

CHALLENGES TO THE FEDERAL STRUCTURE OF THE INDIAN UNION

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INTRODUCTION:

The Indian union functions on a federal structure of governance implying decentralization of power which allows power to be divided between the central government and the states. Indian federal system is a quasi-federal system containing features of both a federation and a union. Article 1 of the Indian Constitution suggests that the territory of India shall be classified into three categories first Territories of the States. Second Union Territories and Third Territories that the Indian Government can acquire at any point in time. Currently, there are 29 states and 7 union territories. The government of India can acquire some states at any point pertaining to factors such as cession, occupation, conquest or subjugation. Foreign territories such as Dadra and Nagar Haveli, Goa, Puducherry, and Sikkim have had been acquired by the Indian government since the constitution started functioning.

KEY WORD: Federation, Article, Regionalism, Emergency Provision.

OBJECTIVE:

1. To Study the federal system in India.
2. To Study the Challenges To The Federal Structure of The Indian Union

RESEARCH METHODOLOGY:

This paper is basically descriptive and analytical in the nature. The data is secondary according to need of study

FEDERATION :

The term 'federation' is derived from a Latin word foedus which means 'treaty' or 'agreement'. Thus, a federation is a new state (political system) which is formed through a treaty or an agreement between the various units. The units of a federation are known by various names like states (as in US) or cantons (as in Switzerland) or provinces (as in Canada) or republics (as in Russia).

FEDERAL SYSTEM:

In a federal system, political authority is divided between two autonomous sets of governments, one national and the other sub national, both of which operate directly upon the people. Usually a constitutional division of power is established between the national government, which exercises authority over the whole national territory, and provincial governments that exercise independent authority within their own territories.

FEDERAL STRUCTURE IN INDIA:

The Constitution of India provides for a federal system of government in the country. It contains all the usual features of a federation, viz., two government, division of powers, written Constitution, supremacy of Constitution, rigidity of Constitution, independent judiciary and bicameralism. However, the term 'Federation' has nowhere been used in the Constitution. Article 1, on the other hand, describes India as a 'Union of States' which implies two things: one, Indian Federation is not the result of an agreement by the states; and two, no state has the right to secede from the federation. The Constitution of India, being federal in structure, divides all powers (legislative, executive and financial) between the Centre and the states.

- **Articles 245 to 255** in **Part XI** of the Constitution deal with the legislative relations between the Centre and the states.
- **Articles 256 to 263** in **Part XI** of the Constitution deal with the administrative relations between the Centre and the states.
- **Articles 268 to 293** in **Part XII** of the Constitution deal with Centre–state financial relations.

MAJOR CHALLENGES TO THE INDIAN FEDERAL STRUCTURE

1. REGIONALISM:

Regionalism establishes itself through demands for autonomy on the grounds of language, basically. These demands are usually never silent methods of request, rather they tend to take major violent forms; disrupting the political and cultural environment of the nation as a whole. The nation thus faces the challenge of internal security in the form of insurgency and this causes upheavals in the basic notion of Indian federation.

2. GOVERNOR'S OFFICE:

The most important power of the Governor which sometimes comes in conflict with the federal structure of the country is the power vested upon him by the Article 154 of the Indian Constitution which states that all the executive powers of the state are held by the Governor. This provision implies that the Governor can appoint the Chief Minister and the Advocate General of the State, and State Election Commissioners. The most paramount executive power at his disposal is that he can recommend the imposition of constitutional emergency in a state. In January 2016, the State of Arunachal Pradesh saw the imposition of President's rule in its territory despite there being an already elected government in the same. On July 13, the Supreme Court overruled the Governor's decision as unconstitutional and order was soon restored in the state with the revival of the Congress government in Arunachal Pradesh. But, what came in the light amidst all this chaos was how the over supportive relationship with the Central government and the Governor of the State can impose serious threats to the quasi-federal style of Indian Governance.

3. CENTRALIZED PLANNING:

The items in a state list of a country are enjoyed by the state, the items in the Union list are enjoyed by the Centre and the items in the Concurrent list are enjoyed by both the State and the Centre. One of the items

in the Concurrent list is economic and social planning hence implying that the decision of the same should be taken collectively and with equal discretion by both the State and the Centre. But, Central government tends to control the national and regional planning in India without any inhibitions at all. The vivid example of Centre's assumption of sole authority over the planning or Centralized planning is the establishment of a Planning Commission, now known as NITI Aayog. This committee is appointed by the centre; hence it indirectly underlies the grounds of a state's dependency on the Centre for financial aids. Such hegemony over the financial planning of a country makes the Centre go against the basic federal structure of India as it becomes quite clear that Centralized planning as such nullifies the primary rule of a federation and its requirement of the division of power between the Centre and the State.

4. EXTERNAL FORCES:

External forces also create hindrances for a federation. The tension in North Eastern States in India is due to interference of neighboring countries. China's claim on some portion of the territory of Arunachal Pradesh on LAC threatens the territorial integrity of India. The Tamil issue in Sri Lanka creates disruptive forces in India. The alleged Pak hand in Khalistan movement in the past also has a say in weakening the Indian federation.

5. EMERGENCY PROVISION

Article 356 should be used very sparingly, in extreme cases, as a matter of last resort; a warning should be issued to the errant State in specific terms – alternatives must not ordinarily be dispensed with. It should be provided through an appropriate amendment that notwithstanding anything in clause (2) of Article 74 of the Constitution, the material facts and grounds on which Article 356 (1) is invoked, should be made an integral part of the Proclamation issued under the Article. This will also assure control of the Parliament over exercise of this power by the Union Executive, more effective.

CONCLUSION:

In fine, federalism or federal form of government is the most suitable form for a vast and pluralistic country like India. It tries to facilitate the socio-political cooperation between two sets of identities through various structural mechanisms of 'shared rule'. However, the because of above factors centre-state relations and the state autonomy have become the cardinal issues of the Indian federalism. The Sarkaria Commission in 1983 appointed by the Government of India to examine and review the working of the Indian Federalism did not make any useful recommendations for structuring the Indian federalism in a proper manner. This reveals the fact that even though our constitution is said to be a federal, but this overemphasis on the power of the federal government makes unable to deal effectively with socioeconomic challenges and strengthening national unity. There is need for restructuring Indian Federalism to make it more viable and resilient in paving the way for promoting effective centre-state relation and perpetuating a federal tradition across the country.

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