

Centre State Relations in India

Prof. Uday Shankar

Rajiv Gandhi School of Intellectual Property Law

Indian Institute of Technology, Kharagpur

Week 08: Centre-State Relations: New Trends and Emerging Issues

Lecture 38: Emerging Issues in Federalism I- One Nation One Election, Language Federalism

Greetings to all of you. We have come to the last module on this NPTEL course and in the last module we have decided to discuss emerging issues, what are the recent trends going on in the subject matter on Centre State relation. So, today we will be discussing the significance of One Nation One Election, how this very proposition addresses the federal framework of the country and then we will also look into the issue of language federalism as we know very well that after reluctance of initial days after the commencement of the Constitution, the leaders exceeded to the demand to divide the States on the lines of language. So, we will also discuss language federalism.

So, these are the issues which will be discussing One Nation One Election, how it makes an impact on federalism. Then what are the changes proposed if this becomes a reality and then we will also discuss different facets of language federalism. When you talk about having a kind of federalist structure, it comes up with a great set of challenges. In fact, when you go through the literature you would find that worldwide before federalist structure became a kind of reality in many countries, there was not a very broader acceptance to this framework possibly because of complexities involved in making it functional, making it operational the federal structuring. As time progresses the challenges of making federal framework functional and effective invites or attracts newer challenges which may be connected with ideological narrative which may be because of the domination of a single party at the Centre and the States or may be because of

fragmented mandate resulting into formation of a government coalition government. So, these challenges they affect working of the institutions which are responsible for giving effect to federal principles. They also bring in a newer dimension on the relationship between the different stakeholders involved in making federal principles a reality. Additionally it has also been seen that that this challenges somehow influence the interpretation based on political ideology, interpretation of the Constitution. So, dominance of either of the stakeholders tied in the federal threadbare affects the federal spirit, federal values and federal principles and that in a way affects the interpretation to the Constitution.

So, newer kind of challenges brings in a different understanding of governance mechanism and also it becomes a kind of susceptible to ideological shifts and power dynamics. As I said that single political party ruling at the Centre and the States may have a kind of influence on the functioning of the institutions. So, what is the situation which is emerging out of these challenges is to look at the understanding on the interplay between federal principles, institutional frameworks and the political dynamics and this interplay demands that the values which are at the core of federal principle that is supremacy of the Constitution, rule of law, independence of judiciary, autonomy of the constituent units, maintenance of sovereignty of the country, integrity of the country all these are preserved. They should not become subject to political preferences, they should not become subject to any kind of change in ideological landscapes. In this regard you find the ongoing debate on One Nation One Election a very relevant one.

It is important to note that there was a practice of conducting simultaneous election for electing representative in the Parliament and State Assemblies till 70s. So, the very idea of One Nation One Election is not new it was very much in practice after the commencement of the Constitution. It is the dissolution of Lok Sabha in 1970 disturbed this pattern of One Nation One Election, that one of its kind when the leader of the House recommended the dissolution of Lok Sabha before the expiry of the term that is what the then Prime Minister Mrs. Indira Gandhi recommended the dissolution and Lok Sabha got dissolved and that was more for occupying political space within her political party.

Now, what is this One Nation One Election what is this idea all about this idea is about holding elections for Lok Sabha and for Legislative Assemblies together. Now this One Nation One Election also refers to conducting election for Municipalities and Panchayats the same time of Lok Sabha or Rajya Sabha. In the recent years because of the call of the Prime Minister it has again this demand has again got the traction where it has been suggested that we must have One Nation One Election and this very call has been backed by certain reasons which we will be discussing in a while. Now, in order to make One Nation One Election a reality it requires constitutional change because in initial years it was happening because the election started in 1951-52 for both Lok Sabha and Raj Sabha and because of the term of 5 years for Lok Sabha and State Assemblies and the term was for 5 years that is why simultaneous election was taking place. In the initial years in 1951-52 when the country experimented with electoral process after independence election of Lok Sabha and State Assemblies took place together and that continued for next 2 decades.

But in order to make it a mandate it is suggested to amend the Constitution. But then One Nation One Election potentially may also affect the federal scheme one for a very reason that it may cut down the tenure of the current Assemblies and also the very positioning of regional parties and significance of local issues during the election. That whether with One Nation One Election local issues will get the prominence when national issues become a matter of debate and discussion during general election. How do we see local issues getting a prominence in such a scenario? Because there is a possibility of centralizing the electoral process where narrative significant for national issues national interest may take precedence it may be in forefront and local issues may get lost amidst such narratives. So, these are the concerns with regard to One Nation One Election, concerns connected with federal scheme. What are the arguments advanced for this simultaneous election? One is electoral process involves lot of expenses there is a considerable financial implication is there in every election which makes a dent on public exchequer.

Then conducting election is in a country like India which is a very diversified country which is a country with very unequal developmental regions with a country having a very

difficult geographical terrain. It brings in myriad of logistical challenges and a very prominent reason cited for conducting simultaneous election is model code of conduct because with a regular election taking place in this country as per the norm model code of conduct gets implemented during election. So, effectively the time for governance gets reduced for implementing the policies, executing the policies the time available is not entire cycle of 5 years. Because general election takes place then after a month after a 6 month after 1 year a State election takes place in some of the States then again election you know is announced in other set of States. So, that way you it would it had it has been observed that in a cycle of 5 year of a term of the Central government or for that matter of the State government.

More than once model code of conduct is invoked and during model code of conduct normal governance gets slow down and that is what is suggested as one of the reasons that why we should done away with the current practice of conducting election for Lok Sabha and State Assemblies separately. The Law Commission Report of 2018 rejected the argument against One Nation One Election on the very ground that that the ruling party will become a sort of you know it will impose ideas it will impose it's you know philosophies without any safe guards. And it may possibly limit the choice of the electorate and the reference is drawn or the general election conducted in 2014 and State Assembly election for the State of Orissa. Concurrent elections will reduce the cost to political parties and expected of running elections no doubt about it as it said that financial implications are very high.

And it will also improve the efficiency of governance because whenever election is announced the political executives they get involved in campaigning for their political parties and which in a way affects the functioning of their individual ministries. And also during the model code of conduct there is a norm that new initiatives are not to be announced. With a frequent election there is a tendency on the part of political parties to prioritize populist measures or maybe what you say as freebies in contrast with focusing on national interests. And these are very practical issues when you look at the challenges or the benefits prospects of One Nation One Election. There is an issue of operational feasibility where what is required is to build a kind of symmetry synchronization on the

terms duration of Assemblies and Lok Sabha for the first time first time in a sense when this One Nation One Election gets implemented.

And the feasibility to extend or curtail the existing terms of the some State Assemblies to facilitate One Nation One Election because if we it has to be implemented then obviously, there will be curtailing of the duration of the existing Assembly. Then another issue is with regard to the behavioral pattern of the electorate there will be a possibility where the electorate may get influenced either by the national issues or by the local issues which are more relevant in the State Assembly elections. So, how this behavioral pattern of the electorate would affect that is also is one factor to be looked at. Another is that once you make it One Nation One Election then for accountability you will have to wait until 5 year gets over. So, that you get the time to again reevaluate the governance of the political party and cast the vote.

Other factors which is being considered in the matter of One Nation One Election is there will be availability of 5 year duration to focus only on governance which certainly make a positive impact on economic growth which will keep the government engaged on improving physical infrastructure, social infrastructure of the country. So, these are the narratives of One Nation One Election. 170th law Commission Report suggested that on One Nation One Election cannot be achieved overnight and therefore, there is a requirement to adjust it in a due course of time. And for which it was suggested that let there be a constitutional amendment done either to extend the duration of an Assembly or to curtail the duration of the Assembly in order to arrive at a timeline common timeline when such simultaneous elections are take place. And the Commission also suggested that this is a good idea and it must be explored and ways are to be devised for giving effect to it.

79th Report of Parliamentary Standing Committee submitted a report on feasibility of holding simultaneous elections to Lok Sabha and State Assemblies where it looked into the practical difficulty and said that it may not be feasible in near future, but attempts are to be means in order to see that tenure of some of the State Legislative Assemblies can be curtailed or extended in order to make it a reality. And it suggested some kind of

measures that when the term of the assembly is only 6 month when the general election is being announced then that can be dissolved and election can be clubbed. So, this was the suggestion of Parliamentary Standing Committee with regard to One Nation One Election. NITI Aayog has also submitted a Working Paper on this, where it suggested that simultaneous election should imply election for all 3 tiers of the government- general election, Assembly election and the elections for Panchayats and Municipalities and it should be done in a synchronized and coordinated fashion. And it is also suggest that as third tier government falls within the direction of the State simultaneous election means structuring the Indian election cycle in a manner that elections to Lok Sabha and Assemblies are synchronized together.

So, Working Paper suggests that how we can make it a workable idea in long term. So, what it suggested that that it says that it is impossible unless and until we extend the term or curtail the term of the Assembly or Lok Sabha. Extension of term of Assembly it suggested that should not be normally preferred and then the term of the adjustment of tenure of Assembly may be adjusted on agreeable terms by the political parties, government and electorates. And what it suggested is that let there be necessary amendment done in the constitution which talks about the duration of 5 year life of 5 year for elected Assembly or elected Lok Sabha that let there be a kind of tweaking done in this provisions in order to give effect to this provisions. How do we make it a kind of the idea One Nation One Election functional at the ground level?

It says that any no confidence motion moved against the government in in office should also necessarily include should also necessarily include a further confidence motion in favor of a government to be headed by a named individual as the future Prime Minister or voting should take place for the two motions together. So, that if one government is going there is an alternate which is available in order to ensure that fresh election shall happen at the same time that is what it say. Further it says that if situation arises where dissolution of Lok Sabha cannot be avoided then the remainder of the term of the Lok Sabha is not long there could be a provision for the President to carry out the administration of the country on the aid and advice of that caretaker government. So, that that constitutional requirement of that tenure is fulfilled. And then it says that if it is the

duration is very long before which a situation arises where Lok Sabha is to be dissolved then let there be a fresh election, but then it should be only for the remainder of the term.

And something similar is also suggested for the State Assembly where it says that the administration to be carried out by the Governor until there is expiry of the job. Now High Level Committee was constituted to suggest workable measures, implementable measures under the chairmanship of former President Sri Ram Nath Kovindji. The Committee has submitted a report and suggested for two steps approach. First step is simultaneous election to be held for Lok Sabha and State Assemblies and second step it says that elections to the Municipalities and the Panchayats will be synchronized with the House of the People and State Assemblies in such a way that that election for third tier government should happen within 100 days of folding elections general election and the Assembly election. And further it says that that let there be a single electoral role and Electoral Photo Identity Card which shall be used for the election of all three tiers of government.

So, what it has recommended? It said that in order to synchronize in order to have a kind of common date the President of India may by notification issued that the first sitting of Lok Sabha after a general election and the date of notification shall be called as an appointed date and the tenure of all State and Legislative Assembly constituted by election to State Legislative Assemblies after the appointed date and before the expiry the full term of the House shall only be for the period ending up to the subsequent general elections to the House of the People. So, it is proposed that that when the next general election is going to happen that time it is to be seen that Assembly elections are also taking place you know at that point of time. These are the constitutional changes which are suggested to be brought in, suggested that let there be a new provision to be included as Article 82A overriding that effect of 5 years President to notify the appointment date first sitting of Lok Sabha on which the elections in a State Assembly is held after the appointment. Date shall come to an end with the tenure of Lok Sabha. Another suggestion is to include Article 324A which is on Election Commission it says that Parliament may by law provide for elections to Municipalities and Panchayats are to be held simultaneously with the general elections and then amendment to Article 83(2) and

Article 172(1) the reference to 5 year term may be substituted with full term that is what is the constitutional say change suggested by this High Powered Committee.

So, what are the federal issues involved in it? Federal issues involved in it one significant one is the autonomy to the States because in federal structuring we know very well that electorate gets the advantage of two elected government one at the State level other as the Central level and both the governments are independent and interdependent. Now whether the very practice of One Nation One Election is going to compromise on that independent existence. So, that is one question the fixed tenure of the State Assemblies and its limited ground for election will be affected because here we are bringing in a situation where the grounds on which Assemblies are to dissolve as it is prevalent on date is going to get altered and then the issue of as I said the behavioral pattern of the electorate that one mandate for the voter. So, one may argue that whether it is a tenable idea that it is that early dissolution of the Legislature and whether it would change the character of State Assembly as the as the central issue. So, these are these are the issues which are connected with that and whether it requires a constitutional ratification as per the requirement of Article 368 of the Constitution.

Now let me come to the issue of language federalism. India is a country with a diversified language, pluralistic society where you have more than 1600 languages dialects reflecting the profound cultural heritage of this country and because of this you find that positioning of India is very unique the cultural pluralism is very significant in India. Founding members are aware of the fact that language plays a significant role in identity of the individual, identity of the society and overall national interest and that is why they provided for a Schedule VIII in the Constitution for giving recognition to the languages. 22 languages are featured in the Schedule VIII. Now when you look at the arrangement given under the Constitution you find that arrangement is broadly under 4 categories official language, regional language and the language of the Court that is what given under Article 343 to Article 351 under Part XVII of the Constitution which deals with official language.

You have Article 343 to Article 344 deals with language of the Union, Article 345 to

Article 347 deals with regional languages, Article 348 and Article 349 deals with language of the Supreme Court and the High Courts and then you have a Special Directive with regard to mother tongue Article 350 and Article 351. There has been a demand of including languages in the Schedule in order to get the recognition. Today it is 22 languages, but then there is a demand of inclusion of 38 languages in Schedule VIII, languages like Bhojpuri, Pahari. Interestingly, English is not one of the languages included in Schedule VIII and we know very well that in India language played a significant role in demanding a new States in 50s. Under the Constitution it has been suggested that the official language of the Union shall be Hindi though it was deliberated and discussed that what shall be the status of English initially it was suggested that let it be official language for first 15 years of the governance of the country after independence, but then obviously the way English became a kind of significant language to deal administrative matters this 15 year duration got extended and now what you find is that that is still is been used. In order to promote Hindi and also to see that Hindi language gets acceptance and due presence in the official activities, official purposes Article 344 suggests that there shall be a Commission which is to be worked with a kind of mission mode and the responsibility given on this Commission to recommend measures that how the use of Hindi language can be improved in the official transactions in this country and also to suggest measures that how over a period of time the use of English language can be restricted. So, Article 344 gives a very pragmatic suggestion on the establishment of a Commission we shall have a responsibility of providing measures for the promotion of Hindi language and then other regional languages can be promoted and it was suggested that the Commission shall give you know due regard to the industrial cultural and scientific advancement of India and just claims and the interest of persons belonging to non-Hindi speaking in regard to the public services.

So, the idea was that this, regional languages will the acknowledgement of regional languages will also contribute in cementing the positioning of Hindi language. So, official language of a State shall be one or more language in use or Hindi. So, their own language can be official language and official language of a State shall be regulated by law to be made by the State Assembly or State Legislature until a law is made. English

continues to be an official language in that State. Then Article 346 says that the language for the time being authorized for use in the Union for the official purposes shall be the language of communication between the State and the Union. So, generally you find that the communication which happens between the center and the Union for administrative purposes is in Hindi and English and maybe in Hindi regional language if it is acknowledged.

Proviso is there which says that Article 346 if two or more States agree that Hindi language should be official language for communication then that language may be used and then Article 347 says that the President may direct the recognition of any language if the President is satisfied there are substantial proportion of the population of that State is officially recognized. And then for the functioning of Supreme Court and High Courts it says that English shall be an official language until Parliament makes a law. Article 350 which is a special provision deals with the language to be used in representation for redress of grievances and which has to be used in the Union or in the State. And then Article 350 capitalize a good provision which says that that mother tongue should be a preferred language to facilitate education at the early stage at the primary stage. Article 350B b talks about appointing a Special Officer for linguistic minorities by the President and Article 351 talks about directive for development of Hindi language.

So what are the issues connected with the federal idea for example Tamil Nadu government took a decision that Tamil Nadu government will not address Central government as Government of India but as a Union government. So that it signifies that it is the Union of States and such kind of understanding will bring a very defined positioning for the State because language has been an issue of confrontation in India. And what you find is that it plays sort of power dynamics between the Union and the States because there has been always a sort of allegation that there is an attempt done to impose Hindi. Whereas the idea of acknowledging regional languages that these regional languages will strengthen Hindi language so that becomes an official language for everyone. So, language federalism plays a significant role in either smoothing the relationship either easing the relationship between the Union and the States or causing

differences disturbances between the Union and the States. These are the references for this session. Thank you.