

India: Continuity and Change in the Federal Union

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For more than a decade, India has been experiencing pressures for decentralization, with the states demanding greater say in, and control over economic development. Subnational units in India are expected to contribute to the strength of the country as a whole, but recently the states have been protesting any political interference from the central government in New Delhi. The states have also taken exception to the accumulation of taxation powers by the national government, which has left them financially weakened. **These new political pressures are a reversal of the previous trend, which has seen a gradual centralization of powers and responsibilities.**

India's complex federal structure was established in the immediate aftermath of Independence in 1949-50. India is a Union of states which consists of 28 full-fledged states, six Union Territories (governed directly by the federal government), one National Capital Territory, and more than a dozen self-governing sub-state units like autonomous regional and district councils. All these structures of governance, along with local governments, draw their authority from the Constitution of India (except Jammu and Kashmir, which has its own constitution). The Constitution distributes powers both symmetrically--for example, the 7th schedule makes distribution of powers symmetric between federal and state governments--and asymmetrically, through several articles like those dealing exclusively with tribal communities, ethnic minorities, and protective development of select regional and sub-regional people. This structure of power distribution and power-sharing arrangements produces a highly complex form of federalism.

Within India, there are both centralizing and decentralizing political pressures. On one hand are the imperatives of maintaining national unity and integrity. On the other are the varying requirements of economic development across regions, class, caste, and other geographical and ethnological differences. Although the federal Union consists of a complex network of authority, institutions, and political bodies, each unit of governance is expected to serve and add to the strength of the Union, besides maintaining its own respective identity and integrity.

The Constitution builds the federal Union from local bodies to the states to regional bodies, with a Union government (national government) to coordinate the various structures of shared rule. The central authority has regulatory powers over a fairly large number of subjects. But matters of local import have been devolved to the subnational units. The Constitution does acknowledge the supremacy of the jurisdiction of each federal unit. However, there also exists "differential loading" – some units having more functional responsibilities than the others – within different or similar subject areas. Thus while states' authority over primary education is by and large established, the same does not hold true for higher education, where it has to share its jurisdiction with the central government.

Broadly, the Union government has been assigned the three important roles of: upholding national unity and integrity, maintaining constitutional and political order in the constituent units, and planning of national economic development. States hardly question the constitutional intent and sanction of these powers of the Union government, but they frequently seek procedural

transparency and participation in the decision-making process of the Union government, especially regarding the exercise of authority over the second and third roles. They insist on minimal interference from the Union government in the affairs of the states, particularly when it is on the pretext of maintaining constitutional political order within the units. In this regard, they particularly object to the exercise of emergency powers by the Union government under Article 356, which allows for the deployment of military forces, reserving state bills for presidential consideration and approval by the Governor. The common refrain is that the Union government has accumulated and brought within its domain a large number of developmental items, on the pretext of serving larger national and public interests, which could otherwise have belonged to the states. This has resulted in the concentration of high yielding revenue items in the hands of the Union government, and the consequential narrowing of the revenue generating capacity of the states.

For these reasons, the states have been demanding that the authority of the Union government be dramatically reduced. Many high-level commissions have been set up to study the question. All of them, except one, have found the Constitution not only sound but also flexible enough to decentralize powers and authority from the Union government to the regions. They have suggested many functional modifications in the working of Union -state relations. One such Commission on Union -state relations was headed by Justice R. S. Sarkaria which advanced far-reaching recommendations.

In 1990, the government of India set up the Inter-State Council (ISC) to implement the recommendations of the “Sarkaria Commission” and to promote harmonization of inter-state and Union-state relations and policy coordination. The ISC works to seek consensus on the possible changes in the structure and process of inter-state relationships. The ISC has succeeded in developing some agreement on repairing crucial areas of federal relationships. Other councils have been established to build stronger inter-state relations. However, apart from the North-Eastern Council, the other councils are either defunct or riddled with mutual antipathy.

The most recent changes to Indian federalism have been designed to ensure good governance, by enabling private and public partnership at all orders of governance. The good governance agenda is leading to the widening of state autonomy, particularly in the area of economic development. The states are permitted to introduce competitive economic reforms through various forms of political and administrative decentralization. Now the states are able to invite direct foreign investment on their own. They are allowed to introduce reforms and innovations in the state economy, and to decentralize powers according to the individual needs of the concerned states. The federal system has shown enough resilience to adapt, accommodating both the imperatives of national unity and a liberalized market economy of the twenty-first century.