

Cooperative and Competitive Federalism: The Two Towers of National Development

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Abstract

In the past decades, India's economy has taken giant strides. India is standing on the cusp of becoming the world's largest economy. In this backdrop and in light of contemporary development, it is important to look at the functioning of our federalism because we are, in character, a federal nation with a strong centre. Formulation of economic policies, allocation of funds and resources, and other allied matters are matters to be discussed between the centre and the states. Any federal nation cannot grow if there is no understanding and cooperation between the union and federating units. India's Constitution firmly establishes a cooperative regime between the centre and the states. But, as times have changed, the government has also accepted and started to promote competitive federalism as a tool of national development. Besides a scheme where the centre shares a vertical relationship with the states, a scenario where states, in a horizontal relationship, compete with each other in order to attract investment, and favourable policies could ultimately lead to the development of the nation as a whole. However, both cooperative and competitive federalism are susceptible to some challenges and hurdles. Since, both cooperative and competitive federalism are efficient mechanisms for India's development, the author, through this article, has attempted to analyse the contemporary trend relating to the same and the government's response to the challenges posed.

Keywords: Constitution, cooperative federalism, competitive federalism, federation, quasi-federal, union-state relations, NITI aayog

INTRODUCTION

India, through its Constitution, has adopted a quasi-federal structure of government. Before we try to understand what an Indian federation stands for, we must first look at the meaning and nature of a federation or federal system of governance.

Federalism finds its origin in the Latin word '*foedus*' which literally means 'contract' or 'treaty' or simply 'agreement'. *Foedus* itself is derived from the older Latin word '*fides*' which means 'faith' or 'trust' [1]. A federation is a system of governance that consists of government at the centre and several local governments, which are also termed as 'federal units'. The idea behind a federation is to unite the central government and federating units under a common and indivisible sovereignty while at the same time providing autonomy to the federating units.

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India has adopted the philosophy of constitutionalism, and the Indian Constitution establishes a federal democracy. The progress of any nation depends on the efficiency of the governance system, and a good system requires coordination and synergy between the centre and

federating units, which are called states in India, as India itself is defined as a union of states under Article 1 of the Constitution.

It is noteworthy that the Preamble to the Indian Constitution does not mention the word ‘federal’ or ‘quasi-federal’ or ‘federation’. However, the functional aspect of the Indian federal scheme is found under Part XI of the Constitution which delineates the distribution of legislative, executive, and administrative authorities and powers between the union and the states. If we carefully examine the relationship between the union and the states under Part XI, we find out that there are two kinds of relationships. First, a vertical relationship between the centre and the states, and second, a horizontal relationship between the states. Fostering understanding and coordination between the centre and the states and among various states is one of the major responsibilities. It is the bedrock of the overall development of a federal nation. Under our Constitution, residuary powers [2], legislative power in national interest [3], and emergency powers [4] rest with the centre which gives a strong unitary character to the Indian federation and magnifies the idea of quasi-federalism. Thus, it is important and very much the duty of the centre to promote understanding and cooperation among the federating units.

The transformation of a nation requires continuous efforts on the part of the government. It is not possible to devise and implement important policies if there is no congeniality and understanding among governments.

COOPERATIVE FEDERALISM: BASIC STRUCTURE OF THE CONSTITUTION

The concept of cooperative federalism is very much a part of the basic structure of the Indian Constitution which requires the centre and state governments to cooperate with each other as far as legislating on the subjects contained in Schedule VII is concerned. This cooperation is extremely vital in India’s journey towards becoming a welfare state. Cooperative federalism is an effective political tool for enabling the participation of states in the formulation of national policies.

Cooperative federalism is a system that professes a horizontal relationship between the centre and the states and among the states. It is widely believed by the proponents of cooperative federalism that a successful implementation of this form of governance would go a long way in ensuring the social and economic progress of the country. In challenging times, cooperation among the states and support extended by the centre to the states are very important. We are still witnessing the precarious situation which is a result of the COVID-19 pandemic, and how crucial it is for the governments to stand with each other rather than against each other.

Role of NITI Aayog in Boosting Cooperative Federalism

Though the Indian Constitution has the concept of cooperative federalism at the centre of its constitutional mandate but its implementation has always been a contentious issue. Realization of the true potential of cooperation between the centre and state governments requires arduous efforts on the part of policymakers.

On 17th June, 2018, at its fourth Governing Council meeting, NITI Aayog laid emphasis on the need of uplifting the prevailing standards of cooperation between the centre and the federating units. The prime minister asserted that the Governing Council must act as a platform for inspiring and nurturing cooperative federalism. He urged the states to ascertain their growth targets as India marches towards becoming a USD 5 trillion economy. Most notably, the prime minister called upon the chief ministers of seven states (Andhra Pradesh, Bihar, Gujarat, Madhya Pradesh, Sikkim, Uttar Pradesh, and West Bengal) to cooperatively work together to come up with strong recommendations on a coordinated policy approach relating to agriculture and MNREGA. Further, he also urged the states to look for good opportunities to enhance corporate investment in various areas pertaining to agriculture such as food processing, warehousing, and logistics [5].

In order to strengthen centre-state partnership, NITI Aayog has initiated several programmes:

- *Development support services to states (DSSS) and sustainable action for transforming human capital (SATH)*: The aim of these programmes is to calibrate the resources and improve the social sector indicators, the states;
- *North-eastern initiative*: NITI Aayog has taken strong measures to help remote and resource-deficient regions. The goal is to identify their constraints and to assist and push them in achieving sustainable development goals [6].

Since 2014, NITI Aayog has been at the forefront of the endeavour of advancing cooperation between governments. It is imperative for whatever government that is in power to keep the cooperative spirit of the federation alive. Cooperative federalism is a powerful tool to inspire inclusive development.

Goods and Service Tax (GST) and Cooperative Federalism

Under the Constitution, the power to levy taxes rests with both the centre and state governments. GST has emerged as a powerful example of cooperative federalism in India wherein the centre and state governments have ceded their power to tax in order to unify the nation under one uniform taxation regime. GST has drastically restructured the fiscal relations between the centre and the states in the larger interest of taxpayers and national development.

The economic integration of the country by GST is backed by the spirit of cooperative federalism. Under the GST regime, both centre and state governments are required to act on the recommendations made by the GST Council which is constituted by the union finance minister, union minister of state for finance and all finance ministers of the states. 2/3rds of voting power is with the states and 1/3rd with the centre which shows the true spirit of federalism [7].

Centre and state governments have exhibited a great spirit of cooperative federalism under the GST regime by harmonizing GST laws across the country, adopting common definitions, common procedures and formats, and common compliance mechanism. Cooperation between the centre and states is also visible in the following areas [8]:

- Joint capacity building approach
- Joint trade awareness and outreach efforts
- Cross-empowerment of centre and state officers; and
- Joint implementation committees

It was believed that free movement of goods and services under a unified economic regime would boost employment generation and provide consumers with wider choices and better prices. However, this can only be achieved if the federal system of India works hand-in-hand towards the greater goal of inclusive economic progress.

COVID-19 Challenge to the Indian GST Regime

The Indian Federation faced a huge challenge when its economy took a massive hit amid the COVID-19 pandemic where the GST collections were at all times low. India had already initiated a new wave of fiscal reforms which ultimately led to a consensus on a system of federalism based on strong fiscal cooperation. It was also professed that a careful distribution of the centre's fund among the states would be a significant measure to promote cooperative and competitive federalism in the country.

However, dire situation arose when many state governments under opposition parties did not receive the due compensation for the revenue loss incurred by them due to GST. The outcome was a considerable loss as the states had to depend on the funds handled by public sector undertakings to cover the losses and clear the dues. This issue certainly deserves consideration of the centre so that comprehensive cooperation with states enduring heavy losses could be ensured.

Under GST law, a guarantee was made to the states that should they incur any loss in their revenue in the initial five years post the GST implementation (the period started running from 1st July, 2017), they would be duly compensated. The shortfall was calculated based on a growth assumption of 14% over the base year of 2015–16 [9]. Further, the guarantee of compensation was extended until 2022 in case the states' annual growth dipped below 14% after the implementation of GST.

To assuage the situation, the finance minister afforded two options to the states:

1. Borrowing of INR 97000 crore through special window facilitated by the Reserve Bank of India and this amount was later revised to INR 1.10 lakh crore; and
2. Borrowing of the complete shortfall amount of INR 2.35 lakh crore from the market that included the INR 1.38 lakh crore caused due to the corona pandemic. This amount was later revised to INR 1.80 lakh crore [10].

This resulted in a massive turmoil between the centre and various opposing states. The subsequent GST Council meeting was a failure as no consensus was reached. The states wanted to implement a third option wherein the centre would borrow on behalf of the states because of the reservation that a failure to meet the compensation gap on their balance sheets might restrict their future borrowing capacity [11]. Some states were also in favour of taking the centre to court on the GST compensation issue. Finally, the centre took the responsibility of borrowing the funds directly exercising the third option as suggested by the states. In 2019, a special high-level committee was set up by the government to examine the revenue shortfall issue and to recommend effective measures to tackle the challenge.

The economic breakdown caused due to the pandemic has raised the demand of the states for revision of GST rates. However, considering the current scenario, the wait would be a little longer. Demands were also raised to bring petroleum within the ambit of GST. The central government took the decision of bringing petroleum products within the purview of GST. However, five products were excluded temporarily and their inclusion depended on the decision of the GST Council. These fiscally essential products were crude oil, petrol, diesel, aviation turbine, and natural gas.

In totality, this pandemic was a direct threat to the spirit of cooperative federalism in India. GST regime has been a great tool of ensuring synergy among governments but times like these surely test a nation.

COMPETITIVE FEDERALISM: A NEW WAVE

It is to be noted that the very concept of competitive federalism, unlike cooperative federalism, is not implicit in the Indian Constitution, like it is in the US Constitution. The concept of competitive federalism gained popularity after the 1990s economic reforms and its advent surged a new wave of national development. Centre and states share a vertical while states with each share a horizontal relationship. Under the realm of competitive federalism, there are two kinds of competition: (1) between the centre and states; and (2) among the states. The competition is the foundation of joint effort towards the growth of the nation.

Competitive federalism is priority-based governance. With enhanced globalization of the economy, inequalities and financial imbalances among the states have also increased. The idea is to foster healthy and progressive competitiveness among the states in the direction of growth and progress. States compete with each other to acquire funds, benefits, and investments that further boosts developmental activities. The competition among the states covers a broad range of issues aimed at providing best services to the citizens.

At a single glance, the very idea of competitive federalism may appear to be unsavoury or problematic as it might tend to sour the relations between the centre and states as well as between the states. System of competition between governments is hugely based on the way in which it is implemented and

perceived by the stakeholders. Favourable results could be achieved with a fine blend of cooperation and competition.

The glaring gap between the rich and poor states of India, especially in the previous couple of decades, has been a very sensitive issue for the federation. The question is whether the idea of competitive federalism would work under the prevailing circumstances. Lack of convergence and huge regional disparities have often stalled the process of holistic development in India [12].

The shape and nature of federalism in India has crucial role to play in the India's growth particularly in accomplishment of sustainable development goals, assuring equitable public financing, allocation of green subsidies, and boosting business growth. As a matter of theory, an economy of competitive character is more likely to produce superior and effective outcomes. Competition among states is likely to yield nationally beneficial results.

Role of the Government in Shaping Competitive Federalism

Indian government has taken bold steps towards the promotion of the idea of competitive federalism with view to boost progress. The most significant measures have been taken based on the recommendations made by the 14th Finance Commission. There have been various significant developments in the domain of competitive federalism which majorly include the following [13]:

- Devolution of the divisible central tax revenue pool from 34 to 42% that would decentralize the economic development and enable the states to formulate and implement various policies in an effective manner. It also enhances the states' financial reserves which can be utilized to fund various welfare programs;
- Establishing a state-wise ranking system on different parameters such as 'Ease of Doing Business', 'Good Governance', 'Swachh Bharat Abhiyaan', etc. develops a sense of competitiveness among the states. It also represents their strengths and weaknesses statistically.
- States have also been encouraged by Arvind Panagariya, former NITI Aayog Chairman, to implement ambitious projects, establish single window registration for obtaining licenses and attract investments.

To spark the competitive spirit among the states, their strengths and shortcomings are brought in the public domain and it has proved to be an efficacious measure to construct a bridge between good governance and good politics. Two kinds of competition emerge from this practice: regional as well as national.

Development goals of India are aimed to be realized through the tool of competitive federalism. This is reflected in various regional and national flagship projects such as "Make in India", "Swachh Bharat", "Vibrant Gujarat", "Happening Haryana" and "Magnetic Maharashtra".

In December of 2014, the prime minister released a set of 98 reform measures which were primarily based on ten business topics supervised and monitored by the World Bank's "Doing Business" report. In the spirit of competitive federalism, the same set of 98 measures was expanded to cover 340 points. This encompassed a business reform action plan for the states which laid down the foundation of the ease of doing business rankings. As a result, India's rank catapulted 14 places to become 63rd out of 190 nations in the World's Bank Ease of Doing Business rankings [14].

Conflict in the Arena of Competitive Federalism: The Convergence Hypothesis

In contemporary times, one of the most crucial plights faced by federal nations is the potential conflict among equity, efficiency, and sustainability as far as regional economics and politics are concerned. The same is the case with India as well. Extensive research has been conducted in the academic and policy circles to determine the fact whether the states are converging on the parameters of income, development indicators, and quality of life. This is popularly termed as the convergence hypothesis.

It must be pointed that the matter of convergence is crucial and extremely relevant for a developing nation like India. It is mainly because the exponential growth in the previous decades has resulted in a glaring gap between the rich and poor states. This lack of convergence and regional disparities has become a significant hurdle in the way of all round development of the nation.

Therefore, competitive federalism becomes a very sensitive issue. Policymakers and the government must be diligent that competitive federalism does not become conflicting federalism leading to centre-state and state-state clashes.

An alignment has to be reached among competitive federalism, demographic dividend, growing middle class, and diversity of resources across states. For reaching this alignment, opportunities have to be encased when there is still time. Faster and efficient implementation of economic measures and policies is extremely important [15].

COOPERATIVE FEDERALISM Vis-A-Vis COMPETITIVE FEDERALISM

These two systems of federalism are basically two sides of the same coin. In their core nature, they are two different ways of operation and governance. To get optimum outcomes, it is necessary for the governments to cooperate and compete in a healthy and progressive fashion.

The most challenging task is to bring financially backward states at the same footing as financially well-off states. Prosperous states are more than capable of competing by implementing policies efficiently while economically weaker states find it difficult to do the same and seek centre's assistance to achieve their goals. Structural reforms and fine tuning of labour laws are important for realizing the potential of a state's economy.

Under the current setup, states may have financial liberty, but various states vary drastically in terms of skilled labour, capital and infrastructure, resources and innovative service industries, and due to this, the output produced by the states also varies. The core issue is whether competitive federalism can foster real development in these circumstances.

The existing truth is that when we compare the concepts of cooperative and comparative federalism in the Indian context, we find out that the majority of states in India owe their growth to cooperation received from the centre while competitive federalism has not gained that much prominence or consideration.

Contemporary Challenges to Cooperative Federalism

As discussed here, the strong centralized tendency of our Constitution sometimes results in tensions and misunderstanding between the centre and the states. Excessive legislative and residuary powers exercised by the centre make the states feel weak and inefficient. This poses a challenge to the spirit of cooperation between the two.

Being a quasi-federal nature and a developing economy, another major challenge is relating to the functioning of the finance commission and GST Council. Under the Constitution, there are glaring clashes between the powers and roles of both functionaries.

Southern States have vehemently opposed to sharing of taxes based on the recommendations of the Finance Commission.

Under Article 269A(1), the GST Council enjoys the power to extend its recommendations to ensure equitable sharing of taxes collected from interstate trade. States do enjoy votes in the GST Council so that they can have their voices heard on matters relating to tax. However, under Articles 270(1)A and 270(2), taxes that are levied under the GST Act are supposed to be shared as per the manner prescribed by the Finance Commission instead of the GST Council. Evidently, the clear outcome is a clash between the two bodies.

Another hurdle in the way of cooperative federalism is that the matter relating to revenue-sharing come under the purview of the Finance Commission not the GST Council, and the possibility of states having their say diminishes significantly because they do not enjoy the same power at the Finance Commission as they do in the GST Council.

Further, no legal mechanism to challenge the recommendations extended by the Finance Commission is properly at place. States are bound by the mandatory implementation or enforcement of the Finance Commission's recommendations. Even if the aggrieved states wish to litigate, they have to move the Supreme Court because the GST Council has not devised any such mechanism under Article 279 A(11).

Contemporary Challenges to Competitive Federalism

Unlike the United States, which functions efficiently under the competitive federalism scheme, India, being a developing economy, faces quite a few challenges in the area. It is true that fostering healthy competition among the states is a powerful tool for economic development, but at the same time, the government has to overcome the challenges that it poses.

The most prominent challenge is imperfect nature of competition among the states due to varying economic condition, availability of resources and manpower, absence of infrastructure, rates of literacy, etc. In the previous years, though the states' central tax revenue has increased but they are still receiving lesser than the anticipated value. There has also been a significant decrease in the welfare scheme funds.

This uneven economic growth is the most challenging factor as far as functioning of competitive federalism is concerned. We cannot treat unequal states equally in terms of policymaking, funding, and resource allocation.

Economically weaker states complain about the centre's policy to stick them to a uniform standard or ranking system such as Ease of Doing Business or Make in India. These systems must be aimed at strengthening the spirit of competitive federalism not breaking the morale of weaker states. Thus, the government has to think boldly and positively in this direction.

CONCLUSION

It is clear that India, as a federation, has to uniquely blend the concepts of comparative and competitive federalism as both are two sides of same coin and can definitely become pillars of our nation's success and prosperity. To drive positive change, it should be the responsibility of the government to live up to the ideals of our Constitution and its federal character. It has to be understood that as far as functioning of a federation is concerned, cooperation and competition are not mutually exclusive. The sole purpose is holistic development of a nation.

In order to enhance healthy competition, the central government should assist the states by allowing them to have autonomy over their policy and ensuring that requisite funds are allocated to them for effective implementation of policies. It is of utmost importance that the centre provides level-playing field to the states. In other words, cooperation is the foundation on which competition can thrive and it is always crucial to balance one against the other.

Indeed, cooperative and comparative federalism are the two towers of national development and prosperity.

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