous taxes (both federal and state) into a single tax. Constitutional changes were needed to allow for the imposition and collection of Goods and Services Tax by both the federal government and individual states in India, as required by the new GST regime. Due to the states' and the federal governments shared authority for GST, an institutional system is needed to facilitate consensus on the tax's framework and administration. Eliminating the possibility of double taxation, sometimes known as the "cascading effect of taxation," is a significant advantage of the change. A unified national market is now feasible thanks to this proposal. After the adoption of GST, it is predicted that Indian products will be more competitive both in home and foreign markets.

The CENTRAL GOODS AND SERVICES TAX ACT, 2017 has been praised as one of the most comprehensive attempts to date to overhaul India's indirect tax system. People are praising the GST because it brings the "efficient" one-country-one-tax philosophy into practice. No convincing evidence supports the claims that it would increase GDP growth by 1-2 percent or more. The assumption here is that optimal tax rates and improved compliance will boost tax revenue and governmental spending, which will in turn stimulate economic expansion. All of this suggests that the bill's opponents' arguments are purely political rather than rational. The Goods and Services Tax is only a modified Value Added Tax (VAT) designed to function within the intricacies of a federal government. In 1986, with the introduction of the modified value added tax (MODVAT), India began experimenting with this form of taxing. When VAT was introduced, double taxation was eliminated by eliminating the practice of charging excise tax on both inputs and outputs. Originally, value-added taxes (VAT) were only levied at the state and local levels, and they were mixed with excise duties and sales taxes. State governments quickly followed suit and implemented VAT systems for a wider range of goods, despite the fact that they lack the legal authority to levy taxes on services. Finally, in 2007, the government announced that a comprehensive, nationwide VAT-based system in the form of Goods and Service Tax, which includes manufacturing and services, would be implemented by 2010. However, success has eluded us so far. The 122nd Amendment Bill has cleared the way for a "modified" form of a comprehensive VAT system to be implemented.

Some of the purported benefits of the Goods and Service Tax are derivative of those typically attributed to a value-added tax system. The absence of the domino effect that occurs when excise duties and sales taxes are combined ranks highest among these advantages. Products made with inputs that were subject to these taxes at the point of purchase will have a higher value than those that were not. If a sales tax is then levied on the value of the intermediate product, it will contain a portion that is a tax on a value (of the input) that has already been taxed at an earlier step in the production process. By switching to a value-added tax system, we can put an end to double taxation and the tax on taxes.

PARA DIPLOMACY FOR STRENGTHENING STATES ECONOMY AFTER GLOBALISATION

There is a cap on the total amount of money the Union can spend under a federal government. As the pace of globalization increases, no nation can afford to sit on its laurels and expect help from above. As a means of national advancement, they must take advantage of the globalized market economy. In the context of contemporary international politics, our nation recognizes the importance of federalism and regionalism in advancing local interests and identity. The practice of paradiplomacy carried out by governments at the subnational level, presents the concept of decentralization of political authority to elevate regional governments to major roles in the international arena. There has been some discussion of how global interdependence affects subnational units, but the direct consequences have not been completely spelled out. All available evidence points to interdependence hastening states' roles in the global economy, essentially replicating a trend that first emerged at the national level. India's states are now big players in the economy and more vulnerable than ever before to the forces of globalization and competition. There is a lot of rivalry in this field, and the economies of countries whose constituent governments opt out could suffer as a result. In order to safeguard their interests overseas, Indian states have amassed resources and embraced international policies that were formerly the purview of the central government. Due to the effects of globalization, regional governments can no longer carry out their constitutional duties in the fields of education, sanitation, economic development, transportation, the environment, and others without engaging with the rest of the world. Governmental programs in these areas can only be carried out with the help of foreign investment, research, and citizens. Paradiplomacy, on the other hand, gives local governments and states the tools they need to handle the international aspects of these problems on their own. India is showing some of the earliest stages of economic paradiplomacy. Cross-border commerce and investment meetings attract global attention to states like Gujarat and Punjab. Paradiplomacy is more than

simply a passing fad in international politics; it is gaining traction because it provides States with an opportunity to further their interests through direct investments, outsourcing of business, and cultural interchange. The time has come to take local governments seriously as economic actors and to include their perspectives in global governance. Therefore, the federalization of foreign policy is an extremely consequential change for India. The field of marketing and recruiting investment could be where paradiplomacy is first implemented in India. While the federal government would be responsible for formulating FDI policy, some tax caps, and environmental advantages, the states would have the ability to communicate with and appeal to foreign investors through trade mission offices, consular officials, delegations, and other forums. In addition to promoting healthy levels of competition for investment, this may also lead to allocated efficiency, in which governments speed up the process of luring investment and technical know-how into sectors in which they have a comparative advantage. The goal of this coordinating body would be to keep tabs on and manage state-led projects that could have far-reaching consequences for the country.

CONCLUSION

Governments have been divided into unitary and federal by political scientists based on the structure of the relationship between the central and subnational levels of power. In a unitary system, all power is concentrated at the federal level, and the state and local governments take their mandates directly from the federal government. In contrast, a federal government is one in which the constitution establishes a separation of powers between the national government and the regional governments, with each body exercising its authority only within its own territory. Not every country has to have a federal polity. There are preconditions for a federation's establishment that must be met before it may come into being. Before anything else can happen in a marriage, there needs to be a deep need for it on both parts. The desire to unite under a single, autonomous authority for some purposes is the driving force behind any federation. Second, the populace as a whole needs to believe that there is power in numbers, and that this power can be realized through factors such as political cohesion, geographical proximity, institutional similarity, a lack of pronounced inequality, the presence of capable politicians, coordination between the federal government and the individual states, and a reasonable trend towards centralization. A written and rigid constitution, separation of powers, two levels of government, constitutional supremacy, an independent judiciary, and similar qualities are also essential for any federal system.

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