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## Dr. Ambedkar's Contribution to Federalism Enshrined in the Constitution of India

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Received : 5 June 2017

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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". However, he asserted that the Indian Constitution avoided the tight mould of federalism in which the American Constitution was trapped, and could be both unitary as well as federal according to the requirements of time and circumstances. Federalism in brief constitutes a complex governmental mechanism in which the powers of the government are divided between a government for the whole country and government for the parts of the country in such a way that each government is legally independent within its own sphere. The draft Constitution prepared by constituent assembly under the wise leadership of Dr. B.R. Ambedkar provided for the division of power between the Union government and the government in the states have been successful for a large and diverse country like India.

**Key words:** Ambedkar, Federalism, India, Constitution

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### 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<sup>1</sup> as the "Grund Norm"<sup>2</sup> in his Pure Theory of law<sup>3</sup>. The 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<sup>4</sup> 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 principal whereas 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<sup>5</sup> 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 was brought into being through a contractual union of sovereign states.

### **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<sup>6</sup>. Therefore, Professor A. V. Dicey<sup>7</sup> 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'<sup>8</sup>. 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"<sup>9</sup>.

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<sup>10</sup>. 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.

Dr. Ambedkar, in the preface of 1939 Kale Memorial Lecture, said, “Federalism is a live issue and it is also a very urgent one. Soon the people of British India will be called upon to decide whether they should accept the Federal Scheme or they should not. The premier political organization in this Country, namely, the Congress seems to be willing to accept this Federation as it has accepted Provincial Autonomy. The negotiations that are going on with the Muslim League and the maneuvers that are being carried on with the Indian States give me at any rate the impression that the Congress is prepared to accept the Federation and that these negotiations and maneuvers are designed to bring about a working arrangement with other parties so that with their help the Congress may be in the saddle at the Centre as it has been in the Provinces. 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”.*<sup>11</sup>

The constitutional history of India reveals that since Indian Council Act, 1909<sup>12</sup> 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<sup>13</sup> 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<sup>14</sup> 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”.*<sup>15</sup> 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”.*<sup>16</sup>

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.<sup>17</sup> Dr. Ambedkar said in his reply to the debate in the Constituent Assembly on states’ rights: “*The... charge is that the Centre has been given the power to override the States. This charge must be admitted. But before condemning the Constitution for containing such overriding powers, certain considerations must be borne*

*in mind. The first is that these overriding powers do not form the normal feature of the Constitution. Their use and operation are expressly confined to emergencies only”.*

Further while answering to arguments of the critics of the Constitution he said, *“Some critics have taken objection to the description of India in Article I of the Draft Constitution as a Union of States. It is said that the correct phraseology should be a Federation of States. It is true that South Africa, which is a unitary State, is described as a Union. But Canada, which is a Federation, is also called a Union. Thus the description of India as a Union, though its constitution is Federal, does no violence to usage. But what is important is that the use of the word Union is deliberate. I do not know why the word ‘Union’ was used in the Canadian Constitution. But I can tell you why the Drafting Committee has used it. The Drafting Committee wanted to make it clear that though India was to be a Federation, the Federation was not the result of an agreement by the States to join in a Federation and that the Federation not being the result of an agreement no State has the right to secede from it. The Federation is a Union because it is indestructible. Though the country and the people may be divided into different States for convenience of administration the country is one integral whole, its people a single people living under a single emporium derived from a single source. The Americans had to wage a civil war to establish that the States have no right of secession and that their Federation was indestructible. The Drafting Committee thought that it was better to make it clear at the outset rather than to leave it to speculation or to dispute”.* A student of constitutional law well understands Ambedkar’s clarification in the light of several court decisions in USA.

Part XVIII of the Constitution from Article 352 to

360 contains the provision for emergency situations including provisions for national emergency, emergency for states in case of failure of constitutional machinery and financial emergency. The founders of the Constitution were very much concerned about these provisions as it provided for rule by the President over the state (under Article 356 when situation arises such that the government of the state cannot be carried on in accordance with the Constitution) and thus feared it would lead to the breakdown the federal character of our constitution. They hoped that this would never be called into operation. Quoted here is the historical speech of Dr. Ambedkar which he delivered at the time when many Members of Constituent Assembly had stoutly opposed this Article. At that time Dr. Ambedkar had said- *“I share the sentiments that such articles will never be called into operation and that they remain a dead letter. If at all they are brought into operation, I hope the President who is endowed with these powers will take proper precaution before actually suspending the administration of the Province. I hope the first thing he will do would be to issue a mere warning to a Province that has erred that things were not happening in the way they were intended to happen in the Constitution. If that warning fails, the second thing for him to do will be to order an election allowing the people of the Province to settle matters by themselves. It is only when these two remedies fail that he should resort to this Article”*<sup>18</sup>.

However, in view of the insinuation of Article 356 of the constitution which, if the text be read literally, is a set of provisions calculated to take care of the failure of the constitutional machinery at the state level, a situation of emergency designed to salvage democracy derailed by unconstitutional developments. Dr. Ambedkar, a prophetic jurist suggested that *“I may say that I do not altogether deny that there is a possibility of this Article*



*being abused or applied for political purposes. But that objection applies to every part of the constitution which gives power to the centre to override the provinces. In fact, I share the sentiments expressed yesterday that the proper thing we ought to expect is that such Article will never be called into operation and that they would remain a dead letter*".<sup>19</sup> Justice Sarkaria, in his Report, cautions: "imposition of president's rule thus brings to an end, for the time being, a government in the state responsible to the State Legislature. Indeed, this is a very drastic power. Exercised correctly, it may operate as a safety mechanism for the system. Abused or misused, it can destroy the constitutional equilibrium between the Union and the States".<sup>20</sup> Nonetheless, this report does not argue for obliteration in total but recommends severely restricted use of power. This emergency power is abridged to a comedy and a tragedy making constitutional democracy a mockery and a perennial menace to state-level popular government, to whichever the party in provincial power. In a country of Mr. Mohandas Gandhi, where decentralized democracy is a fundamental faith, the reverse process, ultimately vesting all power in one person, is the reality of the Administration. Isn't this a disgrace for the doctrine of Gandhism? Aren't Emergency provisions an impediment on the path of federal fairness? Isn't federal politics with democratic cosmetics under damage since unwarranted concentration of power at centre which negates devolution and local self-government?

Our federal Constitution embodies the idea of modern India, which defines not only India but also modernity. The Cardinal Principles of the newly born Constitution- a mirror of modern India as defined by B.R.Ambedkar, were:

- (a) A single judiciary
- (b) Uniformity in fundamental laws, civil and criminal

- (c) A common All-India Civil Service for important posts. It is important to recall that the original design vested substantial legislative powers and responsibilities in state governments for key developmental activities.

Further, in a historic speech in the Constituent Assembly in November 1949, Dr. Ambedkar listed several features of the Draft Constitution which mitigated the rigidity and legalism of federalism. Dr. Ambedkar referred to the following items:

1. The distribution of Legislative Power between the Union and the States, which gives to the Union, exclusive power to legislate in respect of matters contained in List I and a concurrent power to legislate in respect of matters contained in List III of Schedule VII (Article 246).
2. The Power given to Parliament to legislate on exclusively State subjects, namely: (a) with respect to a matter in the State List in the national interest (Article 249); (b) in respect of any matter in the State List if a proclamation of Emergency is in operation (Article 250); (c) For two or more States by consent of those States (Article 252)
3. Provisions for proclamation of Emergency and the effect of such proclamation (Articles 352 and 353).
4. Provisions included in the Constitution which are to be inoperative unless, provision is made to the contrary "*by Parliament, by Law*" or words to the same effect.
5. Provisions regarding the amendment of the Constitution (Article 368).

Dr.Ambedkar made it clear that the power under Articles 250, 352 and 353 of the Constitution can only be exercised by the President of India and requires the approval of both Houses of the Indian Parliament. He summed it up precisely when he said:

*“These provisions make the Indian Constitution both, Unitary as well as Federal according to the requirements of time and circumstances. In normal times, it is framed to work as a federal system. But in times of war, it is so designed as to make it work as though it was a unitary system.”*

<b>Development area</b>	<b>List I Union’s powers</b>	<b>List II State powers</b>	<b>List III Concurrent</b>
1. Land		Land rights, tenures, rents, transfer (18)	Forests (17A)
2. Water	Inter-state rivers and river valleys notified by law in public interest (56)	Water supplies, storage, power, irrigation and canals (17)	
3. Electricity, Power &Energy	Atomic energy and related mineral resources (6)	Natural and Bio-Gas (25)	Electricity(38)
4. Agriculture &Fisheries	Fishing/Fisheries beyond territorial waters (57)	Agriculture(14); Livestock (15), Fisheries within territorial waters (21)	Wild Animals(17B)
5. Industry	Industries notified by law for national defence (7) or to be in public interest (52)	Industries other than those in List I(24)	Factories(36)
6. Oil, Mines, Minerals	Mineral oil / Petroleum (53), Mines and minerals notified to be in the public interest (54)	Mines and minerals other than those in List I(23)	
7. Trade &Commerce	Foreign trade and commerce, import/export, customs frontiers(41) Inter-state trade &commerce (42)	Trade &commerce within the state (26) Production, supply and distribution of goods (27) Markets &Fairs (28)	Trade, commerce, production &distribution of foodstuffs, edible oils, cotton &jute (33)

**Table I:** *Distribution of Legislative Powers and Executive Responsibilities between the Union Parliament and the State Assemblies in Key Area.*<sup>21</sup> (Continued overleaf)

8. Transport & Communications	Railways (22), national highways (23), national waterways (24), maritime shipping (25) major ports (27) airways (29) rail/sea/air transportation (30)	Roads and means of communication other than those in List I(13)	Minor ports (31), shipping & navigation on inland waterways (32)
9. Education	Universities & Institutions of national importance for scientific/technical education and research (63-66)	Incorporation and regulation of Universities, literary and scientific societies, associations, cooperatives (32)	Technical, medical, and university education including vocational and technical training (25)
10. Information & Broadcasting	Posts/telegraph/telephone/wireless/broadcasting and communication.(31) Cinema censorship (60)	Theatre, Cinema, Sports (33)	
11. Public Health and Social Welfare	Port quarantine (28)	Public health and sanitation/ hospitals & dispensaries (6) Relief of disabled/unemployable (9)	Infectious and contagious diseases (29) Economic & social planning (20) Population control (20A) social security/insurance & employment / unemployment (23) Labour welfare (24)
12. Local government, public works & cooperatives		Municipal corporations & local self - government (5) Public works (35) Cooperative societies (32)	
13. Taxation Powers and Financial Resource	Taxes on Personal Income (82), Corporate Income (85), Capital (86), Estates (87), Rail/Sea/Air Transportation (89), Services (92).	Land Revenue (45), Agricultural Income Tax (46), Lands and Buildings Tax (49), Alcohol (51). Electricity (53), Sales of Goods (54), Vehicles (57), Cinema (62).	

Table I : continued from previous page



The Seventh Schedule of the Constitution indicates that distribution is one sided and is heavily in the favor of Centre. Union list contains the largest number of most important subjects. For example almost all the tax subjects are in the Union list (except the Sales Tax). Another related provision is Article 248 which states that any subject that does not belong to the Concurrent and State lists, belongs to the Residuary List and it belongs to Central Government, in this light let us understand that the new elements of the division of powers and responsibilities between center and state (a key factor and characteristic of federalism) have begun to assume importance, overshadowing to a certain extent the issues which dominated the reform agenda of the earlier period. While the issue of distribution of responsibilities and powers in federal political systems is generally contentious, a gross mismatch between the two can lead to serious tensions. The federal dialogue with the states is often pre-empted by central administrative and policy decisions. The Centre often decides on a particular course of action and only thereafter seeks inputs from the states. Consensus building is after the decision, not before.

When Dr. Ambedkar presented the Draft Constitution to the Constituent Assembly<sup>22</sup>, He emphasized and described the Constitution proposed to be federal, even though the word used in Article 1 was Union and the word 'federal' was never mentioned in the Preamble or any other provision. There was a fair consensus in the Assembly that in the view of the external conditions as well as the vastness of the country and its diverse elements, a unitary system was not only undesirable but also unworkable. India therefore was going to have a Federal Constitution. This view was carried by the members till the end, notwithstanding further centralizing elements introduced during the proceedings.<sup>23</sup> After the Partition, the necessity of a strong centre was imperative and going back to a unitary system of governance was not an option.<sup>24</sup>

Hence, the principles of Federalism were required to be molded to suit the Indian soil. It was an experiment that was successfully conducted By Drafting Committee under the leadership of Dr. Ambedkar; the fruits of which the nation is enjoying today.

While presenting the Draft Constitution Dr. Ambedkar also had to deal with the radical departures made by the Drafting committee from the American model of federalism. He expressed, *"So far I have drawn attention to the differences between the American Federation and the proposed Indian Federation. But there are some other special features of the proposed Indian Federation which mark it of not only from the American Federation but also from all other Federations. All federal systems including the American are placed in a tight mould of federalism. No matter what the circumstances, it cannot change its form and shape. It can never be unitary. On the other hand the Draft Constitution can be both unitary as well as federal according to the requirements of time and circumstances. In normal times, it is framed to work as a federal system. But in times of war it is so designed as to make it work as though it was a unitary system"*.<sup>25</sup>

According to Article 1(1) of the Constitution, India is a Union of States. In his capacity as Chairman of the Drafting Committee, Dr. Ambedkar saw to it that the word UNION was substituted for the word FEDERATION. The Drafting Committee said that there were advantages in describing India as a 'Union', although its Constitution was federal in structure. Amplifying this view in the Constituent Assembly, Dr. Ambedkar said that, *"the Unitary Government of South Africa was called a Union and so it was not contrary to usage to describe India as a Union."* Dr. Ambedkar made it clear that *"though India was to be a Federation, the Federation was not the result of an agreement*

*(or a contract) by the States to join a Federation, and that the Federation, not being the result of an agreement, no State had the right to secede from it. The Federation was a Union because it was indissoluble.*

### **Dynamism of Indian Federalism**

Since the recommendations of the Sarkaria Commission's report<sup>26</sup> much water has been flown. There has been emergence of new dialectics of federalism in India.<sup>27</sup> 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<sup>28</sup> under the chairmanship of Justice Madan Mohan Punchii (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.<sup>29</sup>

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.<sup>30</sup> 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<sup>31</sup> 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,<sup>32</sup> 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. Because, the basic props, the very foundation of Indian federation have been ably constructed by an expert architect, great constitutionalist visionary – Dr. B. R. Ambedkar in the company of several other leading intellectuals of India.

## 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**”.

## End Notes

- <sup>1</sup> Hans Kelsen was an Austrian jurist, legal philosopher and political philosopher who is considered one of the preeminent jurists of the 20th century and has been highly influential among scholars of jurisprudence and public law.
- <sup>2</sup> Grundnorm is a German word meaning “fundamental norm.” The jurist and legal philosopher Hans Kelsen coined the term to refer to the fundamental norm, order, or rule that forms an underlying basis for a legal system.
- <sup>3</sup> The ‘Pure theory of Law’ which is also known as ‘Vienna School of Legal Thought’ was propounded by Hans Kelsen, a professor in Vienna (Austria) University. Kelsen’s theory came also as a reaction against the modern schools which he considered the boundaries of jurisprudence to such an extent that they seem almost coterminous with those of social science. According to Kelsen, ‘pure theory of law means that it is concerned solely with that part of knowledge which deals with law, including from such knowledge everything, which does not strictly belong to the subject matter of law. That is, it endeavours to free the science of law from all foreign elements. This is its fundamental methodological principle’.
- <sup>4</sup> The Government of India Act 1935 was the last constitution of British India. It lasted until 1947, when British India was split into Pakistan and India. The act gave Indian provinces much less independence.

- <sup>5</sup> The Kesavananda Bharathi judgement or His Holiness Kesavananda Bharati Sripadagalvaru and Ors. v. State of Kerala and Anr. (1973) 4 SCC 225) is a landmark decision of the Supreme Court of India that outlined the Basic Structure doctrine of the Constitution.
- <sup>6</sup> Durga Das Basu, 'Comparative Federalism', Prentice Hall of India, New Delhi, 1987. p. 4.
- <sup>7</sup> Albert Venn (A.V.) Dicey) was a British jurist and constitutional theorist. He is most widely known as the author of Introduction to the Study of the Law of the Constitution (1885). The principles it expounds are considered part of the uncodified British constitution. He became Vinerian Professor of English Law at Oxford and a leading constitutional scholar of his day. Dicey popularised the phrase "rule of law".
- <sup>8</sup> Dicey A. V., 'Law of the Constitution', (10th Edition), 1962. Pp. 141-143.
- <sup>9</sup> Neumann, 'European and Comparative Government', 1960. p. 679.
- <sup>10</sup> Speech of Dr. Ambedkar in the Constituent Assembly on 4/11/1948 Quoted in "Constitutional Government in India" by Dr. M.V.Paylee, Published by S. Chand & Co.Ltd , New Delhi, p. 6.
- <sup>11</sup> For detail discussion of federal situation and pre-requisites of federal government see – Wheare K.C., Federal Government, Oxford University Press, Fourth Edition, London, 1953.
- <sup>12</sup> The Indian Councils Act 1909 or Morley-Minto Reforms or Minto-Morley Reforms was passed by British Parliament in 1909 in an attempt to widen the scope of legislative councils, placate the demands of moderates in Indian National Congress and to increase the participation of Indians in the governance. This act got royal assent on 25 May 1909.
- <sup>13</sup> The Government of India Act, 1919 was an Act of the Parliament of the United Kingdom. It was passed to expand participation of Indians in the government of India. The Act embodied the reforms recommended in the report of the Secretary of State for India, Edwin Montague, and the Viceroy, Frederic Thesiger. The Act covered ten years, from 1919 to 1929. This Act represented the end of benevolent despotism and began genesis of responsible government in India.
- <sup>14</sup> Dr. Babasaheb Ambedkar Writings and Speeches, Vol. 1, Education Department, Government of Maharashtra, 1989.
- <sup>15</sup> Ibid, p. 294.
- <sup>16</sup> Ibid.
- <sup>17</sup> Publications Division, Government of India, Constituent Assembly Debates Vol. VII, Pp. 33-37 and 42–43.
- <sup>18</sup> Publications Division, Government of India, Constitutional Assembly Debates, Vol. VII Dated August 4, 1949. p. 175.
- <sup>19</sup> Tiwari, O.P; 'Federalism and Centre-State Relations in India'.
- <sup>20</sup> Pylee, M.V., "The Federal Court of India".
- <sup>21</sup> Compiled from Constitution of India, Seventh Schedule. Numbers in brackets refer to item numbers in the concerned list. The Union List included obvious sovereignty functions such as defence, foreign affairs and currency, while maintenance of public order and police functions are assigned to the states. Residuary powers are vested in the Union.
- <sup>22</sup> VII Constitution Assembly Debates, Pp. 31, 33, 35-57, 42-43.

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- <sup>23</sup> XI Constitution Assembly Debates, Pp. 657 – 658.
- <sup>24</sup> Ibid.
- <sup>25</sup> Constitution Assembly Debates, Book No. 2, p. 35.
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- <sup>27</sup> M. Naganathan, “Dialectics of Federalism in India An Analysis of Socio-Economic and Political Factors”, University of Madras, 2007.
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- <sup>29</sup> News Item in *The Times of India*, April 28, 2007, Mumbai.
- <sup>30</sup> “Cooperative Federalism and Mutual Delegation”, <http://www.lawteacher.net/free-law-essays/constitutional-law/co-operative-federalism-and-mutual-delegation-constitutional-law-essay.php> (Accessed on 28 April, 2016).
- <sup>31</sup> The National Institution for Transforming India, also called NITI Aayog, was formed via a resolution of the Union Cabinet on January 1, 2015. As a premier think-tank of the Government of India, NITI provides critical knowledge, innovation and entrepreneurial support to the country. To enable this, India is building a State of the Art Resource Centre – a repository of research on good governance and best practices. The Government of India, in keeping with its reform agenda, constituted the NITI Aayog to replace the Planning Commission instituted in 1950.
- <sup>32</sup> Multi-level federalism gives expression to the idea that there are many interacting authority structures at work in the state.

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