

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 7 | Issue 1

2024

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The Dynamics of Multilevel Federalism in India with a Special Reference to Rural Local Governments

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ABSTRACT

Federalism, in its rudimentary essence, denotes the partitioning of legislative and executive authority between a central governing body and regional governing entities, thereby enabling each government to operate autonomously within its respective domain. The perpetual discourse and deliberation surrounding the notion of federalism persistently captivate the intellectual community and statespersons both globally and within the context of India. Following its attainment of independence, the Republic of India, in its wisdom, embraced the doctrine of federalism as a strategic mechanism to foster cohesion and solidarity within the nation-state. In light of the constitutional and non-constitutional evolutions within the realm of Indian politics, it is evident that the essence of federalism is undergoing a transformative process within the nation. The concept of federalism is currently confronted with a multitude of challenges that manifest themselves both at the structural and functional dimensions. It becomes imperative to delve deeper into the dynamics of centre-state relations, as potential significant transformations may ensue. The author, through this paper, would inquire into the working of the federal structure with special reference to working of third tier government at rural level.

Keywords: *Federalism, Decentralisation, Local Government, Centre-State Relation, PRIs.*

I. INTRODUCTION

Federalism is a constitutional arrangement that entails the distribution of constituent and political authority, thereby enabling governance at multiple tiers. Additionally, it is worth noting that local governments at urban and rural level may exist within the confines of a particular state. In order to mitigate the potential for disorder and discord arising from the coexistence of two competing jurisdictions, the authority has been apportioned between the central and state entities pursuant to the provisions delineated within Schedule VII of the Indian Constitution.³ This allocation stands as a paramount characteristic of federal constitutions,

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The initial draft of this paper was presented at National Seminar on Emerging Trends In Indian Federalism: Issues And Challenges organised by Dr. A. Suhruthkumar Centre For Law Society and Justice, Government Law College

signifying its utmost significance. The authority wielded by both central and state entities emanates from the constitutional framework.⁴

It is a widely acknowledged fact that the federal system of government enjoys greater prevalence across the globe when compared to confederal systems.⁵ Upon the enactment of the 73rd and 74th constitutional amendments in the year 1992, the intricate federal framework within our nation was consummated, thereby engendering entities of local self-governance at both the rural and urban strata.⁶

The constitutional framework of India confers upon the states a significant degree of fiscal authority, encompassing expenditure, potential borrowing, and tax autonomy. Consequently, the central government finds itself heavily reliant on the states for the effective execution of its action programmes and social policies.⁷ The Supreme Court enables it to invalidate both central and state laws that contravene the constitutional delineation of powers.⁸ Furthermore, on certain occasions, the court has construed the concept of ‘federalism’ as an inherent and immutable characteristic of the Indian constitution, thereby rendering it as an essential and unalterable element.⁹

The Indian Constitution, in essence, embodies a federal structure and exhibits the customary attributes of a federal system, namely, constitutional supremacy¹⁰, allocation of powers between the union and state governments, the presence of an autonomous judiciary, and a stringent process for amending the constitution. The aforementioned provision serves to establish a duality of governance, wherein a distinct demarcation of powers is delineated between the Union and the individual states, to be duly exercised within the respective domains assigned to each entity. Within the legal framework, a judicatory body exists to adjudicate matters arising from the interplay between the Union and the States, or between individual states themselves.¹¹

Thiruvananthapuram (Kerala) on December 18-19, 2023. Authors are thankful to the organising committee for their valuable inputs.

³ M.P. Singh, *V.N. Shukla's Constitution of India* (Eastern Book Company, Lucknow, 13th Edn. 2017, Reprint 2019). See also, *S.R. Bommai v. Union of India* (1994) 3 SCC 1; *Kuldip Nayar v. Union of India* (2006) 7 SCC 1; *State (NCT of Delhi) v. Union of India* (2023) 9 SCC 1; *Swaraj Abhiyan (V) v. Union of India* (2018) 12 SCC 170.

⁴ Durga Das Basu, *Comparative Federalism* (Wadhwa & Co., New Delhi, 2nd Edn. 2008).

⁵ Kenneth Clinton Wheare, *Modern Constitutions* (Oxford University Press, 2nd Edn., 1966).

⁶ Ramesh Ramanathan, “Federalism, Urban Decentralization and citizen participation”, *Economic and Political Weekly* 42 (8): 667-681 (25 February 2007).

⁷ Paul Henson Appleby, *Public administration in India: Report of a Survey*. (Manager of Publications, New Delhi, 1953). available at: <https://archive.org/details/dli.ernet.285760/page/n1/mode/2up> (accessed on: 12.12.2023)

⁸ *Id.*

⁹ See, *Kesavananda Bharati v. State of Kerala* (1983) 4 SCC 225; See also, Swenden, W., & Saxena, R. (2022). Policing the federation: The Supreme Court and judicial federalism in India. *Territory, Politics, Governance*, 10(1), 12-31.

¹⁰ Powers, Privileges, and Immunities of State Legislatures, *In Re*, 1964 SCC OnLine SC 21

¹¹ Justice V. Dhanapalan, “Basic Structure of the Indian Constitution - An Analysis” *The Year Book of Legal Studies* (Vol. 32, 33 & 34 - 2010, 2011 & 2012), available at: <https://tndls.ac.in/pdf/YearBookofLegalStudies.pdf>

According to the esteemed scholar Andrew Heywood¹², it has been posited that federal systems bestow upon regional and local interests a constitutionally enshrined political voice. The states, in their sovereign capacity, exercise a diverse array of autonomous powers and are afforded a certain degree of representation within the central government by means of the esteemed Council of States. In accordance with prevailing constitutional frameworks, it is a fundamental tenet of every federal system to necessitate a delineation and allocation of powers between the central government and the respective state governments. The constitutional prescription contained within Part XI¹³, in conjunction with the VII Schedule¹⁴, is duly observed. The constitutional provisions pertaining to the allocation of legislative powers are encapsulated within the ambit of articles 245 to 255. Conversely, the allocation of administrative powers finds its legal treatment within the purview of articles 256 to 261 of the Constitution.

The principle of decentralisation in governance stands as a fundamental pursuit within the framework of federalism, wherein authority is apportioned between the central government and the various constituent states. However, it is imperative to note that through the enactment of the 73rd and 74th constitutional amendments, an additional tier has been established, namely, the panchayats and municipalities. The aforementioned construct may be duly perceived as a tertiary level of governance. The allocation of authority to establish legal provisions pertaining to the structure of panchayats lies within the purview of the state legislature, rather than the federal government. However, it is imperative that the ratio between the population of a given territorial area encompassing a panchayat at any level and the number of seats to be elected within said panchayat remains as uniform as practically feasible across the entirety of the state.¹⁵ It is pertinent to note that the governmental structure comprises three distinct tiers, thereby embodying a unique manifestation of federalism unparalleled by other nations across the globe.¹⁶ It can be posited that the Indian federal system exhibits a distinctive character and proffers a prospective resolution to an array of quandaries. The aforementioned has been meticulously fashioned in accordance with the particular exigencies of the nation at hand.

II. MULTILEVEL FEDERALISM

Federalism, within the context of a nation characterised by a multitude of cultural, religious,

(last visited on: 05.12.2021)

¹² Andrew Heywood, *Politics* (Palgrave Macmillan, New York, 4th Edn. 2013). *available at*: <https://archive.org/details/politics04edheyw/page/n5/mode/2up> (last visited on: 12.12.2023)

¹³ The Constitution of India.

¹⁴ *Id.*

¹⁵ Yogesh Pratap Singh and Ayaz Ahmed, "Democratic Decentralisation in the State of Uttar Pradesh: Experience, Emerging Concerns, Challenges and Prospects", 7 RMLNLUJ (2015) 152

¹⁶ Brij Kishor Sharma, *Introduction to Constitution of India* (11th Edn. PHI Learning Pvt. Ltd. 2021).

ethnic, and linguistic identities, such as India, serves as a mechanism that guarantees the inclusion and representation of a wide array of divergent interests. The concept of federalism serves as a mechanism for harmonising the inclination towards shared attributes with the inclination towards individual agency, while also accommodating a wide range of requirements within a society characterised by pluralism.¹⁷ The acknowledgment of regional aspirations serves to fortify the cohesive fabric of the nation and exemplifies the essence of democratic principles. The different welfare schemes of government envisions the inclusion of federal units in the planning process, the engagement of Panchayat Raj Institutions in its execution, and the people's role as recipients and social evaluators.¹⁸ In words of Montesquieu small components of state would be more likely to maintain public and private institutions that make democracy work.¹⁹ The efficacy of democracy necessitates the establishment of specific executive apparatus. However, the expansive reach of a democratic government, operating through said apparatus, often hampers its ability to fully comprehend and address the nuanced exigencies and contextual particularities of local communities. Hence, it is imperative to establish a mechanism for devolving power and implementing decentralisation, wherein the exercise of said power and control over the machinery is entrusted to duly elected representatives who enjoy popular support within their respective localities.²⁰

The Indian model of federalism was predominantly formulated subsequent to the partition, a period marked by the emergence and modification of federal frameworks in various countries, wherein the impetus for robust central administrations capable of steering national developmental objectives played a significant role.²¹ India, in its nascent stages, conceived a federal framework with the intent of apportioning power between the provinces. However, subsequent endeavours were undertaken to safeguard the supremacy of the central government and augment its capacity to wield unitary powers in times of exigency.²² The constitutional language does not mention federalism, but it established a “dual polity” in which the central and states have independent powers and the rights to use them.²³ The transformative dynamics of the economic and political milieu during the 1990s engendered a paradigm shift, thereby culminating in the incorporation of local governance within the constitutional fabric,

¹⁷ *Government of NCT of Delhi v. Union of India* LNIND 2023 SC 393

¹⁸ P. Ishwara Bhat, “Why and How Federalism Matters in Elimination of Disparities and Promotion of Equal Opportunities for Positive Rights, Liberties and Welfare, 54 JILI (2012) 324

¹⁹ Steven J. Hood, *Political Development and Democratic Theory: Rethinking Comparative Politics*, (Routledge, 1st Edn. 2004,) available at: <https://doi.org/10.4324/9781315289977> (last visited on: 04.12.2023)

²⁰ Rajeshwar Dayal, *Panchayati Raj in India*, (1970, Metropolitan Book Company)

²¹ Niyati Trivedi, “Federalism in India v. USA: A Comparative Study”, 3.1 JCLJ (2022) 1971

²² *Id.*

²³ *Id.*

manifesting as the prevailing system of federalism.

The fundamental tenet of federalism is the pursuit of decentralisation in governance, wherein power is distributed between the central government and the various states governments.²⁴ However, it is worth noting that the 73rd and 74th constitutional amendments have introduced an additional tier of governance, thereby further augmenting the existing administrative framework. This can be perceived as a tertiary level of governance. In the context of India, cooperative federalism is the operational facet of democracy, whereas mere federalism pertains to its structure.²⁵ It is noteworthy to observe the presence of a tripartite governance structure, which distinguishes it as a distinctive and unparalleled federation within the global landscape. In *S. R. Bommai v. Union of India*,²⁶ Justice Ahmadi contended that the fundamental essence of a federation lies in the allocation of authority between the Union and the individual states. The Indian Constitution can be considered more “quasi-federal” rather than “federal” or “unitary” due to the lack of phrases such as ‘federal’ or ‘federation’ and the existence of unitary characteristics such as single citizenship and residuary power.²⁷ It can be posited that the Indian federal system exhibits distinct characteristics that render it unparalleled in its nature, thereby presenting a potential resolution to a myriad of challenges. The policies are customised to align with the unique requirements of the nation.²⁸

III. LOCAL GOVERNMENT AND FEDERALISM

Panchayati Raj, colloquially referred to as democratic decentralisation, represents the institutional framework constituting the third tier of governance, aimed at the restoration and revitalization of the Panchayati Raj Institution. The historical trajectory of India is characterised by a profound richness, encompassing a diverse array of socio-political formations. These include self-sustaining and autonomous village communities that have endured the vicissitudes of imperial ascendancy and decline, as well as contemporary administrative structures fortified by constitutional mechanisms. The presence of this phenomenon can be traced back to the earliest periods in the history of India. The grama sabha identifies the developmental work, compiles a list of the beneficiaries, and conducts a social audit of the scheme’s implementation; panchayats have the authority and responsibility to carry out welfare schemes. A plethora of scholarly resources pertaining to the institution of panchayats can be found within the literary

²⁴ Yasin Olum, *The Federal Question in Uganda* (Friedrich-Ebert-Stiftung 2013) Available at: <https://library.fes.de/pdf-files/bueros/uganda/10725.pdf> (Accessed on: 12.12.2023)

²⁵ Sheetal Agarwal, “The Raj of Panchayats - Cooperating the federalism in India”, 2.2 JCLJ (2022) 750

²⁶ (1994) 3 SCC 1

²⁷ *Supra* note 16.

²⁸ *Supra* note 16.

works of Mahabharata, Arthashastra, and Manusmriti.²⁹ During the Mughal era, the region in question exhibited a degree of autonomy within its own domain, wherein it wielded authority over administrative affairs, local fiscal matters, dispensation of justice, and implementation of punitive measures.³⁰ The impetus for the establishment and advancement of local institutions in 1870 was provided by the resolution put forth by Viceroy Lord Mayo. In the nascent stages, local bodies, such as panchayats, operated as administrative hubs under the purview of the state government. During the course of the quinquennial plan, there emerged a discernible transformation in the strategies pertaining to rural development, with concerted efforts being made to institute a three-tier panchayat system within the Indian context.³¹ The year 1957 witnessed the emergence of a significant development in the realm of local governance in India, as the esteemed Balwant Rai committee put forth a recommendation pertaining to the establishment of a structured and organised framework for the Panchayati Raj Institutions. The aforementioned institution, commonly referred to as Panchayati Raj, ushered in the notion of 'democratic decentralisation'. Furthermore, it espoused the endorsement of a hierarchical framework encompassing three tiers, namely the village, block, and district levels, alongside the implementation of direct local panchayat elections.

The organisational structure, is predicated upon the principle of conducting direct elections across all three levels, namely the village, intermediate, and district tiers. The matter of incorporating the chairpersons of the village panchayats at both the block and district levels, alongside the provision for reserved seats allocated to Scheduled Castes and Scheduled Tribes, has been duly attended to. A significant proportion, precisely one-third, of the total available seats are designated for female candidates. Similarly, within the quota allocated for individuals belonging to Scheduled Castes and Scheduled Tribes, another one-third is specifically reserved for women.

The presence of grassroots democracy and the prevalence of Panchayati Raj institutions in India are noteworthy, as they have played a pivotal role in fostering the advancement and growth of rural regions. Since achieving independence, India has adopted the status of a welfare state, wherein the paramount objective of all tiers of governance is the enhancement of the overall welfare of its citizenry. The cardinal principles of government encompass the eradication of poverty, ignorance, diseases, inequality of opportunity, and the provision of an enhanced and superior quality of life. Within the democratic framework of India, a hierarchical structure of

²⁹ Sheetal Agarwal, "The Raj of Panchayats - Cooperating the federalism in India", 2.2 JCLJ (2022) 750

³⁰ *Id.*

³¹ *Id.*

governance is observed, comprising three distinct tiers: the national, state, and local levels of government. The Panchayati Raj Institutions serves as a fundamental pillar of democratic governance. The 73rd Amendment of the Constitution, regarded as a transformative measure aimed at ushering in a prosperous era for rural democracy in India, appears to have successfully instituted grassroots democracy. The focal point of enhancing the democratic framework at the village level signifies a pivotal juncture in the progression of the Panchayati Raj mechanism.

The prevailing global trajectory in the realm of democratic governance entails the pursuit of democratic decentralisation and the fortification of local self-governing entities, which are duly acknowledged as the most robust democratic institutions at the grassroots level. Rural inhabitants were afforded the prospect of engaging in governmental affairs, thereby facilitating their political socialisation. The Panchayati Raj bodies serve as legitimate and efficacious institutions for democratic decentralisation. They afford abundant opportunities for a substantial rural populace to actively engage in the process of developmental and democratic decision-making, thereby fostering the cultivation of self-help, self-dependence, and self-reliance among rural inhabitants. Additionally, these bodies facilitate the acquisition of practical knowledge in the domain of local governance. The advent of democracy has effectively extended its reach to the very threshold of the modest abode. The Panchayati Raj system, as an empirically validated and pragmatic approach to the dispersion of policy-making and the facilitation of socio-economic advancement, has emerged as an instrumental mechanism for fostering progress at the foundational level of our nation's societal fabric. The aforementioned statement serves as a fundamental underpinning for the notion of democracy. Within the framework of Panchayati Raj, it is evident that individuals residing within the local community possess an inherent understanding and awareness of the prevailing issues afflicting their immediate surroundings. Consequently, they are equipped with the capacity to effectively address and resolve these issues at a grassroots level, thereby exemplifying the efficacy of local governance structures.

IV. CONCLUSION

The proliferation of numerous power devices within the framework of federalism engenders prospects for divergences and disparities. Nevertheless, it is imperative to underscore that the fundamental tenet of federalism necessitates the individuals vested with authoritative power to exhibit a sense of responsibility, thereby mitigating the potential disparities that may arise in the realm of access to fundamental rights and overall welfare. The essence of India's national identity continues to occupy a central position in the intricate interplay between the central, state, and local levels of governance. The progress and development of India are of utmost

importance. The imperative of safeguarding our national identity through the implementation of constructive collaborative federalism necessitates the adherence of both the central and state governments. The establishment ought to engage in collaborative efforts with regional and municipal administrations, granting them requisite autonomy in their policy formulation and furnishing them with sufficient financial resources. India is a geographically and culturally diverse nation wherein a multitude of individuals, with their respective backgrounds, traditions, and ideologies, coexist harmoniously. The aforementioned entities necessitate appreciation and can be effectively achieved via the implementation of cooperative federalism. The current state of federalism in India has undergone a transformation, resulting in a departure from its traditional two-tier structure. The proposed structure is envisioned as a tripartite system, encompassing the panchayats as an integral component. The imperative for effective coordination and cooperation among the various tiers of government is undeniable. The concept of federalism plays a crucial role in addressing and eliminating gaps in the availability of individuals' rights and well-being. Elimination of disparities is the *sine qua non* of welfare federalism. Federalism may effectively serve a diverse community by enhancing its moral integrity and prioritising justice in all aspects.
