
CONCLUSION

C O N C L U S I O N

In the foregoing chapter a survey of Indian Federalism in its various aspects has been assessed. We may now sum up our conclusions regarding its true nature. This point again, is not free from controversies. One school of political thinkers headed by Prof.K.C.Wheare regards the Indian Constitution as "quasi - federal"; while there are, others including Dr.Ambedkar who have unhesitatingly expressed the view that it is a federal constitution.

The federal theory gained its popularity as much needed unifying force of multilingual and multi-national states. "One would agree with Laski in maintaining federalism in the modern age as a principle of reconciliation between two divergent tendencies, the widening range of common interests and the need for local autonomy and that what is needed is neither, complete independence nor total dependence but an inter-dependence that creates harmony. This is ideal for a large country like India, composed of divergent forces"¹.

For a successful functioning of federalism, it needs to function on a co-operative basis. Centralism and parochialism should yield to co-operation. India has exemplified

1. Ramachandran,V.G., 'Essays on Indian Federalism',
Ed.by S.P.Aiyar and Usha Mehta, Allied Publishers,
Bombay,1965,p.64.

to a good degree by the device of a 'concurrent list'. The federal system provides that in the event of a conflict between Central and State legislation on the 'concurrent list', the former would prevail. Co-operation in the 'concurrent' sphere is possible in many ways. The Centre can be empowered to enact normative legislation, laying down the required standards. The units can apply these standards in accordance with local conditions. There can be delegation of power by the Centre in particular fields. The rule making power may also be delegated. India has advanced far in the use of 'concurrent powers' by providing as many as 47 claims including items like civil and criminal law, labour and social legislation.

In India, the centre has the power to fix minimum wages and maximum hours of work while the component units of the federal union have the power to fix even higher standards. The Constitution falls within the federal definition because it establishes Federal and State governments with co-ordinate powers, each of which act directly on the people through its own administrative agencies. The chief qualification that must be added, in normal times, is that the federal government has no police force, so that it has to rely upon the State police to ensure compliance with federal laws and may in fact direct state governments to see that this done².

2. Birch, A.H., Federalism, Finance and Social Legislation, London, Oxford University Press, 1955, p.293.

This does not seem to be a major qualification, since criminal law is included in the list of 'concurrent powers' and the number of purely federal crimes may not be great.

In India, the experience has shown that though constitutionally the centre enjoys many powers, and has a say in matters of legislation, planning, etc., nevertheless, the states regional identity has grown unhampered. Regional languages, regionalism, respective cultures, etc. have grown.

Besides, there are a number of ways in which the constitution provides for co-operation between Federal and State authorities and breaks down the strict separation of activities implied by the classical definition of federalism. In the first place, there is an extensive list of 'concurrent powers', including social and economic planning, control of combines and trusts, trade unionism and industrial disputes, and all forms of social security and social insurance. In this field the most recent legislation, whether it be federal or state, has priority.

Second, it is provided that if two or more State governments desire the Federal Parliament to legislate on a matter which is reserved to the States, and if all the legislative houses of these states pass resolutions to this effect, the power can be conferred on the Federal Parliament. Any legislation passed under this provision may be adopted by any other state, provided its legislative house or houses so resolve.

Third, the Federal Parliament may pass legislation of universal validity regarding a matter reserved to the states if a resolution to this effect is passed by a two-thirds majority of the Council of States (Rajya Sabha). Members of this Council are elected by the Legislative Assemblies of the States, representation on it being neither in proportion to population nor equal for each State, but somewhere between the two, so that the nine biggest States of the twentyseven states elect two-thirds of the members. The authority for federal legislation of this kind has to be renewed every twelve months.

Fourthly, the federal government is authorised to direct state governments to construct or maintain any means of communication declared to be of national or military importance, the costs of such work to be paid by the Federal government.

Finally, the financial clauses provide for a good deal of co-operation between the federal and State governments. Constitutionally this being the position, the Centre, naturally is in a better position. Centralism is no doubt a strong feature of Indian federal structure. Compared to other Federal countries, i.e. U.S.A., or Canada; in working of the federalism, it is found the Constitution need not, and is not a hurdle. Today in twentieth century federal politics, it is immaterial where, the 'Residuary Powers' lay either with the State or with the Centre. The need of uniform planned

economic development has been a universal trend. Planned economic development and the need of uniformity of economic development has been anti thesis to the federal thesis. Hence what we find to-day in federal countries is that the need of co-operation between Centre-State-relations, which today is known as Co-operative Federalism.

Some of the trends of co-operative federalism in practice in India to-day are:-

- 1) Planning Commission,
- 2) National Development Council, etc.

PLANNING COMMISSION:

Inter-Governmental co-ordination has been rendered effective in absorbing the doctrine of Co-operative Federalism in National Planning where in the co-operation of all the component units of the Republic of India is harnessed. The Planning Commission was set-up in 1950 by a Resolution of the Government of India. Its task included the assessment of the nation's resources, drawing up a plan to utilize them, determine the conditions, machinery and adjustments necessary to make the plan a success.

Five-Year-Plan has changed the federalism in India. This Commission consists of the Prime Minister as the Chairman, three other Central Ministers, three full time members and a Deputy Chairman. Though its role is advisory,

headed as it is by the Prime Minister of India, it has the de-factor prestige of a high power body - the 'Economic Cabinet' of India - reconciling the claims of various Ministries in the Central and the State Governments in matters of Planning, and allocation of funds therefore. In fact the scope of the Finance Commission in assessing the needs of the States has in a way become restricted as a result of the contribution of the Planning Commission. Economic Planning under the 'Five Year Plan' scheme has affected the very Constitution, coupled with the dominance of a single party (Congress) both at the Centre and at the State. At present the Sixth Five Year Plan is introduced.

THE NATIONAL DEVELOPMENT COUNCIL:

This is another body intended to achieve fullest co-operation and co-ordination in planning between the Central and State Governments so as to ensure uniformity of approach and unanimity in the working of the National Plan. This Council meets once in three months and is composed of the Chief Minister's of all the States, Members of the Planning Commission, the Chairman, again being the Prime Minister of India.

As we know the Union-State relation in Indian political system have both static and dynamic characteristic. Federalism as such is both a structure and a process. As a structure it

indicates the static legal and constitutional relationship, power and positions of both the sets of governments. As a process it includes operational inter-relationship, inter-dependence and inter-action between the Union and the States and among the States both at party and governmental levels, thus dynamic according to changing circumstances.

"The Indian Political system is an organic whole"³. The States are the sub-systems of this political system. The Union-State relationship is just like a relationship between the parts and the whole, which should not normally be competitive and antagonistic but co-operative and complimentary to each other. True, stresses and strains do arise from time to time the degree and frequency may differ according to changing environment. The political system has to resolve them partly or fully depending on its style and capacity, for the system-maintenance and tension-management.

The Interdependence of Union and State Governments in Indian political system is responsible for dual trends towards centralisation and decentralisation. Centralisation in response to, for example, the exigencies of national

3. Shukla Vimla, 'The Recent Trends and Issues in Union-State Relation in India', Paper read at, Indian Political Science Association, Madurai, 1979, p.2.

planning and decentralisation as a result of many factors including centre's dependence upon the State for the administration of its programmes⁴.

This necessitates the setting up of co-operative federalism, wherein both the Union and the State Governments are compelled to come out of their spheres and to co-operate with each other in the task of promoting common welfare. There is undoubtedly an obvious interaction among the centralising and decentralising forces of Indian political system. Planning, Party and Grants (from Centre to States) have been working in India as a powerful means of centralisation.

At the same time the growth of self-consciousness, and self-assertiveness of the regional governments had manifested itself through linguistic, caste and communal fanaticism, regional parochialism, fanned chauvinism by vested interests poses a strong challenge to centralisation.

If the Centre is strong the States will not manifestly express their feelings of discontentment. The political style for articulation of their demands will be diffused, latent

 4. Jain, R.B., 'Federalism in India,' Emerging pattern and Public Policy, Journal of Constitutional Studies, Vol. XII, January-March, 1978, p.3.

covert and affective. Although intermittently it can be heard from a remote corner, i.e. the demand for a new State in the political system, but it will not create a problem for the system-persistence and tension-management. The authority at the Centre with its power of legitimate physical coercion easily cope with such stresses. Thus the boundary of Union Government (System) will expand in an invisible manner and similarly the boundaries of States (sub-system) will diminish. The power of decision-making on major issues when government at the Centre is strong will ordinarily rest with the Central political system. Generally, speaking as such the authority of the Central Government is so extensive that the states have ordinarily to obey the orders and directions issued to them. The enormous authority of allocation of values (specially grants and grant-in-Aids) would be with the Central political system and the capacity of political persuasion and bargaining of the State-sub-system will be less in this situation.

In such a situation the tendency for a strong centre can mostly be observed in the political behaviour and style of the Indian political system. Pre-1963 tennure of Nehru and post-1971 tennure of Mrs.Gandhi are particularly marked for this phenomenon.

Passing years have proved that the lever of power authority and rule in Indian political system will always

be held by that unit which is holding a dominant position in the power hierarchy.

Constitutionally, however, the Union is having a more important, and influencing position in the hierarchy, and operationally too, the Central political system has dominated its sub-systems for the first thirty years with a brief reversal interlude of four years (1967-71). The post-emergency period is almost a quixotic repetition of the afore-mentioned interlude (of four years). The Centre cannot be strong if the States are not strong, because a strong Centre with weak States could lead to dictatorship. As our Indian States are like pearls and the Centre is the thread, which turns, them into a necklace. If the thread snaps then the pearls are scattered⁵.

If we analyse Union-State relations in Indian political system from the beginning upto date we shall find that this relationship has passed through various phases from its unitary character to quasi-federal, quasi-federal stage to co-operation and competition, then to a stage of extreme centralisation and presently to a moderate decentralisation.

Federal theory today has advanced a great deal and co-operative federalism has been the guiding principle for

5. The Hindu, Madras, 25th September, 1978.

federal governments to follow and implement their policies for the mutual advantage of the Union and the component units and for the avoidance of any rupture as between inter-States and between the Union and the States.

As we stated at the beginning the aim of all societies is to obtain the best form of government. In this the federal structure of government has generally succeeded in many of the larger countries. A combination of federalised administration and centralised legislation appear to be much in the minds of 'Federalists' as the future trend in 'Federalism'. The Indian experiment is being watched with great interest as also the highly developed mechanism obtaining in the United States of America. Federalism is not easy to work successfully unless the community throws up the proper men and suitable machinery is introduced. In the final analysis, the success of 'Federalism' rests to a large extent on the capacity of the people to work together in a spirit of co-ordination.