

Federalism and Centre's Encroachment on State's Autonomy in India

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Autonomy has its etymological roots in the two Greek words for 'self and rule of law'.¹ Thus, autonomy literally means self-rule or independence. The grammatical meaning of the term autonomy is the right to self-government or freedom of self-rule,² but in a federal set-up, state autonomy does not mean the independence or sovereignty of the states. It indicates two aspects negative and positive. Negative means non-interference of the centre in the prescribed domain of the state. Positive means the right of the state to work independently in the prescribed area. Thus, autonomy has assumed the character of 'state rights', which has been the bone of federal systems.' State autonomy' does not mean the independence or sovereignty of the states. It stands for non-interference of the centre in the prescribed domain of the states. The right of states to work independently in the prescribed area is called autonomy.³

The provincial autonomy means that in a federal form of government, the units have sufficient and adequate legislative and administrative powers without any interference from outside control and adequate financial resources for implementing and executing its plans for reconstructing the society on modern welfare lines without any control of the central government in any way."⁴

The term provincial autonomy means irreducible minimum of political power which has to be granted to the units in order to give them enough facility to develop their own resources according to their on means and needs and in their own way...to put in another way, the provincial autonomy means in realistic terms, the right and capacity of a political party elected with a majority to the state legislative Assembly on a particular election programme, to put that programme into execution and make it a success unhampered either directly or indirectly by the centre.⁵

According to Niklas Lulimann, " autonomy is a legal system which provides the ideal case for identifying the logic of social system. Thus, logic maintains their internal coherence and unity through self-reference without resort to planned co-ordination. Because, legal institutions develop through the application of general legislative principles. Autonomy is co-ordination of plans in

particular, there is a parallel focus on the inter relationships between formal institutional rules and informal tacit rules of conduct in everyday existence, as was shown in the conceptualization of social and institutional orders as the product of human action but not of human design.”⁶

According to Richard Lindley, the conception of autonomy is significant in shaping liberal democratic thought about the state and the individuals and he also says that negative liberty is very much essential for the promotion of autonomy. To him “autonomy means no less than self-government perhaps in the sense of territorial sovereignty. It is usually records of the conventions of particular social groups. Autonomy is a concept being a tool invented by human beings to make distinctions thoughts to be useful. It may be possible to test rival conceptions for adequacy. There are better and worse conceptions related to the different values.”⁷

According to Francine Franker,” autonomy is a strength for crucial role of politics in the Indian modes of development where nation building, economic development and an egalitarian social order were all supposedly contingent upon the democratic process. Autonomy is further buttressed by the general point that irrespective of an economy of socialism or capitalism, the demand of national security, modern technology and a bureaucracy.”⁸

State Autonomy in India

In a federal set-up, the basis of the state rests on the division of powers. Conflicts and tensions between the two authorities are inevitable and universal. This problem is as old as the concept of federation itself. It has troubled almost all federations throughout the world at one time or the other and India is no exception to this rule.

One of the important grievance of the states against the union government was that it was encroaching upon their autonomy even in respect of those subjects that had been included in the state legislative List and that the Indian union in actual practice became a unitary state. The question aroused how far the states legislatures and state governments enjoy in practice the autonomy, which they enjoy in theory. This depends on how effectively the constitution of our country is working instead of being reduced to ritualism next to the constitution and the most important factor that affects autonomy is the impact of political system, more specifically the party system, makes on our constitutional system. It is not so much the text of the working of autonomy of the states with one party in control throughout India for several years, autonomy of states almost ceased to exist in practice. The state governments felt that the party in power at centre used the constitution as a tool to whittle down the authority of states. The centre

encroached into the state's autonomy by its amending power. For instance, 3rd, 6th, 7th and 42nd Amendment Acts have brought a number of state subjects under the control of centre. This has further enlarged the financial, industrial, administrative and legislative powers of the centre. They alleged that the 42nd Constitutional Amendment Act transferred five entries of state list to concurrent list, which paved the way for centralization of powers. In the same way, the federal spirit was slowly damaged by the centre through the partisan use of the institutions like the Governor. In order to check the increasing trends towards centralization, the state leaders began to demand that they should be given more powers. The Chief Minister of West Bengal, Jyoti Basu, has always advocated freedom for the states, both political and financial, to the extent that the Chief Minister could run his state administration freely without the interference of the union government. Tamil Nadu Chief Minister M. Karunanidhi urged amendment of the constitution for this purpose.

In 1978, the National Development Council met in New Delhi, wherein some Chief Ministers demanded for more powers for the states. But they could not express a unanimous view about the model of state autonomy. However, the then Maharashtra Chief Minister, Vasant Rao Patil said, "My concept of state autonomy is not like that of Sheikh Abdullah or Jyothi Basu but limited planning."⁹ The Punjab Finance Minister, Balwant Singh, maintained: "Punjab's interest lay not in the political autonomy of the kind suggested by Jyothi Basu but in greater financial powers, so that the state could marshal its share of national kitty to accelerate its development."¹⁰ On the other hand, Sheikh Abdullah had always pleaded for a separate entity of the Jammu & Kashmir under Article 370 of the Indian constitution.

Controversy on Financial Autonomy

The current controversy about state autonomy mainly centers around financial autonomy and democratic decentralization. In the financial matters, the autonomy of the states is seriously restricted. The division of taxing powers is weighted in favour of the union. Therefore, the states find themselves dependent upon the union because of their meager resources and restricted field of taxation. They are dependent upon the union for allocation of funds from and out of the taxes collected by it and also from grants. The allocation of discretionary grants and loans by the central government, it is alleged serves a powerful leverage in influencing the policies and programmes of state governments even in spheres such as education, medical and public health, which are constitutionally within the competence of states. Though there is little direct control of the union

over the financial resources earmarked by the constitution for the states, yet, the former is always in a position to bear indirect pressure upon the states. The union being in charge of the purse strings can always persuade state to take its advice.”¹¹

In any federation, the resources of revenue are distributed between the centre and federating units so that the units have sufficient amount of autonomy in the financial sphere. But in India, the resources allocated to the states are far from satisfactory. All important sources of revenue are given in the union list and the position of the states is so weak that they exist at the doles of the centre. Grants are given to the states but political or partisan strings may also be traced behind them. The states find themselves dependent upon the union because of their meager resources and restricted field of taxation. Though there is little direct control of the union over the financial resources earmarked by the constitution for the states, yet, the former is always in a position to bear indirect pressure upon the states.

Therefore, the centre can do a lot to feed or starve states by its overall policy. The union being in charge of the purse of strings can always persuade states to take its advice.

Above all, the way the central leadership treats the states while giving grants is often a source of reaction from the states. They regard it as the most serious constraint upon their autonomy. The states ruled by parties other than the one in power at the centre often make complaints of discretionary and step-motherly treatment “in matters of allocation of funds and giving of grants-in-aid.”¹² in the past, almost all the leaders of regional and local parties, as well as the leaders of CPI(M), BSP and even CPI always voiced against the discriminatory treatment meted out to their ruled states by the Congress at the centre. The use of the superior financial power of the centre for partisan ends by the party in power remains a perpetual complaint of the state governments. The DMK government of Tamil Nadu even appointed a commission that made drastic recommendations in the direction of devolution of financial powers in favour of the states.

The financial autonomy for the states is, therefore, being advanced on the following grounds:

The present allocation of resources is unfair.

- The sources allotted to the states are inelastic.
- The states have failed to get their due.
- The allocation of resources through Finance Commission and the Planning Commission is also defective.

■ Lack of faith in the independence of these two commissions due to their undemocratic composition.

The true concept of autonomy, in fact, implies not only with the internal freedom of a state but with its limitations as well. The concept does not mean mere independence or sovereignty of the states. It indicates non-interference of the federal government in the prescribed domain of the states. The rights of the states to work independently of the union within a federal system called autonomy. Thus, autonomy has assumed the character of the rights of the states and this has become the backbone of all the modern federal systems.

Taxes not shared in Federal Spirit

There were also complaints from different states that the centre had not shared taxes with them in the spirit of constitution. They felt that they had to perform the ever-widening functions in development and social services, but matching finances were not being transferred to them from the centre, and that under the existing system of allocation of funds the rich states had got more and poor states less, resulting in an ever-widening gap.

Undue Role of Planning Commission

The Planning Commission has greatly upset the federal structure and greatly modified the centre-state relationship. It has led to intervention in the autonomy of the states. It has expanded the authority of the union government often in total disregard of the federal intentions of constitution. It has assumed the role of super-cabinet to impose its decisions on the states.

The development funds are allocated to the states by the centre on the advice of the Planning Commission. It determines the amount to be spent on a particular project in a state. It also settles the priorities of development.

The subject on which development is to be made fall under the state list, but how they are to be developed is determined by the Planning Commission.

The action is to be taken by the states but initiative comes from the centre. The bulk of the funds assigned by the union to the states fall within the category of discretionary grants and these are made on the recommendations of the Planning Commission. The powers and scope of activity of the Planning Commission are so wide and extensive that they cover almost the entire field of government activity. The commission also prepares all plans of economic development of the country, fixes all broad targets and the order of priorities. The same body allocates funds for the various schemes of development and projects.

The state governments, of course, prepare their own plans, but the final shape is determined only after their representatives have held discussions with the Planning Commission. The targets and priorities fixed by the Planning Commission have to be born in mind by the planners in the states and if it were not so, the state plans were either substantially modified or scuttled. Thus, the Planning Commission controls the developmental activities of all the states. Even the legislative activities of the state governments relating to such subjects of the state list as agriculture, education, health and co-operation passed into the hands of the Planning Commission, The Planning Commission often makes grants for new projects, but states are obliged to use them only for that specific purpose only.

There was hardly any developmental activity of the state governments where the Planning Commission is not involved, and the composition of the commission is such that amounted to the domination of the union government. Surprisingly states do not represent in it and so the interests of the states are often overlooked. Voices here, therefore, get higher that the Planning Commission had become another 'super-cabinet or parallel government' and that through financial control it had made the states subservient to the centre. Therefore, the schemes, which the states consider to be of great importance for them, are delayed or rejected. It was done on the assumption that the centre knows better than that of the states in fixing priorities and the latter should observe as to what details their schemes should have and to what extent variants should be permitted. In the opinion of Chanda, centralized planning process has eroded the concept of exclusive state functions and services like education, agriculture and industrial housing which constituted the *raison d'être* of the states."¹³ Demands were put forth that the Planning Commission should be made an autonomous body and should not merely be a wing of the central government.

Economic Policy: An Irritant

The states also feel agitated the way the Union government unilaterally formulates certain economic policies, which affects not only the national market, but also causes greater repercussions for the state governments. Many vital issues such as price policy, wage policy, development and licensing industries, distribution of public and private projects among the states, and regulation of trade and commerce are solely determined and formulated by the union government. The exclusion of the states in the formulation of these economic policies is one of the

major irritants for the states. Since India is on the path of market-oriented economy, the style needs to be changed in order to win the confidence of the states.

The centre has monopolized the control of industries, trade, the commerce and production and distribution of goods. It includes location of industries like nuclear and thermal energy and licensing of industrial and export units, incentives affecting economic activity carried on within the states. The states argued that these were subjects of the State Legislative List- Industries in entry 24, trade and commerce in entry 26, and production, supply and distribution of goods in entry 27. But taking advantage of the constitutional provisions (that Parliament could regulate them in national interest) the centre had brought them virtually under its own control.

Parliament had passed in 1995 the Industries (Development and Regulation) Act, specifying those industries, which had to be controlled by the centre in national interest. The Act originally passed was fair and reasonable and rightly gave the centre control over vital and strategic industries. However, in the course of time, more and more industries were brought within the purview of the said Act, and the result was that the constitutional scheme was considerably subverted.

Therefore, the lack of control on these subjects irritates the states, because they dislike their dependence on the centre on such vital matters affecting their developmental needs. Even items like razor blades, paper gums, shoes, match sticks, household electrical appliances, cosmetics, soaps and other toilet requisites passed under the central domain. Over centralization, it was pointed out by state leaders, had resulted in poor rate of economic growth and the consequent poverty of the people.

States are financially poor and look always to the centre for relief. The resources are scarce and demands disproportionately heavy and ever growing in the wake of population explosion. State's deficit budget, their loans from market and overdrafts and their debt to centre have compelled them to clamour for great financial autonomy. States find it almost impossible to implement their socio-economic programmes with their limited financial resources. If one reads between the lines, the memorandum submitted by West Bengal CPM led government and the Akali Dal resolution passed at All India Akali Dal conference at Ludhiana on 28-29 October, 1978, it becomes clear that their main fight is for fairer deal in financial resources and for more fiscal autonomy. This is more so in case of regional parties like National Conference in Jammu & Kashmir, Shiromani Akali Dal in Punjab, DMK and AIDMK in Tamil Nadu, and Telugu Desam in Andhra Pradesh.

Because of economic compulsions whenever there is erosion in the mass support base of these parties, they resort to the demand for more state autonomy.

The question aroused how far the states legislatures and state governments enjoy in practice the autonomy, which they enjoy in theory.

Autonomy is not only a question of wider jurisdiction for self-rule but also in an important sense, a question of adequacy and dignity both among the political class and the people at large. In general, the state autonomy concept is supported on the following grounds:

1. Autonomy is not independence of the states and the autonomy is demanded under the Indian federal structure and therefore, there is no danger of disintegration.
2. The functions of the states as such are increasing day-by-day. It is improper to make them financially dependent on the centre while they are performing the functions of rural development and implementation of five year plans. If they are assigned separate financial resources, then it will be convenient for them to perform developmental functions speedily.
3. State autonomy is essential for the establishment of the true and genuine federal polity. At present, the status of the states as such is like municipalities and they are always afraid of central intervention. The centre exercises control over the states by issuing directives and even exercises control over the subjects exclusively belong to state spheres like health and education.
4. The autonomy will inculcate a sense of responsibility among the states. They will seek additional revenue resources and will not depend on the centre. (M. S. Dhama; Political Parties and State Autonomy: A Case Study of Akali dal Party, 1984, p. 185.)

In conclusion, it can be said that federalism is, after all mechanism for national coherence and self-rule built around some broad collective vision of a social and political order and agreed methods of conflict resolution in the context of deep diversity. Consideration of these questions are important not for scotching the problem because of the complexity. But for ensuring a more just, people based, harmonious living with guarantee of dignity for the diversities.

End Notes

1. Richard Lindley; Autonomy, Macmillan Company, London, 1986, p. 5.
2. Ibid; p. 6.

3. Ibid; p.7.
4. Ramji Lal; The Problem of State Autonomy and its Emerging Trends, The Indian Political Science Review, Vol. XV, No. 1, 1961, p. 85.
5. K. V. Rao; Parliamentary Democracy in India, The World Press, Calcutta, 1965, p. 321.
6. Simon Clarke; The State Debate, Macmillan Company, London, 1991, p. 204.
7. Richard Lindley; op. cit, pp. 3, 6.
8. Zoya Hassan and Rasheedudin Khan; The State Political Processes and Identity, Sage Publications, New Delhi, 1989, p.11.
9. *The Times of India*, New Delhi, March 23, 1978.
10. Gelhot, N.S., *Indian Government and Politics*, Rawat Publications, New Delhi, 1996. p. 46.
11. Vidya Dhar Mahajan, '*Select Modern Governments*', S. Chand & Company, New Delhi, 1975, p. 244.
12. Rao, K.V., *Role of State Governor in India*, Deep & Deep Publications, New Delhi, 1988, pp. 325-26.
13. N. S. Gelhot., *Indian Government and Politics*, Rawat Publications, New Delhi, 1996. p. 46.

