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Asymmetrical Federalism in India: A Study of Special Provisions for States

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Abstract

The federal structure in India is also unusual in the sense of the constitutional asymmetry in the relationship between the federal and the states that was purposely made under the constitution. This method is referred to as asymmetrical federalism as this mode goes against the more traditional principle of uniformity to provide exceptional attention to some states basing it upon their historical, cultural, political and geographical backgrounds. Other notable examples would be the former Article 370 of Jammu & Kashmir, which guaranteed a reasonable amount of autonomy before being abrogated in 2019, and different types of protection under Articles 371 to 371J of states as Nagaland, Mizoram, Sikkim, Arunachal Pradesh, and areas within Karnataka and Andhra Pradesh. These clauses were in most cases a result of negotiated political settlements, accession deals or necessity to recognize indigenous practices and cultures. Although proponents consider asymmetrical federalism to be a pragmatic means of uniting different regions and protecting geographic identities, opponents believe that such federation process makes the welfare of states unequal and potentially encourages separatist feelings. Historical reason, constitutional theory and enforcement of these uncommon arrangements are analyzed in this paper to affirm their contribution in either reinforcing or weakening the federalism of India.

Keywords

Asymmetrical Federalism, Indian Constitution, Centre-State Relations, Article 370, Articles 371 to 371J, Cooperative Federalism, Constitutional Flexibility.

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Introduction

A unique feature of the federal system of India is its inherent flexibility, allowing the Union a focus on a relationship with particular states depending upon their individual historical, cultural, political and geographical backgrounds. This conscious asymmetrical federalism, in which not all the states possess equal constitutional authority, is called asymmetrical federalism. It echoes the acknowledgment of the framers of the Constitution of the fact that uniformity in governance was not sufficient in assisting matters of assimilating a nation as diverse as India. Integration of British provinces, more than 500 princely states, and here and there with culturally separate tribal regions after independence led to the incorporation of British provinces, princely states with their own scriptures of government and identities. In the case of most of them, the entry into Indian Union came with conditions of constitutional protection to maintain their independence and local culture.

The most notable was Article 370 that until its rescission in 2019 gave Jammu & Kashmir a wide degree of autonomy, which included its own constitution and authority to most legislative areas except defence, foreign affairs, and communications. Likewise, further on, Articles 371 to 371J allow special rights and privileges to states like Nagaland, Mizoram, Sikkim, Arunachal Pradesh and some parts of Karnataka, Andhra Pradesh and Telangana. Such arrangements extend across the many fronts--the security of traditional law as well as its limitation at the time of abolishment of land ownership and prevention of unfair claims on the most accessible government service and schooling.

Such constitutional compromises have been very instrumental in the acculturation of regions of political sensitivity, cultural up-holding and stability in different territories. They, however, have also caused disputes over whether such asymmetry causes strength in the Union as it reflects diversity, or weakness because it

aims to devise unequal status amongst states. In such a time when the Centre-State relations are renegotiated on a platform, passing through. The study of asymmetrical federalism can provide valuable information to how flexibility can at the same time uphold the principles of federalism in India, as well as provide them a challenge.

Objectives of the Study

1. To examine past and political events that resulted in asymmetrical federal dispensation in India.
2. To consider the constitutional boundaries and operation of special provisions of certain states.
3. To determine how these differentiated arrangements impacted on the unity of India, its diversity, and federal balance.

Research Questions

1. Does the constitutional favoring of particular Indian state foster unity among diversity through keeping to regional identities, or does it provide divisions, which undermine federal equality?
2. What have been historical backgrounds and political bargaining on the extent, type, and long-term effect of these special provisions on Centre-State relationship?

Historical Context and Constitutional Development of Asymmetrical Federalism

The Indian integrative problems and its political structure of the 1940s have led to the establishment of the asymmetrical federalism. India thus, along with its independence had in place an inheritance of a territorial mosaic of British provinces who had their privileges governed straight on the colonial law, and more than five hundred states of varying degrees of sovereignty. The laboratory efforts of political bargaining and a constitution system flexible enough to accommodate the interests of the very different expectations, system of administration, and social cultural norms, were required to make a unifying workforce of such organizations one country.

Sardar Vallabhbhai Patel as Deputy Prime Minister, together with Minister for home V. P. Menon was instrumental in meeting princely states to join the Indian Union. In most instances, such accessibility came with a condition of maintaining local autonomy in local jurisdiction in matters concerning law, land tenure or cultural life in areas. This saw the introduction of special constitutional provisions which were aimed at honouring such commitments and making smooth integration.

Article 370 that formed as a result of the unusual conditions that Jammu and Kashmir found itself in can be considered one of the most noticeable and earliest emerged forms of this approach. When the state joined India in 1947 in the middle of the armed conflict, it focused on forming a special constitutional status that gave it a separate constitution, flag and control over all subjects other than those that were expressly given to the Union. Even though Article 370 was branded a transitory product of the Constitution, it continued to persist decades before in December 2019, its abrogation dramatically changed the relationship between the state and the Union.

The Constitution was over time being modified with new provisions to enable other states to be incorporated in it via Articles 371 to 371J. They did not constitute one and the same policy and were introduced slowly one another in reaction to particular political, cultural or economic situations. Article 371A of Nagaland was one instance; it was instituted in oppression of Naga customary law, land rights, and social practices as

a political settlement issue in the state after years of insurgency in the year 1962. In 1975, Sikkim recognized the conditions of joining in India in article 371F, which secured the preservation of the laws that existed before, and the special legislative provisions. Equivalent protection of Mizoram (Article 371G), Arunachal Pradesh (Article 371H) and parts of Karnataka (Article 371J) was to be provided based on merger agreement, state accords to demand fair development.

This incremental growth of asymmetrical conditions proves the constitutional pliability. The framers had not been able to foresee the exact form of all future accommodations but the outline philosophy was obvious; the integrity of India demanded a certain measure of flexibility which might not violate the general federal system. Concurrently, the applications of such like provisions have been selective and have therefore raised issues on whether such kind of asymmetry is here to stay or rather a transitional mechanism leading to the ultimate achievement of institutionalizing it in a more streamlined structure of the constitution.

Nature, Extent, and Impact of Special State Provisions

It is not necessarily true that the special provisions towards some of the Indian states are uniform; it is indeed very faceted taking into consideration the scope and the legal influences as well as the purpose of these special provisions. There are those which bring great legislative autonomy, some protect cultures and land rights, and a few look at administrative or developmental equity. These were designs that were devised to solve the specific historical and geographical and socio-political circumstances present in each state or region that tended to emerge due to agreement during integration or as an outcome of political turmoil.

Below is a consolidated overview of key constitutional provisions and their defining features:

Table 1: Special Constitutional Provisions for States in India

Article	State(s) Covered	Key Provisions	Constitutional Purpose
Article 370 (abrogated 2019)	Jammu & Kashmir	Own constitution, separate flag, autonomy over all subjects except defence, foreign affairs, and communications	Honour terms of accession and ensure integration with autonomy
Article 371A	Nagaland	Protection of Naga customary law, religious/social practices, ownership and transfer of land and resources	Preserve indigenous identity and cultural autonomy
Article 371G	Mizoram	Similar protections for Mizo customary laws, land rights, and social practices	Safeguard culture post-merger
Article 371F	Sikkim	Recognition of pre-merger laws, special provisions for legislative assembly composition	Respect merger terms of 1975
Article 371H	Arunachal Pradesh	Governor's special responsibility for law and	Address security and administrative

		order	concerns
Article 371D & 371E	Andhra Pradesh & Telangana	Equitable opportunities in public employment and education, establishment of a Central University	Balanced regional development
Article 371J	Certain districts in Karnataka	Special development board, reservation in education and jobs for local residents	Reduce regional disparities

These clauses represent a constitutional policy of accommodation and not imposition. As a matter of recognition of the uniqueness of the socio-political makeup of a given state, the Indian Constitution has been in a position to assimilate, into its being a diversified geography that was not subjected to uniformity.

Impact on Federalism

On the positive side, the plans have helped in preserving political stability in regions which have had conflict issues in the past, cultural and geographical isolation regions. They have reassured the countries in the region that they would not be deprived of their identity and powers of control via the integration exercise in the Union. As role models, Nagaland (under Article 371A) cultural safeguards have instigated in peace crusades whereas Mizoram constitutional safeguards were produced by the 1986 Mizo accords that forever terminated decades of insurgency.

However, it is not without problems as well. According to these critics such kind of asymmetry can even lead to skewed patterns of development, there is a wish to favor people differently and in some instances, it can even create a sense of political exceptionalism. The Article 370 revocation that occurred in 2019 depicted controversies that such clauses can involve when they are transformed without involving the states that raised discussions of whether the special statuses are the provisional mechanisms, or the unilateral referencing.

In fact, character and level of these provisions indicate that it is not only a strategic need that India is an asymmetrical federation, but also that it is a source of long-standing tension capable of boosting the tenet of togetherness in multiplicity and at the same time can be conflict-prone over the questions of equality, acknowledgement and independence.

Challenges and Debates Surrounding Asymmetrical Federalism in India

Constitutionalists as well as the politics over the decades have argued that such special treatment arrangements are a factor of unity or division after all; in the Indian Union. These arguments revolve around some of the common challenges.

1. Perception of Unequal Treatment

A perception of inequality among states is one of the strongest criticisms that the asymmetrical federalism makes. Although the Constitution explicitly promises equality, the discriminatory application of special offers has made some states like the arrangement of favoring some states. This serves to breed resentment especially in the geographical areas that share related developmental or cultural issues which are not accorded the same constitutional attributions.

2. Ambiguity over Permanence

Most of the special provisions were initially conditioned as temporary or situational provisions. Nevertheless, several decades following their implementation

has cast doubts on the essence of the provisions to determine whether they were transient provision or permanent provisions of the federal Indian structure. This ambiguity may create political instability such we would have observed in the argument of Article 370 prior to its abrogation in 2019. Descriptions of guidelines in the constitution to expiry period or documentation of such clauses make the matter worse.

3. Risk of Political Instrumentalization

Asymmetrical federalism can be used to serve political purposes because it is a compromise structure. The promise of special status can be used by governments in the Centre or in the states to rally electoral or rather douse unsettled regions without necessarily having a long-term strategy to integrate or develop these unsettled regions. On the other hand, the removing or eroding them, particularly without a proper consultation, may stir up political turmoil and further distrust between the Centre and the involved state.

4. Tension between Autonomy and National Integration

There is always a dilemma on how far to go when local independence must be respected and at what point national unity must be upheld. Even though cultural autonomy has been safeguarded by articles of union such as Article 371A of Nagaland or article 371G of Mizoram, national laws and policies and state reforms sometimes come into conflict leading to legal and administrative perplexities. This may lead to both jurisdiction conflicts and delays in intervention.

5. Evolving Federal Dynamics

Development of politics in India has changed and it is now more centralised in the lower or less developing phases than it was being assertive during the political authority days. This evolving environment needs asymmetrical arrangements to evolve so as to remain relevant. Reform against those, however, whether at the cost of expansion, or even of modification and/or repeal, as occurred in the case of the national and international contained spectacle amid the meltdowns of the repeal of the Article 370, are brand-new in a prequel generally accompanied, as in the case, with a rough-throated contest in the dealings themselves in the entrenchment conceptualization of Indian federalism per se.

All these complications justify why asymmetrical federalism is a form of balancing martyr which has to be achieved. Though this concept, nevertheless, remains a potentially valuable tool when tackling the diversity management, it needs transparency in its imperial, routine reform and a genuine communication to choose between the Centre and State in order to guarantee its success. Without them, all those provisions that were intended to establish a feeling of unity could put a stake on the trust and collaboration that lead to a very resilient structure of the federalism.

Conclusion

Asymmetrical federalism in India has been a conscious and known approach towards the constitution to merge a nation of tremendous diversity without destroying the distinguishing identity of the constituent states. When attaining independence, the special considerations such as of the Jammu & Kashmir and provisions of Articles 371 up to 371J of other states were meant to meet historic encumbrances, cultural sensibilities and political realities. India was free to realign its federal system to local circumstances with the space on special legislative authority, protection of customary law, and development protection.

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These systems have served an important role over the decades in stabilising sensitive areas on political environment, preserving culture, and achieving peaceful unification to the Union. They are witnesses of the fact that strictly speaking uniform approach to federalism would have been inappropriate to the social and political environment in India. They have however provoked long-term controversies on equality between states, sustainability of such provisions and also possibility of political abuse. Abrogated Article 370 in 2019 put these tensions into the limelight, representing the level of profound connection of these provisions to autonomy, identity, and national unity questions.

This capability will determine the future of asymmetrical federalism in India: the success of Union-states federalism to preserve the spirit of cooperative federalism. This implies that a dialogue, transparency and constitutional due process needs to be taken when making any kind of change, making or continuing any kind of special provisions, or repealing them. Routine renewal processes, with apparent standards plus which such facilities are issued and maintained, would be useful in meeting the sense of inequality, and without forfeiting the advantages of good flexibility.

Lastly, the inequality of federalism is not a weakness of the Indian constitutional constitution but a practical conformity of the rule, that unity may be promoted without threatening it by an appreciation of diversity. On a treatment, made with respect, and constitutional fidelity, it could become as much a pillar of the state of democracy and federalism in India in the decades to come.