



Covid-19 and Indian Federalism

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This article is based on **“Reaffirm cooperative federalism”** which was published in The Hindu on 13/05/2020. It talks about the nature of Indian federalism and federal issues accentuated during the Covid-19 pandemic.

India’s success in defeating **Covid-19** actively rests upon Centre-State collaboration. However, some recent developments have revealed fissures in Centre-State cooperation.

As it is the States which act as first responders to the pandemic, supplying them with adequate funds and autonomy becomes a prerequisite in effectively tackling the crisis.

This requires the Centre to view the States as equals, and strengthen their capabilities, instead of increasing their dependence upon itself.

In this context, Covid-19 poses a litmus test for the federal structure of India, whose nature is already a matter of debate amongst constitutional experts.

Nature of Indian federal structure

Federalism traditionally signifies the independence of the Union and State governments of a country, in their respective spheres. However, due to the centralising tendency of Indian federalism, K C Wheare referred to it as **“Quasi federal”**.

Similarly other constitutional experts describe it as, **“federation without federalism”** and **“a Union of Unequal States”**, particularly the way it has evolved over the years.

Features of Indian Federation that reflects a Centralising Tendency

Inequitable Division of Power

- The division of powers is in favour of the Centre and highly inequitable from that of a true federation.
- The Union List contains more numbers and important subjects (like defence, currency, external affairs, citizenship, railways) than the State List.

- Also, the Centre has overriding authority over the Concurrent List and the residuary powers have also been left with the Centre.

No Territorial Integrity with States

- The Parliament can by unilateral action change the area, boundaries or name of any state (Article 3 of Indian constitution).
- Indian federalism is described as an **indestructible union of destructive states**.

Flexibility of the Constitution

- The Constitution of India embodies not only the powers of the Centre but also those of the states.
- Further, the bulk of the Constitution can be amended by the unilateral action of the Parliament and the power to initiate an amendment to the Constitution lies only with the Centre.

Emergency Provisions

- During an emergency, the Central government becomes all-powerful and the states go into the total control of the Centre.
- It converts the federal structure into a unitary one without a formal amendment of the Constitution.

Appointment of Governor

- The governor is the head of the state but is appointed by the President. He holds office during the pleasure of the President.
- In this capacity, he/she acts as an agent of the Centre.

Integrated Constitutional Offices

- Indian constitution provides for an integrated audit machinery (such as CAG), election commission (such as ECI) and states have no control over these offices.
- Also, features like Single Citizenship, Integrated Judiciary and All India Services also signifies centralising tilt.

Federal Issues Accentuated During the Pandemic

Lack of Finances with the States

- Due to the Covid-19 induced lockdown, the sources of states' revenue have collapsed.
 - Majority of states' revenue comes from liquor sales, stamp duty from property transactions and the sales tax on petroleum products.
 - However, their expenditure such as on interest payments, social sector schemes and staff salaries remain unchanged.
 - Moreover, states are now called upon to spend more on beefing up their health infrastructure and on Covid-19 measures, including testing, treatment and quarantining.
- States' GST collections have also been severely affected with their dues still not disbursed by the Centre.
- According to the FRBM Act, states cannot borrow from the market over a certain limit.
- Further, the **PM-CARES relief fund** has been put under the ambit of **Corporate Social Responsibility (CSR)** contributions. However, contributions to the 'Chief Minister's Relief Fund' or 'State Relief Fund for Covid-19' do not qualify as admissible CSR expenditure.

This directly disincentives donations to any Chief Minister's Relief Fund; diverts crores in potential State revenues to PM-CARES; and makes the States largely dependent upon the Centre.
- Furthermore, the suspension of **MPLADS** and diversion of the funds to the **Consolidated Fund of India** may not be in concurrence of cooperative federalism, as it discourages locally tailored solutions by the MPs.
- In this scenario, states in India have fully become dependent on the Union government for finances.

Managing Covid-19 Disaster

- For instance, the zone classifications into 'red', 'orange' and 'green' have evoked sharp criticisms from several States.
- The States have demanded more autonomy in making such classifications.
- This is despite the fact that state consultation is a legislative mandate cast upon the centre under the Disaster Management Act of 2005 (under which binding COVID-19 guidelines are being issued by the Centre to the States).

Note

- The Disaster Management Act, 2005 envisages the creation of a 'National Plan' under Section 11, as well as the issuance of binding guidelines by the Centre to States under Section 6(2), in furtherance of the 'National Plan'.
- However, section 11(2) of the Act mandates State consultations before formulating a 'National Plan'.

Migrant Crisis

- The influx of migrant workers into their home states like Uttar Pradesh, Bihar, Jharkhand and Chhattisgarh, which already face severe financial and medical deficits, would worsen matters for the states.

- The sustenance of agricultural, industrial and construction activities would be difficult in the absence of a majority of the workforce in the backdrop of the lifting of restrictions, given these workers are going back to their hometowns.
- In this case, both Centre and states failed to devise a coherent and holistic plan of action to avert the migrant crisis.

Steps To be Taken

Short-Terms Measures

- The limit imposed by the FRBM Act must be relaxed so that states who are falling short of funds can borrow money to combat the pandemic and revive the economy.
These borrowing can be backed by sovereign guarantee by the Union Government.
- The Union government can provide money to states so that they can take necessary action to deal with the crisis at state level.
- The Union government should direct FCI to move the grains from the godowns to states.
- A successful approach to tackle the crisis would still need Centre's intervention and guidance in a facilitative manner, where the Centre would communicate extensively the best practices across states, address the financial needs effectively, and leverage national expertise for scalable solutions.

Long-Term Measures

- The recent meeting by Indian Prime Minister with the chief ministers of states is a testimony of cooperative federalism. In this context, the government should consider making the Inter-State Council a permanent body.
- Management of disasters and emergencies (both natural and manmade) should be included in the List III (Concurrent List) of the Seventh Schedule.
- An Inter-State Trade and Commerce Commission should be established, which will help realise the idea of '**One India One Market**'.
- Arbitrary control of union over states through the **institution of the governor and Article 356**, must be checked.

Conclusion

The constituent assembly in India studied various democratic federal models in the world and formulated a system suited uniquely to India's needs. Further, it is argued that a "strong centre" does not necessarily presuppose weak states.

As a result, India adopted 'cooperative federalism' — essentially defined by administrative cooperation between the centre & states and among states. Therefore, both union and states should work together to tackle the Covid-19 pandemic and strengthen the spirit of cooperative federalism.

FEDERAL vs. UNITARY

Federal

- **Dual Government** (Central + Regional)
- Written Constitution
- **Division of Powers** between Central & State Governments.
- Supremacy of the Constitution
- Rigid Constitution
- Independent Judiciary
- Bicameral Legislature

Unitary

- **Single Government** - Central only (Regional Gov. may be formed by Central)
- Written (France) or Unwritten (Britain) Constitution
- **No Division of Powers**
- Supremacy of the Constitution not guaranteed (like Britain)
- Flexible (Britain) or Rigid (France) Constitution
- Judiciary may or may not be Independent
- Bicameral (Britain) or Unicameral (China) Legislature

Drishti Mains Question

Covid-19 pandemic is a litmus test of the federal structure of India. Discuss.



Watch Video At:

<https://youtu.be/8EeQ8VpGzRU>

This editorial is based from "Perilous State" which was published in The Hindu on May 13th, 2020. Now watch this on our Youtube channel.