

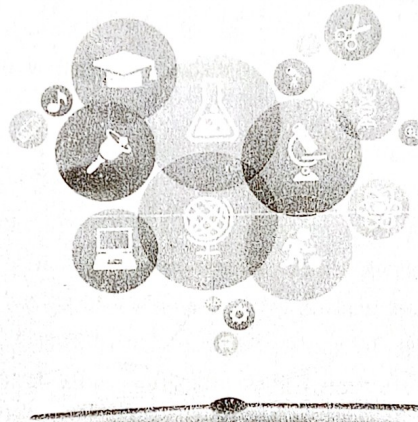
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**Dr. B. R. AMBEDKAR'S Contribution to Federalism Enshrined in the
Constitution of India**

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Abstract

The founding fathers of the Constitution of India felt a need for a strong Centre because of prevailing social economic and political conditions. Dr. B.R. Ambedkar said in the Constituent Assembly: "The Indian Constitution is a federal Constitution in as much as it established what may be called a dual polity which will consist of the Union at the Centre and the States at the periphery each endowed with sovereign powers to be exercised in the field assigned to them respectively by the Constitution". The draft Constitution prepared by constituent assembly under the wise leadership of Dr. B.R. Ambedkar provided for the division of power between Union government and the government in the states have been successful for a large and diverse country like India.

Keywords: Ambedkar, Federalism, India, Constitution

Introduction

"Federalism isn't about states' rights. It's about dividing power to better protect individual liberty." ~ Elizabeth Price Foley A constitution is the legal document in which various governing principles are established, functions and procedural aspects of the government are specified under which different organs of the government work. Constitution is the supreme law of the land which is ascertained by Kelsen as the "Grund Norm" in his Pure Theory of law. American Constitution is the pioneer of all the federal constitutions followed by the Canadian and Australian constitution respectively. It may be traced that the Federal principle was adopted in the Government of India Act 1935 and the same was reinserted in the draft constitution by the Constitution Assembly. Dr. B. R. Ambedkar feels it convenient to describe Indian constitution as both Federal and Unitary. He opines that it works as a federal constitution under the normal condition and as Unitary during the war or crisis. Federal Principle: The principle may be understood as 'the method of dividing powers, so that the general and regional governments are each within a sphere of co-ordinate and independent; and not sub-ordinate to each other- Professor Wheare. The existence of co-ordinate authorities independent of each other is the gift of the federal principle where as the supreme sovereign power is vested with the only central organ which ultimately controls the state in a unitary form of government. Federalism is not static but a dynamic concept. It is always in the process of evolution and constant adjustments. It is also recognized that federalism is one of the basic features of the Constitution in Kesavananda Bharathi 's case. The Sovereign Democratic Republic of India is a "Union of States." The term 'Union' instead of a 'Federation' was intended to connote a higher degree of integration. Various federal constitutions were ransacked. Federation as contemplated under the Government of India Act, 1935, was also in view. After great deliberations, the foundations of the Indian Federation were laid, as envisaged under the Government of India Act of 1935 the structure



of which was erected after the Canadian pattern. It was deemed to be the best suited to the genius of the Indian masses. Federalism means division of power and authority between state and centre. This form of government also called 'federation' or a federal state. The term 'federal' also means 'contractual'. A federal state is that state which brought into being through a contractual union of sovereign state. Constitutional Federalism: The Masterpiece of a Master Draftsman-Dr Ambedkar When it comes to Indian federalism, it reflects divided authority, but ultimate sovereignty and supremacy lies with the federal government i.e. Central Government just like Mauryan administration, Mughal administration and British administration. Federalism is different in its characteristics and nature from confederation, a loose union of states which is neither unitary state nor a confederation but stands somewhere between them. Therefore Professor A. V. Dicey in his celebrated work described "A federal State is a political contrivance intended to reconcile national unity and power with the maintenance of 'state rights'. A federal State can be better understood by comparing with the unitary State. "...federalism is a form of distributing power. Power, in a constitutional sense, may be regarded as the ability to make decisions and to see that they are carried out. If, therefore, the component parts of a state have no power of policy decision in any field, but are confined to carrying out central government activities through the medium of an institutional fabric of federal form, it is not a federal but a unitary state". Dr. Ambedkar, the Chairman of the Drafting Committee, eulogized the term "Union of the States" on the plea that it indicated two important facts: (a) Federalism in India had not been the result of an agreement among the units, and (b) The constituent units of the Indian Federation had no right to secede from it. He emphasized further that such an arrangement made the federation a permanent and unbreakable union. According to Prof. Dicey Classic Federalism is incomplete in its nature and spirit if it lacks the following characteristics: (i) Supremacy of Constitution; (ii) The distribution among bodies with limited and co-ordinate authority, of different powers of government; (iii) The authority of the courts as interpreters of the Constitution; (iv) Double citizenship is another characteristic of some of the Federation. However, no federal Constitution can completely fulfill all these characteristics. Even the Constitution of U.S.A. may not be completely federal in character. If, however, the Constitution predominantly fulfills the federal characteristics, overshadowing the unitary features, it may be categorized as Federal Constitution. Among the political scientists as well as scholars of constitutional law there has been no agreement about the model of federal framework. Hence, to some scholars a particular Constitution is federal whereas to others it is not. Though there has been difference of opinions among the scholars and political scientists over the exact contents of a true federal model, generally the hallmarks of a federal Constitution may be summarized as follows:

(i) Federation is a union of autonomous units; (ii) Written and supremacy of Constitution; (iii) Dual polity, dual citizenship and division of powers; (iv) Dual set of laws and courts, such as federal law, courts and State law and courts; (v) Independent judiciary and doctrine of judicial review; and (vi) Two sets of a government operate upon same set of people simultaneously.

The Assembly debates and the then milieu set the tone for the need of future federalism. Dr. Ambedkar who piloted the Draft Bill dwelt at length on federal structure of the Indian system, after discarding the unitary pattern. He acknowledged the dual polity and



articulated a caveat: "Constitutional morality is not a natural sentiment. It has to be cultivated. We must realize that our people have yet to learn it. Democracy in India is only a top-dressing on an Indian soil, which is essentially undemocratic. Dr. Ambedkar in his historic speech further dealt at length with the salient features of the proposed federation. He said that the Draft Constitution embodied an undoubtedly federal constitution in as much as it sought to establish a dual polity consisting of the Union at the Centre and the State at its periphery, each endowed with its sovereign powers to be exercised in their respective fields. It had certain distinctive features differentiating it from other federations. Thus the Draft Constitution made it possible for the proposed Indian Federation to be converted into a unitary state in times of war or of grave emergency. Again the proposed Constitution provided a number of devices – some taken from Australian Constitution while others were new for overcoming the rigidity inherent in federalism. These were inter alia, vesting the exclusive powers of legislation in Parliament over a wide range of matters; placing fundamental laws, civil as well as criminal, under current jurisdiction to ensure uniformity in all basic matters; a comparatively easy amending process; and the power given to Parliament to legislate, subjects even in normal times. Other special features were a single judiciary, certain common All India Civil Services, and a single Indian citizenship.

Mr. Subhas Chandra Bose has even gone to the length of suggesting that the right wing of the Congress has committed itself to this Federation so far that it has already selected its cabinet. It matters not whether all this is true or not. I hope all this is untrue. Be that as it may, the matter is both grave and urgent, and I think all those who have anything to say on the subject should speak it out. Indeed I feel that silence at such a time will be criminal". The constitutional history of India reveals that since Indian Council Act, 1909 there were several measures undertaken towards the federal form of government although in practice the governmental machinery continued to work as a unitary State till the enactment of the Government of India Act, 1935. Till the reforms of 1919 the central government remained supreme in the matter of finance. Dr. Ambedkar being a scholar of Constitutional law was minutely observing India's journey toward the federal structure. Being a frontline Indian leader he was practically involved in such a process in various ways and at different levels. In pre-Constitution period, while examining the scheme of Indian federalism in his Kale Memorial Lecture delivered on 29th January, 1939 at the Annual Function of the Gokhale Institute of Politics and Economics held in the Gokhale Hall, Poona Dr. Ambedkar further said, "Although the Federal form of Government is distinct from the Unitary form, it is not easy to see distinction. On the other hand there is, outwardly at any rate, a great deal of similarity between the two. The Government of almost every country in these days is carried on by an inter-related group of Administrative Units operating in specific areas and discharging specific public functions. This is true of a country with a Federal Form of Government and also of a country with a unitary form of Government. In a Federal Constitution there is a Central Government and there are inter-related to it several Local Governments. In the same way in a Unitary Constitution there is a Central Government and there are inter-related to it several Local Governments. On the surface, therefore, there appears to be no difference between the two". He further said, "There is, however, a real difference between them although it is not obvious. That difference lies in the nature of the inter-relationship between the Central and the Local Administrative Units. This difference



may be summed up in this way. In the Unitary Form of Government, the powers of the local bodies are derived from an Act of the Central Government. That being so the powers of the Local Government can always be withdrawn by the Central Government. In the Federal form of Government the powers of the Central Government as well as of the Local Government are derived by the law of the Constitution which neither the Local Government nor the Central Government can alter by its own Act. Both derive their powers from the law of the Constitution and each is required by the Constitution to confine itself to the powers given to it. Not only does the Constitution fix the powers of each but the constitution establishes a judiciary to declare any Act whether of the Local or the Central Government as void if it transgresses the limits fixed for it by the Constitution". Refuting the ever growing criticism that the Centre had been made too strong in the proposed federal structure, Dr. Ambedkar maintained that the Draft Constitution had struck a fair balance between the claims of the Centre and the units. While the Centre was not given more responsibilities and power than were strictly necessary, conditions in the modern world rendered the centralization of power inevitable and the trend was bound to operate in India, irrespective of the provisions of the Constitution.

Dynamism of Indian Federalism

Since the recommendations of the Sarkaria Commission's report much water has been flown. There has been emergence of new dialectics of federalism in India. The gradual growth of the Panchayati Raj system, working in tandem with civil society institutions of the voluntary sector, is a defining development of the federal system as envisaged by Dr. Ambedkar. With the challenges of globalization and privatization, Indian Constitution's macro-finance arrangement, calls for a new look. Therefore, although the earlier reports and recommendations on centre-State relations were not implemented fully, the Government of India in 2007 came with one more commission under the chairmanship of Justice Madan Mohan Pundhi (Former Chief Justice of India) on Centre-State ties. According to its terms of reference, it was to look into the entire gamut of the Centre-State ties that have witnessed a sea change ever since the Sarkaria panel gave its report. The present stage in India can be described as 'Organic-Federalism, where the federations, the units function as a part of one organism to achieve the common-governmental purposes. The lessons to be learnt from the recent-developments & the pressure of Circumstances that developed together with the large-scale interdependence of the states in many matters, had really indicated a case for organic-federalism. There are strong organic-Filaments constitutional, financial & administrative, which may be relied upon to uphold the unit of India. For example: Several industrial establishments are financed & managed by the Union Government, but are operating within the territories of the unit-states; & various nationwide agricultural-operations in the matters of improving technology, seeds etc. Efforts at cooperative federalism have commenced but need to be strengthened. The acceptance of the 14th Finance Commission's recommendations, apart from significantly enhanced devolution, enables states to design and implement programmes better suited to their needs. This ends the persistent critique of "one size fits all". No doubt, the transition is contentious. The Central government's envelope shrank in respect of important Centrally Sponsored Schemes, particularly health and education. States find it difficult to restructure and synchronise their financing. More importantly, the disbandment of the Planning Commission (PC) and its replacement by the NITI Aayog is specifically designed to promote cooperative federalism. The pressures that are being generated with the passage of time hold the promise of developing into powerhouses for bringing about further changes in the institutional design. Within the framework of this multilevel federalism, with the rise of the Right to Information Act it appears that a potentially powerful weapon for



effective decentralization and democratization of Federal structure of India has finally been developed, however, the real challenges before the Indian federalism today are the fiscal relations; share in development processes of both Centre and States, and regional autonomy. The existing federal mechanism has sustained from such several shocks. The Constitutional structure, with little variations has the capacity to sustain the pressures of these modern developments.

Conclusion

Dr. B.R. Ambedkar, as a chief-architect of the Indian Constitution -said: "Our constitution would be both Unitary as well as Federal according to the requirements of time & circumstances". In historical as well as present context, the above statement is fully correct because: federalism is not static but a dynamic philosophy which is always in the process of evolution & constant adjustments from time to time in the light of the contemporary needs the demands being made on it. The true spirit of federalism, we are seeing its right implementation here... today, the benefits have reached every corner of the country, be it skill initiative or any other scheme...however, these initiatives will be more acceptable to the states if they are matched by less arrogance from New Delhi and greater respect for the federal compact. The flexibility of the federal process has made it possible for the state in India to accommodate ethno national movements in the form of new regions, thus gradually increasing both the number of states and the governability of the union. The contribution of Dr. Ambedkar in Indian Democracy is not to be forgotten. As a chairman of the Constitutional Committee he gave a shape to our country of a complete Sovereign, Democratic and Federal Republic based on adult franchise. Baba Saheb Ambedkar's name will be written in golden letters in the history of India as a creator, founder of 'THE STATE' which is based on the ideals of Justice, Equality, Liberty and Fraternity. This fact is doubtless. Dr. Ambedkar was not only a man of wisdom and architect of Constitution but also the Law Giver of modern India. Thus, Dr. Ambedkar's contribution to the Indian Constitution and its Federal Soul is undoubtedly of the highest order. Indeed he deserved to be called the "Father or the Chief Architect" of the Indian Constitution- "THE MODERN MANU".

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