

INDIAN FEDERALISM – PROBLEMS AND PROSPECTS

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Abstract of the paper

The article examines the recent trends and issues in Indian federalism. The federal system has become transformedly in the last seven decades—from being dismissed as a full-fledged federal system to a widely acclaimed federal system in the world. Simply put, Indian federalism has become more meaningful and functional postliberalisation. The article has examined this turnaround. From a subordinate position till the late 1980s, states rose to occupy a strategic position in India’s move from a command economy to a market economy. No wonder, therefore, the Centre became more interested in involving states in even forbidden area such as foreign policy matters. Divisive politics in several states today is being replaced by developmental politics. States are not only competing but also learning from each other. States are being seen by the Centre as drivers of India’s growth. This research paper to be discussed “**Modern Indian Federalism – Problems and Prospects in current Trends**”.

Keywords : *Competitive federalism, states’ paradiplomacy, common market, laboratory federalism, resource federalism, Modern Democracy.*

Statement of the Problem

“Federalism safeguards individual liberties by dispersing power and preventing the concentration of authority”

Thomas Jefferson

The adoption of market economy heralded a new era in which states came to occupy a strategic position in India’s market-led economy. The Centre has even gone to the extent of encouraging the states to negotiate loans/foreign direct investments (FDIs) with overseas banks/institutions directly since the 1990s. With central grants in aid no longer being seen as the only source for financing their expenditure, states have begun competing with each other for FDIs. And with the Centre not being seen as an obstacle but as a facilitator, competition among states to attract FDIs appears to have become symmetrical. States’ capacity to attract more investment depends on the forward-looking and market-friendly approach of their leaders who make several trips abroad, often along with their state-based business delegations to negotiate FDIs. Subnational governments across the borders have begun establishing trade offices in

India's developed states. Visits of states' delegations led by their governors/premiers to foreign states' capitals in India have become a regular affair. State leaders, cutting across party lines, have increasingly realised that divisive politics cannot ensure them re-election; hence, they have focused on developmental politics and governance. Informal interstate interactions have increased and successful schemes/ programmes started by one state are being emulated by other states, thus making the Indian federal system a sort of laboratory to some extent. Even India's so-called *Bimaru* states and marginalised northeastern region are undertaking reforms in order to catch up with other states. New reform measures such as the introduction of Goods and Services Tax (GST) have moved India closer to a common national market. These recent developments thus show a trend towards a more functional federalism in India.

States' Paradiplomacy

With the states' engagement in paradiplomacy, foreign economic policy no longer remained a central preserve. Economic globalisation and regionalisation have made it possible for states of India to interact with their respective investors in foreign countries in a de facto sense if not in a de jure sense. States' high-profile investment-promotion activities abroad are testimony to the fact. Such activities have indeed helped some states in their economic development and reduced their economic dependency on the Centre. Regionalisation of political parties and coalition rule at the Centre do not adequately explain subnational paradiplomacy. Earlier in the pre-liberalisation period there existed two routes, that is, the partisan route and bureaucratic route to engage in paradiplomatic activities. With the Centre donning the role of the facilitator of states' transnational economic activities, these channels have become ineffective now. This has led to de jure symmetrical horizontal competition among states to pursue paradiplomatic initiatives to attract FDI. In this, states' capacity to engage in economic paradiplomacy depends more on subnational business linkages, promotional strategies, public relations exercises, creating a pro-business environment and so on.

States so far have adopted a host of instruments which fall under paradiplomacy. These include putting pressure on the central government to sign or not to sign or have a say in an international treaty affecting their region/interest, trade negotiation with external bodies, negotiating loans directly with the World Bank, showcasing states' achievements abroad, providing incentives to attract foreign investments, participating in international forums such as World Economic Forum, visiting abroad for trade prospects, hosting foreign diplomats, foreign ministers and even heads of states and organising an annual meet, conference and seminar and wooing NRIs using their diasporas, setting up sister cities and twin cities and border *haats*, among others. States' paradiplomacy in this regard can play a significant role in tourism which is one of the biggest industries in the world with the capacity to employ 200 million people worldwide. Projection of tourist inflow around the world will be in the range of 1.6 billion, spending US\$5 billion a day by 2020. It goes without saying that India has immense tourism potential that has not been exploited so far. FDI-laggard states such as Bihar and the northeastern region are engaged in a paradiplomatic pursuit to attract FDI and realise their tourism potential. Public

relations exercises have become an important driving force for attracting foreign FDIs. Media has become an important tool to showcase the achievements of states. Chief ministers use media to advertise their industrial policies and achievements and also compare themselves with their competitor states. There is much greater emphasis on conferences, meetings, exhibitions, road shows and press conferences. States make presentations at conferences, using the latest technology, video-conferencing and computers. Private advertisement agencies are given responsibilities by states to prepare the promotional literature for the purpose of selling the state. The struggle over perception and image building has become intense. After the Enron controversy, Maharashtra spent a considerable amount of money on a public relations exercise in partnership with the Indian Engineering Trade Fair in New Delhi in a bid to promote itself as a good investment destination.

Increasingly, there is a realisation among foreign investors that the states in India have come to occupy an independent role in the making of foreign economic policies suited to their own needs and that the old method of approaching the central government to pursue trade relations at the state level cannot be useful. Not surprisingly, therefore, various state capitals have/are witnessed/witnessing the opening of a number of foreign trade offices. There was an interesting anecdote about it in a newspaper. Taiwan has a trade office in New Delhi rather than a full-fledged embassy. Some years ago it had sought permission from Ministry of External Affairs (MEA) to open a subsidiary office or consulate in Chennai since Taiwanese companies have substantial investments in Tamil Nadu. Worried about the reaction of Beijing, MEA hesitated. Finally Taiwanese asked the then DMK government in Chennai to use its political clout with the UPA. Subnational paradiplomacy can take place both vertically and horizontally. Indian states are new to this (horizontal) inter-subnational cross-border trade. Visits of foreign states' delegations led by their governors/premiers to states' capitals in India have become a regular affair in recent times. States in India are, however, not allowed to open trade offices abroad. A number of countries in the world including the USA, Canada, Brazil, Australia, China, Japan and so on have taken full advantage of states' paradiplomacy in their efforts to strengthen ties with other countries. The decision of the Gujarat government in 2014 to set up international desks independently in foreign countries like the USA, China and Japan for facilitating investment in the state by overseas investors is perhaps the first attempt by any state to start such permanent facilities overseas to directly attract FDI. Gujarat government officials used to travel to various foreign countries ahead of Vibrant Gujarat Global Investors Summits, but with the setting up of international desks in those countries, the process of attracting FDIs in the state became a continuous one throughout the year. Prime Minister Modi, like his predecessor Manmohan Singh, encourages states in their paradiplomatic initiatives. In April 2015, Andhra Pradesh Chief Minister Chandrababu Naidu was requested by the Union government to lead a high-level delegation to China on its behalf. Ministry of External Affairs (MEA) has created a states division for outreach to states. States division, however, has managed to bring about a great deal of enthusiasm in engaging and partnering with states to reach out to foreign countries by promoting trade and investment.

Nevertheless, paradiplomacy presents challenges too. It is often argued that states lack the skills to exercise responsible foreign policy, especially in the political sphere, given the fact that states do not have trained diplomats. Then there are other concerns in the sense that most of India's neighbours are hostile neighbours. Thus, states' paradiplomacy is likely to pose a threat to the country's sovereignty and integrity from forces of terrorism, insurgency and separatism often supported by some of India's hostile neighbours. How to reconcile the demands of a globalising economy that relies on greater opening with security concerns is a policy dilemma? We face this challenge today. States' paradiplomacy, especially in the political sphere, can affect the national foreign policy negatively. On both the Teesta river treaty and US-led resolution on the UN General Assembly, national interest was subordinated to regional interest and the Centre abdicated its national responsibility by keeping its coalition government partner happy. 'India is likely to pay a very heavy price if it makes foreign policy a football game where "regionalists" begin to dictate and decide the directions of policy'. The Centre can do a great disservice to the nation by allowing it to be dominated by parochial regional interests. Thus, states' political paradiplomacy has evoked negative reactions. Paradiplomatic activities motivated by nationalism can inflict great harm to our national interest. As some policy analysts have stated, 'There are regions and subnationalities in the country that have not yet fully accepted the unity of the country. Under such circumstances, it might be rash to grant constituent units such freedoms'.

A Common Market

One of the major advantages of federalism is that 'it offers to the constituents to operate in a large market'. The economic benefits from competition and a free flow of goods and factors of production over a large area are so enticing that many countries, in spite of their reluctance to surrender their sovereignty, have come forward to create a common market for them, the European Union (EU) being the classic case in point. The Punchhi Commission on Centre-states relations recommended the creation of a common market (Government of India, 2010, p. 98). Our founding fathers of the constitution have recognised the great potential of a large common market and hence devoted one full part of the constitution (Part XIII) to trade and commerce within the country with a clear mandate in its opening article (Article 301): 'trade, commerce and intercourse throughout the territory of India shall be free'. Bagchi (2004) has argued: Distrustful of the market, policy makers who guided the destiny of India after independence proceeded to impose restrictions on trade and commerce in the 'country through regulations in various forms, invoking 'public Interest'. The Centre has recently been successful in introduction of proposed Goods and Services Tax (GST) aimed at removing restrictions on trade and commerce across India.

Kapur (2014) has stated that 'impact of GST can be social and political also'. He argues: Importantly over the long time its most beneficial impact will be to

leverage the large common market that is India. The fragmented market leads to fragmented identities. Therefore the impact of GST can be as much social and political as economic. (*ibid*)

He further argued

...[T]hough the Indian Constitution guarantees free mobility across state borders, numerous Indian states have put in residential and language requirements in matters of employment and admission to educational institutions. Inter-state migration should be seen as a tool of national integration and not something to be bemoaned, and migrants' safety and rights need much stronger safeguards.

GST that finally came into effect in the states in 2017 can be considered as a major milestone in Centre–state relations and a step towards a gradual move to forge a common market.

Laboratory Federalism

It has long been argued that federalism creates a marketplace for public policy, in which the best policies are replicated across units (Oates, 1999, p. 1132). PC, Licence/Permit Raj and CSSs also known as discretionary transfers, among others, have been great obstacles in laboratory federalism in India. Despite the recognition of the failure of existing programmes on part of the Centre, a half- hearted attempt was made to curtail them. Unless states are not given more flexibility in designing their programmes they cannot serve as 'laboratories'. There are, in fact, a number of important and intriguing examples of policies whose advent was at the state level and that later became fixtures of central policy. Successful policies such as mid-day meals in Tamil Nadu, rural employment guarantees in Maharashtra, the Right to Information acts in Rajasthan, Delhi and elsewhere were all successful state experiments which later received nation-wide acceptance. We have Chhattisgarh linking smart cards to the public distribution system, Andhra Pradesh evaluating the impact of contract teachers on primary education, Gujarat reforming electricity by linking higher user fees to guaranteed service provision, water conservation programmes in semi-arid Saurashtra, Gujarat's State Wide Attention on Grievances by Application of Technology programme for effective redressal of people's grievances, Indiramma housing schemes and Arogyashree, a health insurance scheme in Andhra Pradesh, the anti-poverty programme Kudumbashree in Kerala, Gujarat's decision to set up international desks in foreign countries to seek FDIs and so on. During their interaction at the World Economic Forum India Conference in Mumbai in November 2011, chief ministers of Maharashtra, Kerala and Madhya Pradesh also backed the idea of institutionalising an innovation centre to help states share best practices.

Environmental and Resource Federalism

Kelkar (2010) has discussed a host of new emerging issues and challenges in the realm of fiscal federalism. Given the spurt in discovery of offshore reserves of

hydrocarbons and given the huge rents from such vast resources, which so far have remained under the preserve of the Centre, they now need to be shared. How to share these rents has become a major issue of fiscal federalism today. Constitutional amendments are required to achieve this. Apart from resource federalism, green federalism is another big challenge for our fiscal federalism. Our existing intergovernmental transfer system does not adequately recognise environmental externalities. For example, states with large forests are seeking compensation for the environmental services they provide to the entire federation. Kelkar (2010) further argues that states with large hydel power potential are claiming compensation for providing clean power for the federation. Similar issues have also come up regarding water transfers between two different states sharing same river basin.

Strong-centre Versus Strong-states Framework

Most of the works on federalism have focused on the impact of regionalism on federalism, the implication of a centralised party system on federalism and the Centre gaining at the cost of states; other studies focus on the empowerment of states due to regionalism and weakening of the Centre. Scholars have examined federalism from constitutional, political, social, economic, and multicultural perspectives in which a strong Centre versus weak states or weak Centre versus strong states framework remained their central concern. Under the market economy, however, focus has shifted to rather functional federalism where the Centre has become the facilitator of states' economic engagement in overseas markets. There are concerns that in the market economy the Centre will become weak with strengthening of the states. Experience, however, shows that for a federation to deliver on its promise of providing a large internal market, it depends critically on the authority and effectiveness of the national government to police the common market and ensure the unhindered mobility of factors of production and goods across subnational jurisdictions (Bagchi, 2004). The PM Indira Gandhi's rhetorical notion that strong states and a strong Centre both can coexist has become a reality today. Constitutionally speaking, the Centre remains strong and the states weak, but the practice has changed. The assumption that strong states mean a weak, India has been proven wrong as Indian federalism has become more functional under the market economy. Parekh has stated,

Since we have long been accustomed to thinking of national unity in terms of centralisation, the weakening of the Centre and emergence of polycentric India fills many with unease. Some fear that it reduces the country to a sum of its fractious parts, each pursuing its narrow interests in disregard of those of others and the whole. Others even think that such a weak India lacking a sense of collective purpose could once again become a prey to foreign powers be they states or more likely multinationals and lose its independence for all practical purpose. (Parekh, 2014, p. xi)

There has been a great deal of understanding among central leadership that 'more powerful the states became, the lesser would be the governance problems for the nation as a whole' As Varshney has argued: 'This binary—that a strong centre requires weak states and vice versa—is conceptually flawed'. At the same time, while

India's states are becoming more influential and active, Delhi has held on to its power. What has emerged through this process is a shared sovereignty between the Centre and the states. Market economy, thus, requires both a strong Centre and strong states.

Conclusion

The Indian federal system has become transformed in the last seven decades from being dismissed as a full-fledged federal system to a widely acclaimed federal system in the world. Simply put, Indian federalism has become politically more meaningful and functional post-liberalisation. The article has examined this turnaround. From a subordinate position till the late 1980s, states rose to occupy a strategic position in India's move from a command economy to a market economy. No wonder, therefore, the Centre became more interested in involving states even in a forbidden area such as foreign policy matters. The Centre is today encouraging states to directly negotiate with investors abroad. States today are more concerned about fiscal prudence because of the realisation that the market would penalise them if they remained profligate. States' capacity to become developed or undertake developmental works does not depend upon their relations with the central government but on the development of infrastructure, a pro-business environment and a forward-looking approach of their leadership as they can directly approach the market for FDI or borrowing. Thus, horizontal competitive federalism in India has become more symmetrical so to speak. There is increasing realisation at the central leadership that trade and investment promotion activities of states and transnational economic engagements of state-owned/state-base companies, notwithstanding their own economic interest, would deepen India's relations with foreign nations. Divisive politics in states is being replaced by developmental politics. States are learning from each other, often cutting across party lines. A successful programme initiated by a state attracts the attention of other states. Market economy has also opened several avenues for states and reduced their fiscal dependency on the Centre. States are being seen as drivers of India's growth. New challenges emanating from fiscal, environmental federalism and resource federalism call for new intergovernmental institutions. A great deal of understanding developed between the Centre and the states over the introduction of GST and creation of a common market. Today, strong states are no longer considered antagonistic to the nationalist interests of central leadership than in the past, and this perhaps is a great achievement in the realm of Centre–state relations.

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