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Reflections On The Quasi-Federal Democracy

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This editorial is based on the article **Reflections on the 'quasi-federal' democracy** which was published in The Hindu on 09/10/2021. It talks about the flaws in our federal structure of democracy.

Parliamentary disruption is quite a common phenomenon in the Indian political system. Amidst the disruption, a large number of Bills affecting the federal structure of the State (for eg. the three Farm Laws Bills), have been passed without any deliberation in the Parliament.

This has raised several issues with respect to structural flaws in India's Federal democracy which require serious consideration.

Indian Federalism

- Federalism in essence is a dual government system, constituting a Centre and a number of States.

- **Unique Characteristics of Indian Federalism**: Apart from the above Characteristics, Indian Federalism also has the below mentioned features:
 - **Single Constitution**: In India, there is only one Constitution. It is applicable to both the Union as a whole and the States. In a true federation, there are separate Constitutions for the Union and the States.
 - **Division of Power**: In a federation, **power is divided equally** between the two governments.
 - But in India, the Central government has been given more powers and made stronger than the State governments. **(In the Union List of Schedule 7, there are more and important items than in the State List)**
 - **Constitution is not strictly rigid**: The Constitution of India can be amended by the Indian Parliament as per the needs of time.
 - On many subjects, the Parliament does not need the approval of the State legislatures to amend the Constitution. **(Article 3 allows alteration of areas, boundaries or names of existing States)**.
 - However, on certain subjects affecting States' functions and rights, the consent of half the States is necessary. **(Article 368 of the Constitution)**
 - **Unified Judiciary**: India has a unified or integrated judicial system. The High Courts which are the highest Courts in the State come under the Supreme Court in the hierarchy.
 - **Single Citizenship**: Indian States do not provide separate citizenship (Single Citizenship under **Part II of the Constitution**).
 - All the Indian citizens are the citizens of State. This is **unlike USA**, where there is dual citizenship: one, federal and the other, State.
- **Nature of Indian Constitution**
 - Federal theorist **K.C. Wheare** has **argued** that the nature of Indian Constitution is **quasi-federal** in nature.
 - The SC in ***S R Bommai vs Union of India (1994)***, a nine-judge Bench of Supreme Court held federalism a **part of the Basic Structure of the Constitution**.
 - The SC in ***Sat Pal v State of Punjab and Ors (1969)***, held that the Constitution of India is more Quasi-federal than federal or unitary.

Benefits of a Quasi Federal System

- **National Integration**: The **Constituent Assembly's decision** to not create a true federation was taken after looking at the precarious situation of the time.
 - With creation of Pakistan, a Nation created on the basis of religion, there were voices of separate Nation States in other states too. As a result, various provisions like **Article 356** were added. A federal structure with unitary features allowed scope for such maneuver.

- **Cooperation and Coordination:** A Quasi Federal structure allows Centre to coordinate National level programmes like Pulse Polio Programme.
The recent case of **allocation of oxygen to different States as per their requirement during Covid-19** was possible because of a Central authority.
- **Single Market Economy:** Having a quasi federal structure allows India to be a single market for the World. The recent introduction of **Goods and Services Tax (GST)** has allowed creation of India as a single market.
Moreover, there is a **single Income Tax** in all of India and the States do not have power to impose it. Thus, Indian citizens are saved from double taxation.
- **Procedural Ease:** The Indian Parliamentary system with **its bicameral legislature** allows for easy passage of law as compared to passage in a true federation like the USA.
A bicameral legislature also ensures proper representation of States in the Upper House.
- **Resolving Inter State Conflicts:** A quasi federal structure allows centre to act as an **arbiter** in case of Inter State dispute. For eg, Border dispute and **River Water dispute (Article 262 Constitution of India: Adjudication of disputes relating to waters of inter-State rivers or river valleys).**

Challenges of Quasi Federal system

- **Abuse of Power by Centre:** The federal provisions of the Constitution can only be amended with consent of the States. **Schedule 7** of the Constitution provides for a separate List for Centre and State.
However, the Centre regularly violates the provision by legislating on State subjects. **For eg, the recent Farm Laws.**
- **Office of Governor:** The power vested upon the governor by the **Article 154 of the Indian Constitution** states that all the executive powers of the state are held by him.
 - This provision implies that the Governor can appoint the Chief Minister and the Advocate General of the State, and State Election Commissioners. This has been frequently misused by the Centre to favour its State unit or a regional Party which is in coalition to it.
 - The most paramount executive power at his disposal is that he can **recommend the imposition of constitutional Emergency in a state.**
- **Regionalism:** Regionalism establishes itself through demands for autonomy on the grounds of language, culture etc.
The nation thus faces the challenge of internal security in the form of insurgency and this causes upheavals in the basic notion of Indian federation.

Way Forward

Reforms at the **institutional and political level** can deepen the roots of federalism in India.

- The contentious role of the Governor in undermining the States' authority for Centre's interest needs to be reviewed.
- Proper utilisation of the institutional mechanism of the **Inter-State Council** must be ensured to develop political goodwill between the Centre and the states on contentious policy issues.
- The gradual widening of the **fiscal capacity of the states has to be legally guaranteed** without reducing the Centre's share.

Conclusion

The Chairman of Drafting Committee, **Dr. Ambedkar** had rightly said that, "*Our Constitution would be both unitary as well as federal according to the requirements of time and circumstances*"

In view of the above, It would be more apt to consider Indian federalism as a separate type of federalism or ***Federalism sui generis***.

Drishti Mains Question

'Indian Constitution is both unitary as well as federal according to the requirements of time and circumstances.' In the light of the statement critically examine the quasi-federal nature of Indian polity.