

**AN ANALYTICAL STUDY OF THE CHANGING PATTERN OF FEDERAL DIVISION OF
POWER IN INDIA**

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Abstract: The case of the Indian federalism as defined by various authors is *sui generis* and what needs to be seen is which kind of classification would suit the Indian legal system in theory as well as in practice. This article seeks to examine the federal experiment that India has undergone, over the past sixty years. The way in the Indian judiciary had interpreted the Constitution to declare India a federal nation with variations. However, this view of the apex court has lately undergone a change. Even though our constitution is said to be federal, but this overemphasis on the power of the federal government makes us incapable of dealing effectively with socioeconomic challenges and strengthening national unity. This particular research seeks to attain the following objectives:

- 1) Carry out an in depth study of the changing pattern of the federal division of power in India
- 2) To study the effectiveness and need for the federal division of power in the country
- 3) To bring out the inadequacies in the existing scheme of division of power and suggest measures to improve it.

INTRODUCTION

Livingstone sees the essence of federalism in the nature of the society it serves than in constitutional forms.¹ The term ‘federal’ itself is derived from the Latin word “*foedus*”, meaning a covenant. In the very popular book “*The Federalist*” providing the various political theories and advantages for the adoption of the American Constitution of 1787, it is stated that there are basically three choices for building a federal system, these are:

(a) *By force*

(b) *By accident and;*

(c) *Reflection and choice*

¹ See Livingstone, *Federalism and Constitutional Change*

The approach to federalism in India was described as: ‘an ounce of practice is worth more than a pound of theory’² but was dismissed as having ‘an anti-intellectual tone’.³

It is quite evident that India’s federal system of government has immensely federalized recently as compared to the past especially since the inception of this concept in a newly independent country like ours post the Second World War.⁴ India’s system of government has thus been referred to as that of “*parliamentary federalism*”.⁵

In an ideal world, the sovereign power between the Centre and the State is co-ordinated and divided between the Centre and the State in such a manner that each of them remains independent of each other and operates in different spheres of functioning altogether.⁶ To understand the vitality and applicability of this given definition certain factors need to be taken into account such as the provisions of the constitution and the constitutional practice of the nation. Some federations can be very well said to fall within the ambit of this given definition e.g. U.S.A and Switzerland.⁷

There might also be nations where gradually this definition has diluted in practice and what remains is a growing sense of centralizing tendency with narrowing powers of the constituent units. A classic example of the same is the Australian Constitution which has seen a gradual rise in the powers of the Centre and a decline in the States’ bargaining power especially in context of the financial matters.

People, especially the legal luminaries have tried time and again to define this functioning or relationship in a rigid compartment of sorts. This has resulted in the creation of several quasi-institutions in the world.⁸ Thus, it would not be incorrect to say that there exists no ideal unitary or federal state in practice, the concept envisaged is more in theory rather than in practice.⁹ Prof. Wheare, had stated that India qualifies as a quasi-federal nation because of the provisions of Articles 249, 352-360 and 371.¹⁰

The practice of defining something in rigid compartments is an old disease which plagues the legal framework of several nations across the globe. It has however, as seen from the example above, been observed that in matters of defining the structure of a nation best to leave out the task of defining nations in brackets. In a globalizing and fast paced world, all nations have interests which change from time to time. Any country today would adapt anything in terms of a structural framework or otherwise something that suits their interests rather than to be stuck in a dogmatic framework of sorts.

² Fali S. Nariman, “Federalism in India-Emerging Trends and the way forward”, 2010

³ Malcolm Maclaren, “Thank you India: Lessons from the 14th International Conference on Federalism, New Delhi, 5-7 November 2007.

⁴ Singh, Mahendra P. “Towards a More Federalized Parliamentary System in India: Explaining Functional Change.” *Pacific Affairs*, vol. 74, no. 4, 2001, pp. 553–568. JSTOR, www.jstor.org/stable/3557806.

⁵ Ronald L. Watts, *Comparing Federal Systems*, 2nd ed. (Montreal & Kingston: McGill-Queen’s University Press, 1999) and Douglas V. Verney, “*Federalism, Federative Systems, and Federations: The United States, Canada and India*,” *Publius: The Journal of Federalism* no. 25 (1995), pp. 81-97

⁶ Alexandrowicz, C. H. “Is India a Federation?” *The International and Comparative Law Quarterly*, vol. 3, no. 3, 1954, pp. 393–403. JSTOR, www.jstor.org/stable/755482.

⁷ *id*

⁸ *id*

⁹ *Federal Government*, K.C. Wheare (1951)

¹⁰ *Federal Government*, K.C. Wheare (1951)

The case of the Indian federalism as defined by various authors is *sui generis* and what needs to be seen is which kind of classification would suit the Indian legal system in theory as well as in practice.

If one looks at the historical background of how these so called federations came into being. It is pertinent to state here that their formation was more out of a need or necessity such as the need for protection from external aggression or the need to solidify or consolidate the finances of the country. So these countries signed contracts with each other and came together to cater to those needs and interests.¹¹ It is however also observed in a lot of these federating units that a majority of these needs have been met and demands been taken care of, so what still holds these units together is something that begs our attention.

Statement of Problem

India's federal experiment has undergone, over the past sixty years, many trials and tribulations. The Indian judiciary had interpreted the Constitution to declare India a federal nation with variations. This view of the apex court has lately undergone a change. Even though our constitution is said to be federal, but this overemphasis on the power of the federal government makes us incapable of dealing effectively with socioeconomic challenges and strengthening national unity.

Hypotheses

It seems to appear that:

- I. New political dynamics have pushed the system in the direction of what might be termed polycentric federalism.
- II. The federal judiciary was initially accommodative, and perhaps excessively so, of the views and policies of the Union executive. However, the judiciary has repeatedly sought to curb the powers of the executive and the Parliament in order to safeguard fundamental rights and prevent the enactment of constitutional amendments that could undermine the federal nature of India.
- III. Strong Centre is a robust constitutional mechanism against divisive forces in India.

Research Questions

The discussion on Indian Federalism and Division of powers must be analyzed in the light of following questions:

- 1) What is the general principle underlying the division of powers in the country?
- 2) What are the contentious issues related to the division of power?
- 3) What were some of the major views of Dr. Ambedkar regarding criticism of over-centralisation in the federal structure?

¹¹ Alexandrowicz, C. H. "Is India a Federation?" *The International and Comparative Law Quarterly*, vol. 3, no. 3, 1954, pp. 393–403. JSTOR, www.jstor.org/stable/755482.

Objectives of the Study

This particular research seeks to attain the following objectives:

- 1) Carry out an in depth study of the changing pattern of the federal division of power in India
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MULTI-LEVEL FEDERALISM THROUGH THE 73RD AND 74TH AMENDMENT

The inter-relationship between federalism and decentralization

It seems to appear that there exists a fine relationship between federalism and a degree of decentralization in practice if not in theory.¹²

There are constant conflicts in the Indian Union with regards to centralizing and decentralizing tendencies as it exists currently. It is here that the Constitution comes to our rescue and acts as a mediator in balancing these conflicts.¹³ The idea being that federalism is understood as a degree of decentralization that is comparable to decentralist unitary systems especially those that have “federal arrangements”.¹⁴ It is however clarified at the very onset that federalism does not merely consist of decentralization but federalism as a concept thrives on the amalgamation of the idea of decentralization as well as non-centralization.¹⁵ However the same could not said to be entirely true for India as well have seen that our nation has thrived and continues to do so inspite of its strong centralizing tendencies.

It is pertinent here to define as to what one means by decentralization. Decentralization in its simplest meaning would denote the distribution of power from a central government to other units or agencies of the government. It may be classified in two types:

- (a) Discretionary decentralization- This category of centralization is the one which is not constitutionally guaranteed but rather depends on the whims and fancies of the central government. It is mostly found in unitary nations.
- (b) Constitutionally guaranteed decentralization- This kind of decentralization mandates the compulsory sharing of powers with the constituent units present in a federation. It is more prevalent in federal countries as it is more in sync with the principles of federalism. The reason for the same

¹² Osaghae, Eghosa E. “A Reassessment of Federalism as a Degree of Decentralization.” *Publius*, vol. 20, no. 1, 1990, pp. 83–98. JSTOR, www.jstor.org/stable/3330364.

¹³ Alexandrowicz, C. H. “Is India a Federation?” *The International and Comparative Law Quarterly*, vol. 3, no. 3, 1954, pp. 393–403. JSTOR, www.jstor.org/stable/755482.

¹⁴ See Daniel J. Elazar, *Exploring Federalism*, (Tuscaloosa: University of Alabama Press, 1987), p.46

¹⁵ Osaghae, Eghosa E. “A Reassessment of Federalism as a Degree of Decentralization.” *Publius*, vol. 20, no. 1, 1990, pp. 83–98. JSTOR, www.jstor.org/stable/3330364.

being that “*the regional government’s share of power in a federation is relatively large compared to that in a unitary state.*”¹⁶

It is stated by several legal scholars such as K.C. Wheare, Arthur MacMahon, Geoffrey Sawer and others who have done extensive research to distinguish federal systems from unitary systems that the constituent units in a unitary system are subordinate to the central authority, the same however is not true for “true” federal systems as those units might or might not be sub-ordinate to the central government.¹⁷

Multi-level federalism was heralded and provided an impetus through the Seventy-third and Seventy-fourth Amendments in 1992. It provided for the revival and reorganization of local self-governments in rural and urban India. However this was something that was not entirely new to India.¹⁸ Mahatma Gandhi had been a great proponent of providing more power to the local units of government as he believed that it would result in better and more efficient administration. The earliest instance of a convention or a reform giving more power to the local units could be traced back to 1883, back then Lord Ripon’s statutory reforms provided for more power and self-sufficiency to the local units of government.¹⁹

The recent amendments have been done so as to provide the local bodies with more financial powers and the authority so as to emerge as a viable third tier of the Indian federalism. The Finance Commissions have regularly been appealing to the Centre for providing more and more funds to the *panchayats* and the municipalities and have also laid down express criteria on the basis of which such funds are to be allotted. The factors to be taken into account while allocating the said funds include:²⁰

- (1) Population (more funds to more populous states [40 %])
- (2) Index of decentralization (the more the better [20%])
- (3) Distance from highest per capita income (poorer states to get more [20%])
- (4) Revenue effort (incentive for revenue sharing [10%])
- (5) Geographical size (the bigger state getting more [10%])²¹

The amendment now mandates the Governor to oversee the process of the distribution of funds, tax and revenues between the State and the local bodies. Further, a semi-autonomous body sub-state nodal administrative body, namely the District Rural Development Agency (DRDA) is now tasked with the primary responsibility for utilization of the Centre’s developmental funds by being directly channeled through it. Further, the local bodies have received a boost by the efforts of their own State Government’s initiatives. For example, the *Janmabhoomi Project* allowing the village councils to draw their own community development plans with the *mandal* officer which is then to be operationalized through the development budget allocated by the state government to the district collectors is a good

¹⁶ Arend Lijphart, “*Non-Majoritarian Democracy: A Comparison of Federal and Consociational Theories,*” *Publius: The Journal of Federalism* 15 (Spring 1985)

¹⁷ Osaghae, Eghosa E. “A Reassessment of Federalism as a Degree of Decentralization.” *Publius*, vol. 20, no. 1, 1990, pp. 83–98. JSTOR, www.jstor.org/stable/3330364.

¹⁸ Singh, Mahendra P. “Towards a More Federalized Parliamentary System in India: Explaining Functional Change.” *Pacific Affairs*, vol. 74, no. 4, 2001, pp. 553–568. JSTOR, www.jstor.org/stable/3557806.

¹⁹ *id*

²⁰ *id*

²¹ *Report of the Eleventh Finance Commission (For 2000-2005)* (New Delhi: Ministry of Finance, Government of India, n.d.), Chapter III, para 8.27

example of the State's own initiative. It was launched by the Telugu Desam Party government in January 1997 in the State of Andhra Pradesh.²²

ROLE OF THE EXECUTIVE IN CHANGING PROCESS

Treaty making power of the Union government is another area which begs to be accommodated harmoniously in a federal polity like India. The Constitution via Article 253 gives the power to the Parliament to give effect to international agreements. However it has been observed that at times States have raised objections with regards to adoption of such treaties which directly affect their interests in a prejudicial manner, certain examples of the same being the Indo-US Civilian Nuclear Deal (2005), Free Trade Agreement with ASEAN (2012) and the Foreign Direct Investment in Multi-Brand Retail (2012). But it has nonetheless been observed that eventually these objections have to give way to national interests thereby accommodating the federal values of our nation.²³

Another example of executive exercise of powers over the State is the provision of emergency as provided in the Constitution. It is further observed by certain legal scholars such as Paul Brass that the recurring exercise of President's Rule is "*more appropriately seen as a failure of the government of India to exercise effective central control over state affairs than as an index of centralization.*"²⁴

The mounting regional pressure on the Central Government forced the then Prime Minister to appoint a committee in 1983, chaired by Justice R.S. Sarkaria to look into the matters of Centre-State Relations.²⁵ The committee suggested many a measures to reorient the style and functioning of the Centre government when dealing with States and further suggested the constitutional entrenchment of National Development Council (NDC) and the Planning Commission.²⁶ They were created by various cabinet resolutions and derive their validity from the same. Through such recommendations an attempt was made to provide a constitutional status to the same.

The governments have also been accommodative to the regional ethnic demands and movements by signing regional accords with ethnic movements and parties to accommodate their interests and promote the idea of federalism in a multi ethnic and diverse country like ours. The examples of the same would include the accords with the parties of Punjab and Assam in 1985, Mizoram in 1986 and Tripura in 1988.²⁷

It would be worthwhile here to mention that all has not been smooth sailing for the "*India federation*". The divisive forces have also been working to put a dent in the Centre's efforts to hold together the Indian union. An example of the same would include the June 26, 2000 resolution passed by the Jammu

²² Singh, Mahendra P. "Towards a More Federalized Parliamentary System in India: Explaining Functional Change." *Pacific Affairs*, vol. 74, no. 4, 2001, pp. 553–568. JSTOR, www.jstor.org/stable/3557806.

²³ TEWARI, MANISH, and REKHA SAXENA. "The Supreme Court of India: The Rise of Judicial Power and the Protection of Federalism." *Courts in Federal Countries: Federalists or Unitarists?*, edited by NICHOLAS ARONEY and JOHN KINCAID, University of Toronto Press, Toronto; Buffalo; London, 2017, pp. 223–255. JSTOR, www.jstor.org/stable/10.3138/j.ctt1whm97c.12.

²⁴ Brass, *Pluralism*, p.246

²⁵ Commission on Centre-State Relations, *The Report*, Part I and II (Nasik: Government of India Press, 1987-88), Vol. I

²⁶ Singh, Mahendra P. "Towards a More Federalized Parliamentary System in India: Explaining Functional Change." *Pacific Affairs*, vol. 74, no. 4, 2001, pp. 553–568. JSTOR, www.jstor.org/stable/3557806.

²⁷ P.S. Datta, *Ethnic Peace Accords in India* (New Delhi: Vikas Publishing House, 1995)

and Kashmir Assembly based on the Report of the state Autonomy Committee appointed by the National Conference in the State. The demand was to turn the state of Jammu and Kashmir into a confederate state within the Union of India with the Centre's role limited to defence, external affairs and communication.²⁸

EMERGENCE OF REGIONAL POLITICAL PARTIES TO GIVE RISE TO MORE FEDERAL TENDENCIES

The political scenario of the nation has seen unprecedented regionalization and diversification and the emergence of new local political outfits commanding authority in determining the political picture of these regions. These parties are at almost all the levels of the government and find vast acceptance in their respective spheres. Long gone are the days of the same party ruling the roost in the Centre as well as the States. The emergence of such parties have given rise to a new political matrix in the country giving rise to polarized pluralism and federal segmentation with the advent of coalition/minority governments.²⁹

These regional parties have many a times entered into opportunistic alliances with national parties by joining central governments in coalition and thus have become effective barriers against the central dominance.³⁰ Lloyd Rudolph and Susanne Hoeber Rudolph, for instance, argue that the emergence of coalition governments marked India's shift from an "*interventionist*" to a "*regulatory state*". They further state that, a less capable, more constrained parliamentary executive created conditions that allowed the existing safeguards against transgressions, such as the courts and the president to assert themselves and act independently.³¹

Even though these parties have gained considerable popularity and have even formed governments in their respective State's, it has been observed that the same popularity fades when the election being contested is for the Lok Sabha. It is here that the national parties once again have an upper hand. This kind of disparity in the choice of voters has resulted in fragmentation of the Federal legislature.³²

It was earlier thought of as that these regional parties were an impediment to national integration and promoting them would result in give flame to the fire of secessionist or exclusivist politics that many of these parties seemed to engage in.³³ However, this perception about the regional parties is changing rapidly and they have moderated their behavior in order to gain legitimacy from the voters as a viable option for providing a stable government.

²⁸ Singh, Mahendra P. "Towards a More Federalized Parliamentary System in India: Explaining Functional Change." *Pacific Affairs*, vol. 74, no. 4, 2001, pp. 553–568. JSTOR, www.jstor.org/stable/3557806.

²⁹ Singh, Mahendra P. "Towards a More Federalized Parliamentary System in India: Explaining Functional Change." *Pacific Affairs*, vol. 74, no. 4, 2001, pp. 553–568. JSTOR, www.jstor.org/stable/3557806.

³⁰ Sadanandan, Anoop. "Bridling Central Tyranny in India: How Regional Parties Restrain the Federal Government." *Asian Survey*, vol. 52, no. 2, 2012, pp. 247–269. JSTOR, www.jstor.org/stable/10.1525/as.2012.52.2.247.

³¹ Rudolph and Rudolph, "Redoing the Consitutional Design." Pp. 141-54

³² Sadanandan, Anoop. "Bridling Central Tyranny in India: How Regional Parties Restrain the Federal Government." *Asian Survey*, vol. 52, no. 2, 2012, pp. 247–269. JSTOR, www.jstor.org/stable/10.1525/as.2012.52.2.247.

³³ The AGP, SAD and DMK are prime examples of parties engaging in a exclusionist or secessionist behavior; Shiv Sena being one which still espouse such kind of politics.

It is observed that some of the factors that promote decentralization are solidarity of languages, cultures, consolidation of regional interests etc.³⁴ Language is a powerful tool of expression. Its importance cannot be overemphasized in a country like India which is divided on linguistic grounds. Language relates to and includes within its ambit traditions and customs which are common to a certain community. This relationship provides the people speaking the same language to come together and have their own political body or a separate unit within the provided framework of the federation.³⁵ It is a form of expressing and asserting their identity and not being subsumed by the masses. The formation of the state of Andhra Pradesh is a good example of the expression by a unified group on such tendencies. Various different political scientists by conducting research and studies stated that “*not infrequently the real federator of a group of states is the enemy without.*”³⁶

Such local demands however ought to always serve the national interests first as when the parliamentary regime of the state government breaks down, it becomes a loss to the cause of federalism.³⁷

The Constitution provides for procedural safeguards of the states in case of the amendment to the constitution as there is a reasonable balance of power between the Centre and the States. However, with respect to the financial resources, the states depend on a great extent on the Centre with respect to the allocation of resources.

JUDICIAL CONTRIBUTION IN UPHOLDING AND PROMOTING FEDERALISM IN INDIA

The courts have adopted a mixed approach in dealing with the Centre with a view to preserving the constitutional mandate and have engaged in non-partisan appraisal of the Union with regards to the same. It is observed that the decisions of the court have neither reflected a strictly federalist or statist interpretative approach.³⁸ The most intriguing and frequent question that confront the Indian Judiciary is with regards to the adjudication of distribution of legislative and other powers between the union and the states.³⁹ The court in such cases goes into the detailed substantive character of the impugned law and identifies its “*pith and substance.*” It therefore does not make any law which incidentally falls into the State list as invalid if the substance of the same falls within the Union List.⁴⁰

³⁴ Alexandrowicz, C. H. “Is India a Federation?” *The International and Comparative Law Quarterly*, vol. 3, no. 3, 1954, pp. 393–403. JSTOR, www.jstor.org/stable/755482.

³⁵ *id*

³⁶ “Introduction to a Study of the Development of Federal Societies” by J. Rivero, *International Social Science Bulletin*, 1952, p.32

³⁷ Alexandrowicz, C. H. “Is India a Federation?” *The International and Comparative Law Quarterly*, vol. 3, no. 3, 1954, pp. 393–403. JSTOR, www.jstor.org/stable/755482.

³⁸ TEWARI, MANISH, and REKHA SAXENA. “The Supreme Court of India: The Rise of Judicial Power and the Protection of Federalism.” *Courts in Federal Countries: Federalists or Unitarists?*, edited by NICHOLAS ARONEY and JOHN KINCAID, University of Toronto Press, Toronto; Buffalo; London, 2017, pp. 223–255. JSTOR, www.jstor.org/stable/10.3138/j.ctt1whm97c.12.

³⁹ *id*

⁴⁰ P.M. Bakshi, *The Constitution of India, 12th edn*, (New Delhi:Universal Law Publishing, 2013), 246-7

The courts have at times accommodated state interests (e.g. *Tika Ramji v. State of U.P., 1956*)⁴¹, at times Union interests have been given paramountcy (e.g. *State of West Bengal v. Union of India, 1963*)⁴² and the *State of West Bengal v. Kesoram Industries Ltd. 2004*)⁴³ and sometimes the results have been a win-win situation for both (e.g. *Belsund Sugar Co. Ltd. v. State of Bihar, 1977*).⁴⁴

The Indian Supreme Court has been very accommodative in preserving the federal polity of the nation provided its own powers of review are not tinkered with.⁴⁵ The Court has been very vigilant on the matters affecting the democratic character of the country via amendments through which the Union misuses its powers to take over the State Governments under the garb of the emergency provisions as provided in the Constitution. Some of the landmark cases with respect to the same being:

- (a) *Sankari Prasad v. Union of India*⁴⁶
- (b) *Sajjan Singh v. State of Rajasthan*⁴⁷
- (c) *I.C. Golaknath v. State of Punjab*⁴⁸
- (d) *S.R. Bommai v. Union of India*⁴⁹

The Bommai judgment heralds a new era of judicial decision making and could be said to be the most federally oriented judgment of the Supreme Court with regards to the misuse of Article 356 of the Indian Constitution. The judgment is specially remarkable in light of it coming into picture after the onset of the multi-party system after the decline of Congress and Janata party on the heels of the 1989 Lok Sabha Elections.⁵⁰

The Indian Constitution provides for far greater powers in the Central Government than the governments of the States. Such a tendency is far greater than that provided in the Constitutions of United States, Canada or Australia.

The same can be attributed to certain ‘defensive’ and ‘constructive’ reasons. If we analyse the defensive reasons first, it is without any doubt that the people who came to occupy the high offices post 1947 were the select few belonging to the upper castes, having primarily received their education in English. They would classify as what we can call the national elite. These are the people that drafted, worked and defended the Constitution in the first thirty years of independence. They felt imposed with a duty to foster national identity and the only way that they saw of doing so was through a strong central government. It was their strong belief that only a dominant central government would be effective in instilling the emotions of nationalism among the masses.

The constructive reasons for providing for a strong Centre could be attributed to the personal beliefs of its leaders. Nehru’s belief in Fabian nationalism and economic planning is well known to all. The

⁴¹ *Ch. Tika Ramji & Others, Etc v. The State Of Uttar Pradesh & Others 1956 AIR 676*

⁴² *State Of West Bengal v. Union Of India 1964 SCR (1) 371*

⁴³ *State Of West Bengal v. Kesoram Industries Ltd. And Ors Appeal (Civil) 1532 of 1993*

⁴⁴ *Belsund Sugar Co.Ltd vs State Of Bihar & Ors Appeal (Civil) 398 Of 1977*

⁴⁵ Upendra Baxi, *Courage, Craft and Contention: The Indian Supreme Court in the Eighties* (Bombay: N.M. Tripathi Ltd., 1985)

⁴⁶ *Shankari Prasad Singh Deo v. Union of India AIR 1951 SC 458*

⁴⁷ *Sajjan Singh v. State Of Rajasthan 1965 SCR (1) 933*

⁴⁸ *I.C. Golaknath v. State Of Punjab 1967 SCR (2) 762*

⁴⁹ *S. R. Bommai v. Union of India ([1994] 2 SCR 644*

⁵⁰ Singh, Mahendra P. “Towards a More Federalized Parliamentary System in India: Explaining Functional Change.” *Pacific Affairs*, vol. 74, no. 4, 2001, pp. 553–568. JSTOR, www.jstor.org/stable/3557806.

planned economic progress of the nation was an idea that the Congress was committed to since the 1930s and it should come as no surprise that the same continued even after independence. Apart from the economic considerations, it was felt that a strong Centre would ensure social justice and bring about reforms not seen yet. For example, the practice of untouchability was expected to be tackled more effectively with an effective central government.

Indian scholars have not been hesitant from calling the constitution as ‘only semi-federal in character’ since so much revenue-raising power rests with the Centre.⁵¹

It is worth mentioning here the fact that a transformation of the party system and change of judicial temperament have to work in tandem to bring about a change in the federalizing tendencies in a nation rather than the two in isolation to each other.. The best example to illustrate the said point would be the Supreme Court’s judgment in the case of *Hargovind Pant v. Raghukul Tilak* (1979)⁵² wherein the governor’s continued to be the Centre’s slaves until provided the necessary impetus by the multi-party coalitions or minority governments.

SUGGESTIONS AND CONCLUSION

The Indian political masses and otherwise understand that if there are to preserve the unity of this country they can do so only with the help of consolidation and unification of the constitutional structure of the nation. A great many threats endanger our nation both from within and outside. The consolidation and unification of the constitutional fabric ought to be done and observed at all costs in our country. This is something which does not at all automatically preserve itself, a fallacy that many people tend to have nowadays. The aspect of fiscal federalism is more dominant in India than the aspect of political federalism as seen from the discussion before. The dilution of political centralization of power and promotion of federalist tendencies can very well be attributed to emergence of regional parties and judicial activism in the last three-four decades or so.

The members of the Constituent Assembly must be applauded for envisioning the provisions of emergency into our Constitution so as to enable us to face any danger by the means of centralized action without affecting the federal structure ultimately.⁵³

The framers of our Constitution had envisioned this phenomenon during the drafting of the constitution and therefore included a lot many safeguards in the constitution such as the emergency provisions. Even though it is said to provide impetus to more centralizing tendency but this is something very much need in pseudo-federation like India which was not formed as a result of states contracting or coming together by their own will.

The balance between centralizing and de-centralizing tendencies can very well be guarded by constitutional safeguards and devices. Growing power of the local pressure groups in India gives them the power to put themselves in a bargaining position with the Centre and placing themselves as

⁵¹ K.K. George and I.S. Gulati, ‘Centre-State Resource Transfers, 1951-84’, EPW, 16 February 1985, p. 287

⁵² *Hargovind Pant v. Dr. Raghukul Tilak & Ors* 1979 SCR (3) 972

⁵³ Alexandrowicz, C. H. “Is India a Federation?” *The International and Comparative Law Quarterly*, vol. 3, no. 3, 1954, pp. 393–403. JSTOR, www.jstor.org/stable/755482.

bargaining communities of sorts in the bigger scheme of things. It must however be kept in mind that heedless attempts at centralization would result in worsening of the problem of modernization that occur in a state with as many potential ethnic divisions as that exist in India.

Verification of hypothesis

Based on the above discussion it is worthwhile to state that:

- A. Hypothesis I stands proved as even though the Union has tried to be federal in nature but that was not what was strictly envisaged by the framers of the Constitution who provided for provisions in the Constitutions whereby the Centre exercises greater power than the States and the recent practice is also suggestive of the same.
- B. Hypothesis II stands proved as it is observed that the decisions of the court have neither reflected a strictly federalist or statist interpretative approach.
- C. Hypothesis III stands proved as the same is seen from the example of Jammu and Kashmir discussed above and also with the rise of several regional anti national factions which threaten the unity and integrity of our nation.

In spite of whatever difficulties that it might entail, if the Indian state is to survive then federalism and democracy are quite essential to it. After studying and analyzing the various facets of different political systems, it is understood that if any state is to thrive amongst the tensions of steady modernization; then federalism and a federal structure is the way to go about it.

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