Forum of Federations

Federalism and the COVID-19 crisis: Centre-State apposite relations in Pandemic Federalism - India

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The COVID pandemic around the world has put both healthcare and federal structures to the test. A key feature of India's response to the COVID-19 outbreak has been the close collaboration and cooperation between the Union (central) and state governments. The pandemic has underlined the necessity for strengthening cooperative federalism since no single jurisdiction or level of government has the capability to deal with the crisis on its own. In India, as in most federations, the constitution lists healthcare a responsibility assigned to state governments. In extraordinary circumstances such as the outbreak of coronavirus, the constitution provides for the Union government to take the lead in coordinating between and supporting the states. The legal framework for these interventions is provided by two laws, the Epidemic Diseases Act 1897 and the Disaster Management Act 2005.

The Epidemic Diseases Act constitutionally empowers both the central and state governments to regulate the spread of epidemic diseases. According to the act, the Union is empowered to take preventive steps with respect to epidemic diseases at ports of entry and exit. At the same time, it also empowers the state governments to take preventive and regulatory measures to curb the spread of epidemic diseases within their own jurisdiction. Consequently, the act enables states to impose bans on public gatherings, close educational institutions including schools, colleges and universities, and instruct companies to devise work from home strategies within their territories. The state of Karnataka became the first to invoke the act, and put the powers assigned under it into action on 11 March 2020. The states of Haryana, Maharashtra, Delhi and Goa followed suit shortly thereafter. Subsequently, the central government asked all the states to invoke the provisions of Section 2 of the act, which relates to the enforceable character of advisories released by both the Union health department and state governments. It is important to note that despite health being a state competence, there is no conflict of interest between the Centre and states with respect to the implementation of this act. Since disaster management competences are not enumerated within the Indian constitution, it is considered a residual power allocated to the Union. However, the 2005 Act is rooted in Entry 23 of the concurrent list, namely, "Social security and social insurance, employment and unemployment", thereby empowering all tiers of government to contribute to disaster management and mitigation. The act enabled both the central and state governments to impose a complete lockdown and regulate the movement of people.

The central government has sustained its measures by widening the testing criteria for the virus and enlisting private labs to conduct them. Interventions are being

made in the economy to alleviate growing public concerns. Alongside the measures taken by the central government to manage the crisis, some states are adopting innovative ways of dealing with COVID, and have become true 'laboratories of innovation'. In many instances, mitigation measures taken by state governments preceded those taken by the Centre. As noted above, lockdowns were first initiated by the states. On the economic front, Kerala became the first jurisdiction to advance an economic support package of INR 200 billion (USD 2.6 billion) on March 19. The central government announced its own financial support package worth USD 22.6 billion a week later. This stimulus included free food grains and cooking gas for the poor for three months, and cash doles to women and poor senior citizens for the same period. Odisha took proactive action even before coronavirus cases began surfacing in the state. The state government reached out to people in smaller towns and villages asking everyone who had returned home since the outbreak of COVID-19 to self-quarantine at home - an estimated 84,000 people were put under home quarantine to contain the virus in the state. Furthermore, it created an online portal which all people entering the state were required to register with in order to facilitate contact tracing and health screening.

District administrations have also been very proactive in the context of the COVID-19 outbreak and its management. The efforts and initiatives of Bhilwara (Rajasthan) district and Agra city (Uttar Pradesh) administrations are particularly notable. Bhilwara became one of the most affected COVID-19 districts in India initially, but it has not reported a new COVID-19 case since March 30. The district administration adopted an aggressive approach to containing the spread of this virus. More than 2.2 million people were screened in Bhilwara, several of multiple times. The district's success is attributed to the collective efforts of dedicated local officials, and has encouraged the central government to embrace the 'Bhilwara model of containment' across the country, particularly in the most-affected districts in different states of India. The Agra city administration's proactive tactic in categorizing cases, rigorous testing, conducting door-to-door surveys, and stringent quarantine procedures has also proven to be effective so far. The city administration adopted the policy of preparing a list of people returning from foreign tours and classifying their family and other intimate contacts. The neighborhoods in which confirmed cases resided were designated 'hotspots', with a three-km radius containment zone established around them and a further five-km radius area designated as a buffer zone. Signifying the spirit of cooperative federalism, the Union health ministry was highly engaged in supporting the administrations' containment plans. At least 2,000 health workers are working constantly in fighting the outbreak, and over 3,000 ASHA (Accredited Social Health Activist) have been enlisted to help with door-to-door surveillance of over 160,000 households comprising more than one million city residents. This has made Agra yet another case study for other states and cities to emulate.

The pandemic has provided much impetus to intergovernmental collaboration. Over the last month alone, there have been three video conferences between the prime minister and the chief ministers, the most recent occurring on April 11. While affirming their support for an extended lockdown, states are also looking for additional financial support from the central government to alleviate their own challenging fiscal situations. In his last address to the nation the Prime Minister acknowledged the collective decision making that had gone into extending the current lockdown into early May.

However, as expected there have also been points of disagreement between the Centre and states. In extending the lockdown until May 3, the central government allowed for the possibility of some relaxation in non-containment areas from April 20. However, the decision by Kerala state to allow limited reopening of restaurants and local public transit has brought it into conflict with the Union Ministry of Home Affairs which has suggested that these measures violate lockdown guidelines. In developing a more graded understanding of the COVID situation across the country, the Union Ministry of Home Affairs has identified some districts where the spread is "especially serious". These places include seven districts in the state of West Bengal, Delhi, Indore in Madhya Pradesh, Pune and Mumbai in Maharashtra. Inter Ministerial Central Teams are being sent to these places to assessments and suggesting additional mitigation measures. However, the state government of West Bengal has raised objections to Centre's interventions, having lack of clarity on deploying these teams under Disaster Management Act, 2005. Without clarifying the criteria for the basis of selection of those districts in west Bengal, the state government believes that these measures violate the spirit of federalism.

States have also been asking for additional financial support from the Centre as their own revenues have collapsed. Some of the requests made by the chief ministers included: a request that donations to the to the state based on chief minister's relief funds (and not just to the national Prime Minister's relief funds) should be counted as corporate social expenditure; greater accessibility of testing kits and personal protective equipment for health workers; relaxations in fiscal deficit norms in relation to the payment of compensation under the Goods and Services Tax regime; a larger economic package for different sectors; and fiscal sustenance for states.

So far the Central government as responded by getting the Reserve Bank of India to extend additional credit lines to the states and by pre-paying the April installment of the states' share of the Central Taxes and Duties to the tune of INR 460 billion (USD 5.9 billion).

As testing in India - currently running at 30,000 tests per day – expands, the absolute number of cases is also expected to rise. The key challenege is to ensure that rates of infection do not grow while economic activities are re-started in a phased manner. Rajasthan state became the first state to put in the public domain its plans for a phased reopening of the economy this week and it is expected that others will follow in due course.