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Revisiting Indian federalism: An overview of contemporary issues and challenges

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Abstract

This paper tries to examine a deep overview of the working of Indian federalism in general and to the contemporary era in particular. This includes all those issues that have often been presented in recent times. Large numbers of debate and discussion therefore widely taking place around the federalist part whether the federal government that the country has adapted is in form of suit or *ultra verse*. On the other side, important significance also set forth on the norms of constitution and principal objectives of federalism. Hence, in federalism; both the centre and states is an equal partner and equal par excellence. They also guaranteed to believe in the assumption of 'self-rule' with 'share-rule'. But, several controversy and dichotomy have originated due to the uncertain nature as per in our practice that frequently challenged the federal working system of India. In short, a recent trend has occupies some of its significant stances to look upon the prime concern of federalism. However, such kind of discourses has been raised over more than seven decades. It is also a kind of attempt of the federal form. Critiques have also mentioned about various strengths and weaknesses of this system. Besides, it incorporated some definite trends that have come in our way to disturb the balance of power and cooperative character of Indian federalism. For instance, more recently, the political development around the citizen Amendment Act, 2019 and other related issues have generated a lot of debates in the understanding of federalism. In addition to this, there is some tension between the Union & the state on the implementation issue of NRC-CAA. The opposing state like Kerala, Punjab, Rajasthan and West Bengal addresses that Indian federalism becoming more competitive than cooperative over time to time. Contrary to this, Inter-state River disputes, increasing demand for the new state, COVID-19 and its impact on Indian federalism etc. have broadened, to sum up centre-state relations. To the finding, this paper offers different recommendations or possible suggestions for underpinning India's federal arrangement. Now, time has come for India and its Indians to take a fresh look in reviewing the federal ideas for restoring the federal irritants in order to maintain a sense of balance between centre-state and inter-states relations in India.

Keywords: Federalism, CAA-NRC, inter-state river disputes, competitive-cooperative federalism, COVID-19

1. Introduction

Generally, the term 'federalism' connotes a constitutional system of power distribution between two or more levels of government in the contemporary modern nation-state system. It also deals with a written constitution along with specifies the power and functions of government accurately. The Indian federation is not an exception above from that. India adopted a federal system of government where central government at the national level and regional governments at the state level have been existed. This is one of the notable features of the Indian constitution. It is also a system of governance under which the structure of dual polity smoothly works within their respective jurisdiction. The federal arrangement also enjoys independence of power autonomy and cooperation among the governments (Kashyap, 2010: 49) [12]. However, Federalism is not merely a 'dual form of governance'. It is in turn a 'multi-level of governance'. These two varieties of comparison have taken wider implication by some of the major government of the world. That is likely to be accepted on the basis when the federal units of any government create unity and cooperation with various organs and independently put a greater importance while in organising people and its public sector. In economy term, recognising profit out of any common market, and in political language, protection and promotion of individual rights and to furnished democratic values are some unique practice to the ends of federalism (Bagchi, 2000) [4].

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Similarly, India has also adapted a kind political system where the 'constitution' of India as the by-product to this consequence. Therefore, it is not easily possible in this way to describe the elephantine size of constitution into a smaller scale. On the other hand, the structural and functional dimension of such constitutional machineries lays institutionalized by other major federal state government of the world. By looking others government and their pattern of federal arrangement, the framer of constitutional assembly had put forth to lays down a federal government instead of a unitary one. In spite of that, India felt that the countries like USA, Canada, Switzerland, Australia countries long before had adopted such practice. Moreover, their procedures can be entitled as 'the policy of pick and choose to what would suit the genius of the nation best'. This constitutional evolution of federalism primarily based on two sets of assumption. First assumption is defined the role of the federal government whereas second assumption outlines the link of the constitution with its subsidiary federal machineries. In the former case, it tries to describe the concept of federal planning. Similarly, latter to this, it says how the constitution rightly includes federal dimension that directly derives from such constitution. To sum up this, the member of constituent assembly neither entirely followed the western format of federalism nor also genuinely advent itself their own form of federalism. But, have developed a unique brand of federation to meet the peculiar needs of India (Austin, 1972: 223) [3]. On the other hand, federalism is a political system in which the national government and the regional states, mutually share the power of the government within their respective jurisdictions and disseminated constitutionally between them (Singh, 2015) [21].

Put it differently, it can be stated that federalism is based upon an interior understanding. This is how the system has come into effective by sharing equal power autonomy, by separating the geographical entities from centre to the states in their own context, and by organising cooperation and coordination in that order to freely flow of democratic values which are not necessarily based on multifarious facet. To be politically understood, it is an organizational classification demarcated both centre and state and advocate the will of mutual adjustment, understanding and accommodation. It is for this cause to be called as 'federation' or a 'federal state'. Federalism has been conceptualized as an 'organizational mechanism' [1]. It is a mechanism for the constitutional demarcation of power for the purpose of maintaining unity, integrity and autonomy for the smooth administration of the government machinery. The idea of federalism can be viewed as a form of organization in which power is dispersed as a means of safeguarding individual and the local liberties both at the union and the state level. It also maintains 'integrity and substantial autonomy' [2] by constituting powers and responsibilities between the centre and the states. The principal objectives of the federalism are not only to uphold

'self-rule' and 'share rule'. Nowhere is just to maintain a kind of status-quo. Nor merely is to separate the constitutional division of power at the level of national and local government, but also, in fact, seek to play a sphere of balance among them. Now, whatsoever, in turn, we may be called as 'Indian version federalism'. In any form it owes to rely on the spirit of strength and forces thereon. Thus, before to be fulfilling such endeavour, the founding father has attached something novel in their way. That is to set up a constitution. It is a matter of fact, is that behind of such a grand strategy, federalism has entailed a 'unitary attitude with strong centralized' features. This practice basically had coped with British times and alternatively to be found from Government of India Act, 1935 [3]. And, since that of time, the idea of federalism along with its structure was probably begun.

By summing above up, Granville Austin, one of the advocate of federal design observed that, the makers of the Indian constitution have created a strong central government while rest on limited autonomy to the state and neither wish to make the provisional government weaker by reducing their all level of power (Austin, 1972) [3]. Henceforth, as Kumar says that, the constitution of India has opted wider scope of power in case of both union legislature with executive. These both organs further will endorse to keep up the nation stronger by bearing on the issues of countries multiple diversities within its cultures, religions, languages, and ethnicities and so forth (Kumar, 2014) [13]. In short, federalism has not only undermined within its structural and functional regime but also delineates on its philosophical part. Thus, the philosophy of federalism is to put enquiry in the way that has variously taken different shape in our view and perceptive. For instance, one such perspective has been defined by K.C. Wheare; an English writer gave his insight that Indian constitution as "Quasi-Federal". This means that, India is not in it's kind of a true form of federation. None, in fact, has totally based on unitary and federal rules. But, is the blending of both unitary and federal features all together. That is in term of 'Non-Federal'. It is therefore can be called as 'neither federal nor unitary' type. Rather, to be regarded as a 'semi-federal' state. To put it more clear, he also quoted that, "Indian union is a unitary state with subsidiary federal features rather than a federal state with subsidiary federal features" (ibid). Put it differently, it identifies the significance of the true nature of Indian constitution as the combination of both unitary as well as the federal maxim.

Looking at these various interpretations by different scholars to the Indian federalism, the voice of the Prasad, the former president of the constituent assembly is much more significant. He said that "*Personally, I do not attach any importance to the label which may be attached to it - whether you call it a federal Constitution or a unitary Constitution or by any other name. It makes no difference so long as the Constitution serves our purpose*" (Rajendra Prasad, President of the Constituent Assembly, in Constituent Assembly Debate V, cited in Austin, 1966). With respect to this, another illustrative definition had been given by the K. Santhanam (1963) that "*India was a*

¹ It is understood to mean as a mechanism in which the structural organisation of the central and the state governments cooperate and coordinate with each other to achieve political independence and economic dependence in the federal system. It also analyses the independence of the federal units at the political level and economic dependence by the states.

²The constitution of India has the sole responsibility to distribute the constitutional power and functions to both union and the state Governments in connection with maintaining unity, integrity and autonomy in their respective jurisdictions.

³ The Government of India Act, 1935 is the first milestone to adopt a federal system for India. This Act was passed by the British parliament in 1935 which came into operation in 1937. The act played a significant role in the drafting of the constitution of India (1950). The farmers of the Indian constitution have borrowed the 'administrative provisions' from this act.

federation in which the paramountcy powers which the British Government had over the Indian (Princely) states have been taken over by the Union Government and applied to its units...So, it will be appropriate to call our Federation a "Paramountcy Federation".

As rightly, Ambedkar, the chairman of constituent assembly rightly remarked his assumption on Indian federalism. In his view, 'federal constitution' is synonyms with the idea of 'Dual Polity'. That is to know the role of Indian constitution by establishing two sets of government in the country having a national authority at the centre and local authority at the periphery level. Each government bestowed with sovereign powers to be exercised in the field assigned to them respectively by the constitution itself (CAD, Vol.1, 1946)^[7]. Though, "India, that is, Bharat shall be a Union of States" has illustrated under Article 1. That is the matter of fact that, the word federalism was never mentioned in the preamble or any part of the Indian constitution. The term 'union of state' describes two distinct views. *Firstly*, that, Indian federation is not the result of conformity by the units. *Secondly*, that, components units have not freedom to secede from it. In addition to this, Chatur (2009) has distinctively put the actual reason as to why constituent assembly had preferred such a federal system for India. According to him, owing to the external conditions and vastness of the country as well as its diverse elements, a unitary system was not preferable but also impracticable for India. This is the assertion implies to adapt a federal polity instead of unitary government or centralized authority where power would be accumulated in a single hand, rather than common sharing of power to them (CAD, Vol.1, 1946)^[7].

Furthermore, Ambedkar has observed two major weaknesses on the working of Indian federalism. And says, it is unique so long as it formed a dual polity with a single Indian citizenship. In his view, Indian federalism shows two distinct natures. That is to prefer a federal form of government in at normal situation but become unitary structure only in any abnormal circumstances. Beside of difficult time, in just a normal situation the unitary autonomy can be confronted. These are principally arisen contrast to the supremacy of union parliament, limited rigid of amending proceeding, imposed of a single laws and judicial system and subsequently to adopt uniform form of judiciary with having of common all-India services both in union and states (Kashyap, 2010: 53)^[12].

2. Structure of Indian federalism

To be Interpreting and applying federal thinking in a country like India is not so easy task. However, in articulating the federal concept, scholars have begun to think about its relevance in the discipline of social sciences. Federalism is an idea of political system as well as a set of practices that depends upon the goals of the citizenry and its leaders. India is a democratic parliamentary cum quasi-federal constitution. To explicate it, Kripalini (1946), the President of the Congress in the Meerut session in November 1949 delineated the projected constitution as the follows: "It will be a democratic constitution and will be federal in character. We may not, however, forget that, in an administrative as in the economic field, centralization is more than is absolutely necessary is inimical to liberty. It is good, therefore, that the provinces in free India shall have the maximum autonomy consistent with external and internal security".

Scholars use the working definition of the term federalism in order underline the contested nature of the term and the impossibility of reaching any consensus on the subject. Keeping that in mind, the following working statement and definition simplifies and explains what is generally understood by federalism. However, Wheare (1949)^[11] writes, "Federalism is a system of government in which the federal and the regional government are both coordinate, cooperate and independent with each other in their sphere". Otherwise speaking, it underlined that federalism as the method of constitutional demarcation of power between the national government and federal units in a degree of coordination, cooperation and independence to build up the operational activities of the government machinery. As Freeman (1931) explicates on this general definition and suggests that "Federalism is an apparatus between the system of large states and small states to full fill the development and autonomy of the individual citizens". The constitutional implication for the federal principle included a written constitution which confers powers to both central and the regional governments.

In articulating the federal concept, Riker (1964)^[19] in his book "*Federalism: Origin, Operation, Significance*" asserted that the 21st century may be regarded an 'Age of Federalism' with 'a constitutional bargain' in nature. His main argument in this perspective is that there is a bargain between national political leaders with the officials of constituent government to full fill three prime purposes. (1) Aggregating territory (2) Lay taxes procedure and (3) raise army strength. However, it is a matter of the fact that Riker views of federalism merely have a political reality. Again he proclaimed that federalism is a political organisation in which the activities of the government are divided between the regional governments and a central government in such a way that each kind of government has some activities on which it makes final decisions. It is quite clear that federalism is a basic attribute of the Indian constitution & the union of India is entirely permanent which is not destructible and the state governments are destructible or may be separate from the centre in the changing situation of the country (ibid). Scholars of Indian federalism argue that a federal system is that form of political system which incorporates 'pure power political relationship and more inclusive socio-political patterns of actions'. In a federal system, there is powerful political relationship between the federal government and the government of the state to study the values, attitudes and behaviour of the political system at the federal and the regional level. However, it may be said that it is a political arrangement in which combine decision are taken through the interaction process that shapes the power of the political organisation of the country (ibid).

The Government of Indian Act, 1919 is a milestone in the growth and development of federal notion in India. This act is responsible for the creation of the Diarchy in the state and also demarcated the sphere of provincial government. Now, federalism came into existence as a feature of modernizing representative democracies within a written constitution. India was the first country in the Afro-Asian world to draft and adopt a parliamentary federal constitution after its independence from the British Colonial Rule in 1947. The major landmarks of constitutional thought and enactment from the parliamentary federal perspective were Karachi Resolution of Indian National Congress of 1931, the Motilal Nehru Committee Report of 1928, the Government of India

Act of 1935, and the Sapru Committee Report of 1935. The Government of India Act of 1935 was the first legal document that projected the various units and provinces of British India and the Indian states into a federation. This act works as a notable outcome with three main objectives, such as (a) the structure of the central government, (b) the extent of provincial autonomy (c) the strengthening the power of the local units. It also introduced the significant federal elements which established a system of dual government functioning autonomously and outlined the administrative decentralization for the federal system of India. In the opinion of Livingstone (1956) ^[14] that Indian federalism works more a functional than institutional perception. It is functional in the sense that federalism is based on 'coming together principles'⁴ by a shared agreement between central government & state governments.

3. Federal features of the Indian constitution

The federalism system of India has express a wide scope in the parliamentary form of system of government. Thus, in order to have a better understanding over Indian federalism, the constitution of India has laid down some of the important working features to them. Such features are includes in this way- *Firstly*, the constitutional demarcation of powers between union and the states is the first federal feature of Indian constitution. It is mentioned in the constitution that the Seventh scheduled of the Indian constitution has specifically listed three lists- Union, State & Concurrent list. In the Union list, Union government enjoy exclusive power, where as in the state list, the state government enjoy exclusive power and in the concurrent list, both Union and the state government enjoy combinely the power to makes the law over the concerned list. In the federal arrangement, both governments worked with the constitutional provision. Along with this, there is the coexistence between federal and the state polity wherein both governments derived their power from the constitutions and perform their functions within their respective jurisdictions. *Secondly*, contrasting to the Judiciary supremacy in USA and Parliamentary supremacy in UK, the framers of the Indian constitution have adopted the principles of constitutional supremacy. It is the responsible of the courts to protect the supremacy of the constitution. In India, the constitution generally acknowledge as the supreme law of the land. *Thirdly*, India has a written and rigid constitution which is another federal feature of the Indian constitution. There are 395 article and 12 scheduled in the constitution. As reported by Wheare (1958) in the context of Indian federalism that "*the supreme constitution is essential if government is to be federal, the written constitution is essential if federal government is the work well*". It is partially rigid and partially flexible so far as the amendment procedure of the Indian constitution is concerned. *Fourthly*, In India, the highest judiciary-Supreme Court enjoys a great authority and privileges in the sense that the distribution of powers made by the constitution must be guarded by the judiciary. The Indian constitution not distributed the judicial power. It provides an independent and impartial judicial structure i.e. Supreme

Court, High Court and Subordinate Court respectively in a hierarchical order. The Judiciary act as the guardian of the constitution. It works as an arbiter of any dispute between the federation and the federal units. *Lastly*, the existence of Bicameral legislature is another federal feature of Indian constitution. There are two houses in the Union and the state legislature. At the union level, Lok Sabha, the lower house and Rajya Sabha the Upper house and at the State level-Legislative council, the upper house and Legislative Assembly, the lower house are the two houses respectively. The abovementioned constitutional features clearly illustrated that the constitution of India provides a combination of vertical and horizontal division of power between central legislature one hand and the state legislatures on the other. This basic provision mentioned in the seventh scheduled of the Indian constitution. It listed the three lists (Union, State and Concurrent) to demarcate the power of the government in the legislative spheres. As per the provision of the constitution, the framers of the Indian constitution try to find out the level of analysis to what extent both central and state governments could work in a combine mode. This thee legislative lists highlights the significance of the both centre and the state to make laws over its item whenever it required to make the federal system more dynamic and a systematic one.

4. Objectives of the study

The following are the some objectives of the study.

1. To study of the pattern of Indian federal system in both theory and practice.
2. To delineate the basic theories and principles of Indian federalism.
3. To study the notion of Cooperative and Conflictual federalism in the federal setting of India.
4. To discuss the contemporary issues and challenges of Indian federalism.
5. To suggest some possible measures for the smooth functioning of Indian federal system.

5. Issues and challenges for Indian federalism

The ever-increasing centralisation of power with in Indian federal understanding has gone so far in order to make the states more as subordinates than equals. In India, there are some problems that have produced conflicts and tensions between centre and the states and among the states on a number of occasions. Thus, it is seems that Indian federalism has to face various contemporary challenges in its true functioning in terms of changing policies and institutions of central government. However, the following are some facet of federal problems in India. These are:

1. The growing emergence of regional sensitivity among the federal units poses a menace in the federal as well as in the national spirit of India. It is also the role of political ideology that primarily focuses on the normative interest of the particular region and sub national entity. Put it differently, it can be said that, it is a good parameter of that region but remain a disturbing factor towards the very nature of Indian federalism.
2. The sharing of power between the centre and states is always vested an unequal basis in federal government of India. Thus, the union government would enjoy the power of supremacy as in compare to state. Even if, the units are exercised a limited sphere of influence in their connection. For instance, in case of conflict between

⁴ Indian federalism is based on the principle of 'coming to gather principles'. It signifies the relationships between union and the states government while performing their functions with a federal spirit. It is not a single institution but a combination of self rule and shared ruled principles between the centre and the states.

them, the rule of centre is always prevailed as units are determined inferior thereof. Hence, the state has lost its power of autonomy and seeks to ask to demand for an equal sharing power instated the inferiority. For this, the federal imbalance gives raise the anti-federal nature of Indian federalism.

3. The little fact is that states are always centre-oriented. In financial matters, states are also dependable upon the centre. In fact, the constitution has not mentioned any specific fiscal autonomy provision of the state. Therefore, with regard to operating the institutional structure and day-to-day business, the states have widely relied upon the union. Along with this, a matter concerning taxes and revenue the state can't spend money without prior concern and approval of centre. This is how the federal crisis has taken place in India.
4. At present, the union of India consists of 28 States and 9 unions Territory. However, the states have common grievances is to fulfil their regional demands. But, due to unequal representation on the basis of population and territory of the state may either lead to an inter-state inequality or anti-state disparities in the centre. Further, the central attitudes towards states are sometimes negligible because of party-politics representation from the states. So, each of states has faced both in term of privileged and unprivileged while representing states in front of the centre. As of it states interest is in danger and centre interests are becoming parochial day by day.
5. Unlike the destructible union of indestructible state in USA, Indestructible union of destructible States is the prime base of the Indian federalism. In India, there is no permanency in the nature of the state. It is the supreme power of the union to bifurcate the state on the requirement of the country. This character of the union government is a factor by which Indian federalism faces problem in its true functioning.
6. Issues of Religions are a burning example in the federal system of India. There are rigorous institutional conflicts between the different religions throughout the country. For instance, the conflict between the Muslims and Hindu on Babri Masjid & Ram Janma Bhoomi wherein conflicts began for the fulfilment of the specific interest of the religion. This is the biggest challenge for India so far as the true natures of the Indian federalism are concerned.
7. In spite of the above challenges, there are some Contemporary issues and challenges to Indian Federalism:-

5.1 Implementation issues of NRC-CAA

The most recent political developments around the Citizenship (Amendment) Act (CAA) and the National Register of Citizens (NRC) in India have exposed some of the most noteworthy crevices of Indian federalism. Now, the implementation issue of NRC-CAA is one of the federal dilemmas so far as the true nature of Indian federalism is concerned. To make the Indian federalism a most significant one, it is to be worked with the "competitive-cum-cooperative federalism" which is the prime base of the federalism. It may be acknowledged that India flows this tendency in the 21st century because of the varying nature of the states with the central government. Recently, there is the Political tension between Union & the state on the implementation issue of NRC-CAA in the four states of

India—Kerala, Punjab, Rajasthan and West Bengal. These states make Indian federalism more competitive than cooperative from the side of both union & state. The states have passed resolutions in opposition to the Citizenship Amendment Act (CAA), 2019 and directly asked to the centre to take out it.

After that, they have tried to express their particular view in regard to the implementation issue of NRC-CAA. According to Rodrigues (2020)^[20] that at the beginning, the state of Kerala considers the implementation issue of CAA that has violated the principle of equality, freedom, and secularism not only amongst Indian states but also throughout the country. The Kerala state argues that if the NRC-CAA would implement in this state, then it against the federal norms and principles of India which may be a great challenge for the Indian federalism. However, it may be acknowledged that the state of Kerala became the first Indian state to adhere citizens across the country's spectrum to confront in the Supreme Court to know the constitutional validity of the Citizenship Amendment Act, 2019. For the first time, on December 31 2019, the Kerala Government has come near to the Supreme Court just about 15 days after its legislative assembly collectively ask for the centre to abrogate the CAA in the state. The state government filed a suit under article 131 of the Indian constitution which specifically deals with the original jurisdiction of the Supreme Court in disputes between the centre and state(s) (Rajgopal, 2020)^[16]. In this matter, the Kerala Government openly claimed that the implementation issue of CAA would be compelled under article 256 of the Indian constitution (*Article deal with the obligation of states and the Union - the executive power of every state shall be so exercised as to ensure compliance with the laws made by the parliament and any existing, laws which apply in the state and the executive power of the union shall extent to the giving of such directions to a state as many appear to the government of India to be necessary for that purpose*). It would likely to guarantee the conformity of the law, rules and orders which were deliberately uninformed, difficult to deal with the current situation, irrational and violates the fundamental rights of the citizen of India. Along with this, the state Government of Kerala also claimed that this Act also violates the basic principles in the making of Indian sense of secularism (India as a secular state). As per the decision of the Central Government, this act made only Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians except for Muslims from three neighbours i.e. Afghanistan, Pakistan and Bangladesh. It makes eligibility for Indian citizenship as naturalisation as per their religious discriminations. It had fixed the cut off date for immigrants i.e. December 31, 2014. Again, in the petition to the Supreme Court, the government of Kerala condemned that the CAA was purely discriminatory in nature because it covered only religious persecutions and are for varied reasons like ethnicity and linguistics etc. It is an irrigational law which was passed by the central government and against the federal principles of India as stated by the Kerala Government (Tripathi, 2020).

Unlike Kerala and Punjab, the State of Rajasthan is the third state started state-wide agitation against the implementation issue of Citizen Amendment Act, 2019. It is the Congress government of Rajasthan who moved the Supreme Court for challenging the validity of the Act. It contended that CAA law passed by the central government was against the

country's secular foundation and dishonoured the fundamental rights of the Indian citizens. Ashok Gehlot (The Chief Minister of Rajasthan) stated that the decision of the centre on CAA matter is purely unconstitutional and does not respect the any sense of Indian federalism. Again, Manish Singhvi, Additional Advocate General pointed out that the state of Rajasthan had accused the central legislation because it was intended to affect the citizens by its uninformed provisions. He again said that this decision of the central government as an ultra virus to the constitutions and void. It grants citizenship on the basis of religious identity which dishonoured the constitutional provisions & fundamental rights. It violates the provision of Equality before Law (Art.14), Protection of Life and Personal Liberty (Art.21), Freedom of Religion (Art.25) of the Indian constitution. Indeed, the state of Rajasthan feels that this act is an inequity against the policy of the state (The Hindu, 2020)^[25].

West Bengal became the fourth state after Kerala, Punjab, and Rajasthan to pass anti- CAA resolution and urging the central government to repeal the CAA. The resolution was unanimously passed by the state assembly of West Bengal with the congress and lefts along with AITMC members who directly supporting it and BJP contrasting it. Mamata Banerjee, Chief Minister of West Bengal noted that "the decision of the union government on CAA is totally against the spirit of the constitution, not a Hindu-Muslim issue, it is an issue of humanity, being a secular state, it does not provide any respect to the sense of secularism" (Singh, 2020)^[22]. Again, she argued that this law of BJP (Ruling party) at the centre really a "politics of hatred" and trying to divide the country on the basis of the religion and does not have the right to change the basic spirit of the country. Pointing to her statement, Swadhin Sarkar, BJP MLA of WB opposed the resolution of the state government and pointed out that the Citizenship Amendment Act of 2019 would not have any effect on the exiting citizens of the country. Joyprakash Majumdar, State BJP Vice president called this resolution of the state government on CAA a 'dangerous Phenomenon' because some regional parties were passing anti- CAA resolutions in their assembly which are undemocratic, unconstitutional, and a dilemma in the true nature of Indian federalism. The state government of West Bengal displays defiance against the central act which would be a dangerous trend of the Indian political system. Thus, the state of West Bengal has pointed out how the act has been the cause of unrest and widespread popular protest across the country and undermines the very foundation of a law-governed polity.

However, it is clear from the fact that these states have expressed their unwillingness to cooperate in gathering data for the National Population Register (NPR), if the information is related to the National Register of Citizens (NRC). Even. Some states would like to convey their voices of dissimilarity against the implementation issues of NRC-CAA particularly the Non-BJP party of the constituent units. The concept of cooperative federalism is one of the promises of Prime Minister Narendra Modi since 2014. But the resolutions of the states against CAA have to be seen not only just as a look of their opposition to the substantive provisions of the act, but also a request to re-establish the federal spirit in India (India Today, December 2019). Some electronic media alleged that the implementation of CAA-NRC throughout India has discouraging social and political

implications in certain states particularly to the non-BJP states of the Indian Union. State participation is different because of their diverse ideological orientations and considered that this act divides the citizenry among Indian & spreads disaffection among the states.

5.2 Rising Demand for the New States

In recent times, conversation on the federal system of India is full of argument. The continuous increase demands for the new states create a threat in the smooth operation of federalism. Self rule and share rule is the prime base of the Indian federalism. When the demand of the states increases to a large extent, conflicts arise between the share rule and the self rule. Scholars of Indian federalism argue that claim for new and smaller states have an effect on the federal institutions and their domination in the country. According to Sreenivas (2018)^[23], the demand for smaller and new states has been a very important subject in contemporary Indian politics. A voice for separate statehood has been an emerging issue in the system of governance which has emerged from different regions, political groups, and cultural identities (ibid: 836). This issue came into front line after the creation of new state of Telengana, 2014. The development of the new states on the regional feelings always had been a sensitive issue to Indian Union. The demand for new state emerges due to the discrimination or neglect in the field of administration and viewing disparities in development by the successive state governments (Agrahari, 2014:130)^[2]. At the present time, the Union government has been under strain for the multifarious demands of the state which many are known as separate statehood throughout the country.

In this regard, the statement of Suri (2016) may be taken into consideration. He rightly pointed out that in the country like India, due to the inter-regional imbalances & multifarious demands of the state are the main focal point to give rise to the demand for separate statehood. The understanding of new demands of the state solely depend on the political ideas of the ruling party at the centre and regional outfit at the state level. The new demand for the state totally based on regional leadership and their ability to what extent they try to articulate the separatist demand and sustain agitation and protest to full fill this demand. However, this matter has got significant place after the acceptance the proposal by the union government for the creation of new state of Telengana from Andhra Pradesh in 2014 on the linguistic basis. After this decision of the government, many old demand and new demand for the separate statehood started agitation and protest movement against the central government. If we take the example of many new state demands, then it will be very easy for us to know the causes for the new statehood in India.

According to Sreenivas (2016), since the inception State Re-organisation Act of 1956, new demand for separate statehood came in to frontline. The demand for separate state for the Vidarbha region of Maharashtra has been started mostly on the issue of underdevelopment of the region. Like that the demand for statehood for the Gorkhaland region of (three subdivisions of Darjeeling district namely Darjeeling, Kurseong and Kalimpong) West Bengal has been move up generally on the matter of distinct hill culture of the region. The issue distinct tribal culture of the region is the main cause for the demand of separate statehood for the Bodoland region in the state of Assam.

Another ongoing demand from the western part of the Odisha state is the Koshal state. The western Odisha consists of 10 districts which demand separate statehood on the Koshali or Sambalpuri language. To full fill this demand, just about 42 organisations have started agitation and protest movement with the help of one political party known as Koshal Kranti Dal (KKD) constituted in the year 2007 (ibid: 837-838). Thus, it is apparent from the fact that these are the instances of aggressive regionalism that pretence a threat to the federal structure of India. These new demands of the states not only a factor of regionalism but also a menace to the national sprit and nation building process of India. Indeed, the regional imbalance and the issues of under development of the many region is only the cause to raise out the regional feeling which force the state to start state agitation against the centre for separate statehood. It is not a good indicator for the unity and integrity of the county.

5.3 COVID-19 and its Impact on Federal Structure

The Pandemic COVID-19 is not only the problem that to defects the federal system of India into alone. As earlier, there were other crises and constraints had witnessed in terms of crisis by which the federal structure of India suffered many times. That is to call for repairing and preparing of Indian federalism without neglecting the future course of time. Similarly, the role of both the union and state led to controversies in the practice on the constitutional implication. Certainly, after the rising of COVID-19 Pandemic, the division of federal power between centre and units has not functioned in those of the day. Therefore, it can be noted that the Indian constitution described 'India is a union of states', in the sense it is not a federation and even not a league of the states; it reacts to be federal in a normal situation but become unitary if any abnormal situation is brought about. According to this practice, the unitary tendency has been growing by the centre since the establishment of the constitution. In so far, during the COVID-19 pandemic, then federalism could be criticized on the basis to use their power under their respective areas. The major cause is that in order to make it viable to people and their lives system, the national government needs to be consulted to the state. Apart from that, migration, jobless, financial autonomy of all states could be bitterly clashed the centre-state and inter-state impression. To this effect, the cooperative federalism becoming uncooperative federalism or anti-federalism so far as union and state interest is concerned (Economy and Political Weekly, April 2020).

On the other hand, to this COVID-19 pandemic situation, the government of India enjoys supreme influence by adopting the Lockdown Decision (Phase-1) without any prior consultation with the state governments and to opposition parties. Hence, the opposition parties and ruling state governments around the country have severely criticised to the monopoly policy of national government. Along with this, the migration issues are widely underlined by the common people as well as by the various state governments. Apart from that, the health policies were badly affected to face such situation. The state governments also argued that however health is a state subject; it is equally take the help of states and union for the interest of the common people. Moreover, the centre and states were blamed to each other on the cause of central government ignorance (ibid). The overall intention of both the centre-

state is to protect the lives and livelihood of the migrant workers. So, in order to deal with such situation, it required financial autonomy to both centre and states. But it can be noted that, the states governments do not have fiscal autonomy or strength to do so. In such a situation, the central government again use his monopoly power over the state and force the federal units to adopt their own economic and institutional agenda. Due to discontinue of the revenue and tax collection system and widely cut off GDP growth from various sources across the county, the centre and state has lost their fiscal autonomy badly. So, financial erosion grew up steadily. Another more challenging decision of the central government is the deferment of the Members of parliament Local Area development Scheme (MPLADS) funds and diverts them to consolidated fund of India. This decision of the central government suspends the funds for two years. The main purpose of the government to cut off the funds is to reinforce government efforts in managing the challenges and unfavourable impact of COVID-19 in the country (Chhokar, 2020)^[5].

The opposition parties openly stated that this decision of the union government is purely unilateral and a big challenge for the MPs to have a better relationship with their respective constituencies. They argued that suspension of MPLAD fund is just undemocratic and an injustice step towards the representative of the people and also to the voters. This fund provides special autonomy to the people representative to spend the money for the development of the constituencies. So, this decision of the government with regard to the COVID-19 situation is a menace to run the government machineries of the federal system.

5.4 Inter-State River Water Disputes

In India, all of the major Rivers are following across the states. The Rivers are inter-state in character. When numerous states are equally dependent on the same river systems, problems of reconciling their interests take place. The ever-increasing scarcity of water at the middle part or tail end of the river paves the way for inter-state disputes between and among the riparian states. In India, inter-state water sharing conflicts are come up when the upstream states affect the quality and quantity of water flow in the river basin and restrain the scope of the flow of water to the downstream through the water projects of upstream states. Generally, it is a conflict between the lower and upper riparian states of the Rivers. Besides, the usual upstream-downstream conflicts, the inter-state river water sharing also distressed the riparian rights over the sharing river water and finally show the way to inter-state river conflicts (Swain, 1998: 169)^[24]. Since the inception of the Indian Republic, the sharing of inter-state rivers has led to a number of bitter clashes between and amongst the different states in India. These disputes are more severe and prolonged due to the multifarious use of water resources as well as the large demand of the riparian states. After Independence, river conflicts started over the possession and control of river water to harvest the notion of property (water) rights. It not only disturbed the riparian rights of the riparian states but also dishonoured the federal system of governance in India. An interstate river water dispute is one of the federal dilemmas so far as the nature of Indian federalism is concerned. In a country like India and its democratic principles, the sharing of river water is an essential concern in maintaining the federal spirit. But due to the involvement

of the different stakeholders, the political parties, and privatization of water to industries and their sub-units, it is found that River water disputes are one of the burning issues in the federal understanding of India. In the Krishna-Godavari River disputes, it may be noted that the river water conflicts take place in the river basin of Krishna- Godavari over the allocation of waters to the respective territories of the riparian states with an objective to the economic development of the state. In the disputes, Maharashtra and Karnataka is the upper where as Andhra Pradesh is the lower riparian state (Acharya, 2000) ^[1]. It is a matter of fact that after independence, Indian Republic adopted the Five Year Plan with an ambition of the economic development of the country. Planning Commission asked the riparian state to include their project what they want to do. Achieve that purpose, an inter-state conference was organized in the month of July 1951 to discuss the utilization of supplies of water in the Krishna- Godavari River and to measure the benefits of the projects. But when the State Re-organisation Act, 1956 came into existence in India on a linguistic basis, new water projects were carried out by the riparian states. As a result, conflicts arose between & amongst the riparian states (Wood, 2007) ^[28]. The main issue raised in the Krishna-Godavari River water sharing is the disagreement between the lower and upper riparian states over the agreement of 1951. The agreement earlier was favoured federal governance. But, after the passing of the State Re-organisation Act, 1956, when the riparian states tried to activate their separate water projects, it violates the federal principles of India (ibid).

Another important recent challenge faced by the federal system of India is the issue of water conflict between Odisha and Chhattisgarh on the matter of Mahanadi River water sharing. Nonetheless, both states use to enjoy their range of influence on the River Mahanadi since they were situated correspondingly in form of the upper (Chhattisgarh) and lower (Odisha) riparian states. The inter-state conflict started when the upper riparian state (Chhattisgarh) started a series of dams and barrages in the upper part of the river. In this matter, the lower riparian state (Odisha) argued that if projects would continue then there is the severe diminution of water flow into the Hirakud Dam that would impact its agro-economic culture of Odisha. In response to the statement of the government of Odisha, the Chhattisgarh government clarified that the projects undertaken by the state government in the forms of dams and barrages construction in the waterline Mahanadi is only for the irrigation purposes of the state without hampering the concern of the lower riparian state (Odisha). After that, the Mahanadi River disputes transformed into a political fight between the BJP and BJD on one hand and conflictual water politics on the other (Ratha, 2019:107) ^[17]. It is a matter of fact that the rapid industrialization in the area of the river basin and diversion of water to industries and its sub-units is the main reason for the shortage of water to Odisha. It seems the scarcity of water in the agriculture sector. The Mahanadi river water conflict is not only a conflict between the political party of two states but also an inter-sectoral water clash between agriculture and industry which emerged as a great challenge for Indian federalism. In the matter, on the occasion of the Independence Day of 2016, the Chief Minister of Odisha, Naveen Patnaik said that in the federal arrangement of India, no single state has the exclusive right on the following water passing through the several states'

territories of India. It is in opposition to the federal conception of India. Furthermore, he supposed that on the cardinal principle of federalism, the Odisha government is making an earnest effort to decide the Mahanadi River water sharing issue. It is possible if both Chhattisgarh and the Government of India share the true information of the issue in front of the mass media or at the tribunal level (Firstpost, 2016) ^[9].

Furthermore, in this matter, the Odisha government alleged that the Government of India favouring the Chhattisgarh government for the continuation of the dams and barrages projects and has wanted an immediate stop the progress of to all such developments and requested an assessment of their impact on the Mahanadi River issue (Ratha, 2020) ^[18]. Again, the Odisha government argued that the projects undertaken by the upper riparian state are not meant for irrigation purposes of the state but a huge quantity of water has already been diverted to the industrial sector and its sub-units which does not come under the jurisdiction of the cardinal principles of the water federalism (ibid:100). It also not favoured the preservation, equitable distribution & sustainable utilization of the inter-state river water sharing provision. In response to the statement of the Odisha, the Chhattisgarh government stated that within India's federal political structure, the upper riparian state has the supreme and first right to use the water of the river. In the Mahanadi River perspective, it may be taken into consideration that the River originates in Chhattisgarh, and then passes through Odisha before meeting at the Bay of Bangle. So, the Chhattisgarh government has the first and foremost right to use the water of the Mahanadi for the developmental purpose of the state. The surplus water of the river may be used by the lower riparian state, if essential for the state.

Critiquing to the Government of Chhattisgarh, the Rajya Sabha MP and the senior leader of the BJD party of Odisha, Prasanna Acharya alleged that the Chhattisgarh government's construction of a series of dams and barrages in the upstream of the river basin is the contravention of the fundamental principles of river water sharing between the co-riparian states or water federalism. It also breaches the federal system of constitution by constituting the developmental projects without the prior consent of the Odisha government (Orissa post, 2016) ^[15]. To resolve the dispute, the Odisha government requested the Government of India for the constitution of a tribunal. After some reluctance, the tribunal has been constituted on 12 March 2018. The Mahanadi River Water tribunal has not given yet any decision on the river issue. It may be noted in this matter that the formation of the tribunal is a political victory of Odisha on the Mahanadi issue, but will not facilitate the state to bring to an end the Chhattisgarh from using the water of the Mahanadi River as said by Chhattisgarh.

However, it may argue that these river disputes in India are surrounded by the selfish interests of the political party. The disputant states always used the water issue as their political weapons to harvest their election manifesto. Put it differently, it can be said that the conception of political opportunism over the inter-state river water dispute shows the way to the rise of regionalism. There is also a tussle between the Centre and states on the constitutional division of power on the matter of water. It is a matter of fact that the subject 'water' is a state list, but the inter-state water falls under the jurisdiction of the Union list which is seen by the states of the Indian Republic as an encroachment upon their

rights. Finally, this attitude disturbs the federal equilibrium of India.

6. Possible Suggestions

In order to strengthen the federal governance in a country like India, the following suggestion may be taken into consideration.

1. For the smooth functioning of the federal polity, it is noteworthy to mention that, Inter-State Council, being one of the federal institutions, shall play a significant role primarily in drawing the matter of harmonising the relationship between centre states. As such, there should be also a greater institutional consultation between them in their operation towards the federal system of governance. The Article 263 also provided such constitutional provision. In such way, the Inter-State council should be formed by undertaking both demands of the centre as well as the state in any specific matter of dispute. Further, it would like to provide a framework so that the existing problems between them can be easily settled down.
2. In other way, the arising conflict that most of the time takes places in between centre-state lead to a line of its acute management. Hence, the council, as a multi member body should need to be appointed for that reason. This council is primarily set up to investigate relating to their common subjects matter. It also seeks to take some necessary condition to the result of disputes. Therefore, flowing of 'federal spirit' to be becoming main task to this council. Again it tends to uphold the constitutional guidance that prevent overlapping consensus. Of these, some constitutional recommendations and adaptation in form of resources should be channelized. Moreover, it guaranteed the federal faith as such.
3. In case of COVID-19 Pandemic, both centre and state government should play a vibrant role with hand to hand to overcome such major crisis without making the help of previous arrangement. But, in turn there is actually a need of institutional federal machinery. Probably, it is a set of equipment that makes enable to maintain the sense of cooperative federalism, inter-governmental bargaining and inter-state conflict resolution and so on. However, public health and sanitation is becoming a list of state subject. Thus, it is the responsibility of central government to take prior summon from the states with regards to health matter before taking whole health system under their control. There also a little financial autonomy should be given to the respective states for the maintenance of the spirit of cooperative federalism. It would be very helpful to deal with coming economic crisis and health problem on their areas of importance.
4. To maintain the sense of cooperative federalism, inter-state disputes should be resolved as per the constitutional provision of India. Inter-state bargaining should be taken place to make viable and effectives of the state units. Cooperation and inter-state-relationship must be maintained to make feasible and dynamic its working atmosphere.
5. The National Development Council is no longer effective and the Inter-State Council, having been made a part of union home ministry, is not an independent institution. The states do not have a remedy when the

union government simply abrogates the agreement to pay compensation for the loss of revenue from GST. The states have to simply take orders when the centre invokes the Disaster Management Act to deal with events like COVID-19 and when the centre treats the states not as partners but as agents.

6. Having created a precedence of imposing conditions for borrowing, the union government will now use the instrument to further its agenda by imposing conditions irrespective of whether or not they are in the interest of the states. In fact, in a situation of asymmetric power distribution and in the absence of an independent institution to oversee bargaining, coordinate actions and resolve conflicts, excessive centralisation is a natural outcome. This could lead to disharmony and divisions according to political allegiances and does not bode well either for democracy or for federalism.
7. The Finance Commission under article 280 of the Indian constitution should be work properly for the fiscal distribution between centre and the states.
8. The disputant states of the Inter-state River waters should respect the river water as national assets, not as their private property. Article 262 of the Indian constitution should function properly for the formation of a Water Tribunal to resolve the disputes speedily with the institutional coordination and political space between centre and the states.
9. National Development Council should work for the development of the country with developmental plan and programmes.

7. Conclusion

From the above discussion, it can be said that Indian federalism is not static rather than a dynamic one that keeps changing with the situation and needs as per its behaviour. Similarly, it also looks into the account for theoretical as well as practical concerns of contemporary federalism. From this practical point of view, it is imperative that Indian federalism is closely based on the inter-governmental setting, sharing power at an equal level and ensuring cooperation with each unit of the government machinery. However, we cannot deny the assertion is that federalism is sometimes conflictual and holds contradictory inspiration through its working process. But, the latest concern can be recognized here only after how far federalism is congenially stable with its contemporary challenges that raised out mostly in its visible form. At the outset, the controversial issue of CAA is opposed by the people around the territories and subsequently by the political leader of non-BJP- states. It is only because of the fact that CAA has relied on the anti-constitutional character. If there is no such thing happening, but possibly making centre-state relation disputed. The Kerala government particularly takes this matter into reality while Punjab, Rajasthan, and West Bengal draw the picture more seriously after its depth analysis for negative impact. Another notable issue of Indian federalism is raising demand for new states. From a developmental point of view, the smaller states are fully utilizing their efficiency to remain autonomous and have shown independence without being dependent on central financial funds every time. On the other hand, the larger units of the Indian federal system do not get that much power to accomplish each and every action without the help of central financial resources. Having this imperative and systematic nature by dependent and independent units within a federal structure, it may be

noted in the mind that a good balance should be maintained between centre & states and amongst the states for the smooth functioning of federal governance.

In the field of Inter-State River water disputes, it may be taken into consideration that the states involved in inter-state river water disputes require to construct inter-state cooperation and should keep an open door for talking instead of fighting the issue at the tribunal level or politicising the water issue. The Mahanadi River is the helping hand of both Odisha and Chhattisgarh. In this matter, both riparian states have to form a joint strategic action for the appropriate management of the water of the Mahanadi River. The water of Mahanadi is essential both for the agriculture and industrial purpose of both states. The state government of Odisha and Chhattisgarh along with the Union Government should work properly at any cost on the cardinal principles of Federalism to save the life of the Mahanadi River. The central government with CWC must take this issue as the top priority and should establish a real-time framework for data sharing information to improve and restructure the system of governance and to provide justice to the riparian state. In the Indian federal system, inter-state water disputes among the states need to be depoliticized and should respect the federal sense of behaviour of the Indian political system. To resolve the inter-state River dispute in India, the Government of India should give much priority to the Inter-state River Water Disputes (Amendment) Bill Act, 2017 which has the constitutional provision of the formation of a single Tribunal, resolution of the disputes in a timely manner, official data collection of the disputes. This provision of the Act of 2017 should be implemented properly to triumph over the lacunas of the Inter-state River water dispute Act, 1956.

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