

Challenges of Indian Federalism in the era of Globalization

Dr. Bishwambhar Prasad*

Abstract:-In a federal set up there is a two tier of Government with well assigned powers and functions. In this system the central government and the governments of the units act within a well defined sphere, co-ordinate and at the same time act independently. The federal polity, in other words, provides a constitutional device for bringing unity in diversity and for the achievement of common national goals. In a federal system of government there is a need for clear cut division of power between the Union and States. Though the Indian Constitution has all such features of a federal state, it is indeed difficult to put the Indian Constitution in the category of true federations. The framers of the Constitution have incorporated certain non federal features in it such as single citizenship, single judiciary, a strong centre, appointment of the Governor by the President, unequal of representation in the Rajya Sabha and so on. All these indicate a tilt towards strong centre. The states have to work in close co-operation with the centre. The constitution is federal in form but unitary in spirit. The study of Center-State relationship in legislative, administrative and financial spheres also clearly shows that the Centre is stronger as compared to the states. The Centre has been assigned a dominant role which became necessary keeping in view the dangers to the unity and integrity of the nation. Therefore, there are provisions for a co-operative federalism. The working of the Indian Constitution over the year indicates that relations between the center and the States have not remained very co-ordinal. The states have started demanding more autonomy. Various commissions have been appointed by the Government of India to review the centre- state relations. The Sarkaria Commission examined the problem and recommended changes in the area of federal, legislative, administrative and financial relations.

Key Words: Federalism, Globalization, Constitution, Democracy.

*Assistant Teacher, Govt. Middle School, Biththo, Pandalu (Madhubani)

Introduction:-Globalization as a process is as old as the civilization itself but gained lot of prominence only during the last two decades. It has major impact on the administrative systems of all the countries in the world especially the developing nations. India also became a part of the process when we opened up our economy to the rest of the world in 1991 after the domestic financial crisis due to America's war with Iraq.

Independent India's federal project was as much a product of its colonial legacy as of its response to the exigencies of national building. The founding fathers expected their institutional framework to address simultaneously the complex diversity of the country and the building of a new nation. Tendencies towards pluralism and decentralisation have co-existed with centralising features leading some to qualify Indian federalism as quasi-federalism.

With the formation of the Planning Commission and the Indian State's adherence to a socialistic planning economic development, the Central Government came to exercise tremendous powers. However, the Indian Constitution also laid the basis for accommodating diversity and cultural pluralism. The Constitution enshrined minority rights and provided autonomy to each religion's community in its private sphere.

Over the past five decades, Indian federalism has had to face the challenge of balancing territorial with non-territorial requirements of the Indian nation. Centralisation has had to contend and coexist with progressively crystallising regional and cultural pluralisms. Several factors have contributed to this sharpening of diverse identities.

These include; the linguistic reorganisation of the states; the granting of constitutional rights to minorities with regard to cultural and educational privileges, the exclusive jurisdiction of regional governments in the two crucial domains of education and agriculture; the extension of affirmative action policies in education and employment to the Scheduled Castes and Tribes, special educational provisions for the local ethnic minorities; and the struggle for autonomy and independence in Kashmir, Punjab and the North-East.

Although globalisation is a much-contested concept, there is general agreement that, in the past two decades, there has been a substantial increase in the international flow of people, capital, goods and ideas. Often, it has been suggested that globalisation has resulted, on the one hand, in the decline of the sovereignty of the nation-state and

on the other hand, a downward movement of political power, giving rise to the coupled forces of 'globalisation'.

There are differing impacts of globalisation on the Indian polity and there have been three different responses of Indian federalism to these challenges.

First, it is suggested that the deregulation of the economy has a skewed impact on the economic development of the country; while the developed regions would rapidly take off, the under developed and backward regions would lag behind. If the Indian state is to pursue its goals of equity and balanced development, it is imperative that the powers of the national government be increased. E.g. why government demands centralisation to have uniform policies to competitiveness and better service delivery.

Second, globalisation creates a legitimacy vacuum. While the nation-state presides over its own dismantling of economic sovereignty, it does not abandon its control or internal sovereignty. In order to enhance its domestic sovereignty, it is compelled to create local democratic structures, which result in furthering the legitimacy of the state.

It is suggested that the constitutional recognition of the third layer of Indian federalism, the Panchayati System, is precisely a reflection of this concern. E.g. New localism, think global, act locally.

Third challenge faced by Indian federalism is the rapid rise of civil society organisations. It is proposed that while some of these associations generate parallel and horizontal structures of democratic governance, internally and internationally, others threaten the operation of democracy. With gradual deregulation of the Indian economy, there has quite naturally emerged competition between the Indian states to secure investment, especially from foreign sources. It has had an adverse impact in accentuating regional imbalances, increasing the gap between have and have-not states.

If the Indian state is committed to economic development, it cannot afford to have a two-tier system without introducing major, centrally managed corrective interventions. While the forward states make extensive progress in their growth, the backward states have to be assisted in their social and economic development, not only for its own sake, but because of the likely positive implications for their governance.

Federalism is one of the most important factors of modern constitutionalism. It is established all over the world perhaps, as the only form of political organization suited to communities with diversified

pattern of objectives, interests and traditions, who seek to join together in the pursuit of common objectives and interests and the cultivation of common tradition. The basic objective of federalism is unity in diversity, devolution in authority and decentralization in administration. The basic condition of federalism is plurality, its fundamental tendency is harmonization and its regulative principle is solidarity. According to Daniel J.Elazara," Federal system provides a so as to allow each to maintain its fundamental political integrity".

As we have already noted, federalism stands on the principle of 'unity in diversity'. The cases of the United States, Switzerland, Canada and India illustrate that in each one of them there are prevailing diversities that are sought to be preserved. Though the people have diverse religious, ethnic and cultural patterns of life, they have also developed a sense of common identity that they do not desire to lose. This is not to deny that, in spite of these social and cultural differences, there must be an over-riding sense of unity to bind the diverse people together. The federal State, differing as it does from the Unitary State in essential features, has to face a number of problems. It has two sets of governments which must work in concert and harmony.

Integration implies the co-existence of the people of various languages, religions, races etc. in India. But there are certain fissiparous federal tendencies which threaten national unity and integrity. They pose hindrances to federal system in India. Here we will continue our discussion to the following major areas of challenges:

In spite of the fact that the Indian Constitution establishes a federal structure, it is indeed very difficult to put the Indian Constitution in the category of a true federation. The framers of the Constitution have modified the true nature of Indian federation by incorporating certain non-federal features in it. These are: Article I of the Constitution describes India as a 'Union of States', which implies two things: firstly, it is not the result of an agreement among the States and secondly, the States have no freedom to secede or separate from the Union. Besides, the Constitution of the Union and the States is a single framework from which neither can get out and within which they must function. The federation is a union because it is indestructible and helps to maintain the unity of the country. The Centre appoints the Governors of the States and may take over the administration of the State on the recommendations of the Governor or otherwise. In other words, Governor

is the agent of the Centre in the States. The working of Indian federal system clearly reveals that the Governor has acted more as centre's representative than as the head of the State. This enables the Union government to exercise control over the State administration. The control of the Union over states after the imposition of National Emergency. The equality of units in a federation is best guaranteed by their equal representation in the Uppers House of the federal legislature (Parliament). However, this is not applicable in case of Indian States. They have unequal representation in the Rajya Sabha. In a true federation such as that of United State of America every State irrespective of their size in terms of area or population it sends two representatives in the upper House i.e. Senate. In addition to all this, all important appointments such as the Chief Election Commissioner, the Comptroller and Auditor General are made by the Union Government. Besides, there is single citizenship. There is no provision for separate Constitutions for the states. The States cannot propose amendments to, the Constitution. As such amendments can only be made by the Union Parliament. In order to ensure uniformity of the administrative system and to maintain minimum common administrative standards without impairing the federal system. All India Services such as IAS and IPS have been created which are kept under the control of the Union. In financial matters too, the States depend upon the Union to a great extent. The States do not possess adequate financial resources to meet their requirements. During Financial Emergency, the Center exercises full control over the State's finances. In case of disturbances in any State or part thereof, the Union Government is empowered to depute Central Force in the State or to the disturbed part of the State. Also, the Parliament, by law may increase or decrease the area of any State and may alter its name and boundaries. The federal principle envisages a dual system of Courts. But, in India we have unified Judiciary with the Supreme Court at the apex. The Constitution of India establishes a strong Centre by assigning all-important subjects to the Centre as per the Union List. The State Governments have very limited powers. Financially the States are dependent on the Centre From the above discussion, it is clear, that there is a tilt in favor of the Centre at the cost of the States. The States have to work in close co-operation with the Centre. This has lent support to the contention that the Indian Constitution is federal in form but unitary in spirit. Constitutional experts have called it 'semi-federal' of 'quasi federal' system.

One of the guiding principles of any federalism is that unequal states should have equal powers. Regional disparities, on the one hand, impact upon the bargaining power of the units vis-a-vis each other as well as vis-a-vis national and international actors; on the other hand they have negative effects on the social and political participation of these units' populations.

Immediately after independence we opted for a federal system with Centre and States expected to work within their own spheres and cooperate with each other to achieve the objective of welfare maximization. Constitution of the country was the guiding principle as far as the centre-state relations were concerned.

In actual practice, due to prevailing political environment India was basically a unitary form of government till 1967. Major change took place with the formation of governments at the state level by regional political parties in north India. It led to friction between the Centre and the States in financial, administrative and legislative spheres. It was a period of confrontational federalism and it continued till the end of 80's.

Beginning of 1990's led to a major change in the direction of centre-state relations with cooperative federalism replacing confrontational federalism that was prevalent during the last two decades prior to 1990. One of the major reasons responsible for this change was the advent of globalization in Indian context.

The temperament of federalism in India during the coalition era has been changed discernibly. Political deliberation seems to surpass the administrative and financial aspects of the Union-state relations in India. The states having the governments of those parties that form part of the central coalition give the impression that to have little conflict with the Centre. Their complaint are submissive or subdued and the general awareness is that they get particular contemplation and hold in matters of resources approved by the Centre. As a consequence, it is raising that noise sometimes that the Centre is being partial against the states having governments of the opposition parties. However, when one becomes aware of the allocations of the Central plan fund released by the Planning Commission on an annual basis, it appears that there is no such obtrusive discrimination. There is called for a more widespread perception of evenhandedness and fairness.

The Following Points Illustrate the Impact of Globalization on Indian Federalism

1. It led to decentralization of powers to the states with the centre providing more powers to the states in the administrative, financial and legislative spheres.
2. Success of globalization depends on implementation of policies at the local level. So the focus has shifted from planning to execution. Since execution can only be done at the local level, centre has ceded the space to the states and local self governments.
3. Attracting foreign investment is key to success of globalization and it solely depends on the initiation and implementation of uniform policies by the centre and the states. The phase of confrontational federalism had resulted in divergent policies between the centre and the states, whereas globalization has resulted in convergence of policies.
4. Economic development is heavily dependent on political stability and peace and harmony. As part of globalization, both the centre and states have become active partners in ensuring the above. Since the beginning of 1990's, the number of times Art 356 was used had come down drastically compared to the period previously.
5. Globalization has also resulted in emphasis on development at the cutting edge level i.e. at the local level. It has resulted in the emergence of concepts like New Localism, Peoples' Empowerment and so on.
6. During the initial years of globalization, there was unhealthy competition between the states to attract foreign investment. It has resulted in states adopting short term policies like lowering tax rates to attract foreign investment. But over a period of time, they have realized the fact that those short term measures can only result in deterioration in finances without bringing the desired results. Now they have started emphasizing on development of infrastructure as it can only ensure overall development in the long run.
7. Institutions like planning commission played a key role during the pre-liberalization days and in some instances states ruled by opposition political parties have accused the central government of misusing planning commission to further its own ends. But the situation has changed with the advent of globalization with states as well as the center realizing the fact that both are equal and active partners in the developmental process.

Conclusion-Globalisation is not a homogeneous process. It has several trajectories. Although the state might abandon its sovereignty in the economic areas, it constantly strives to reinforce its domestic sovereignty. Thus, the sovereignty of a state can be unbundled and examined from internal and external perspectives. On the one hand, in order to preserve the Indian state's fundamental objectives of equity and growth, Indian federalism might be compelled to move towards enhancing the role of the Central government.

This would see to be essential to counter the accelerating inter-regional economic and social disparity resulting from market-based development. On the other hand, a trend towards decentralisation is evident in the installations of the constitutionally approved third tier of the local government. A decentralisation of powers might also be necessary to accommodate the active participation of the voluntary and non-governmental organisations.

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