

Evolving Dynamics of Federalism and Foreign Policy

Engagement of Indian States in External Affairs

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Various types of governments exist in the world. Some are borrowed, others evolve, and still others bear manifestations of both, being borrowed as well as having indigenous overtones. Most governments, despite differences, have certain similarities and there have been attempts at classification of governments. Thus, governments are identified as unitary or federal, parliamentary or presidential, among others. Some governments manifest characteristics that are in-between these standard typologies and they exist in different and varied combinations; leading to classification of classifications, which segues into epistemological challenges while studying the dynamics of governments. Federal governments are characterised by an asymmetric division of power between a central government and many governments of the federated units.

This article attempts to examine the role of the states of India in foreign policy making. Here, states imply the twenty-eight constituent units, which are currently recognised in India as states, for instance, Assam, Bihar, Gujarat, and Kerala, among others. The words state/s and constituent unit/s will be used interchangeably during the course of this article. It is contended in this article that the central government remains responsible for making foreign policy decisions and their implementation based on larger national interests, while accommodating legitimate apprehensions and concerns of the constituent units despite the rise of sub-national diplomacy in India.

In order to comprehend the role of states of India in foreign policy making, an attempt has been made to examine the following: the existing literature on the role of states in foreign policy making, the constitutional provisions on foreign policy making in India, the reasons, which favour the role of states in foreign policy, and specific cases of state involvement in foreign policy making in India.

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Sub-national Diplomacy: An Emerging Trend

Federal governments divide the powers of a country between the centre and its constituent units. Mostly, the constitutions of federal governments bestow the centre with most or all foreign policy making powers and none or less to the constituent units. However, recent trends show that "...the exclusive grip of the centre in this area is slowly being weakened by the activities of the units/members in federal unions. These units are variously called states, regions, provinces, lander, cantons and so on".¹ This trend has been evident in Western federations, and is profusely reflected in the literature on federalism.² A similar process is evident in India as well.³

The phenomenon of states playing a role in the making of any kind of foreign policy is at odds with the practice of most federations where the centre is constitutionally assigned the function of foreign policy making and its implementation. There are instances where such constituent units, in varying degrees and capacities, have indulged in the foreign affairs of countries. Such roles of states traverse manifold issues and several trajectories, from influencing neighbourhood policies, attracting foreign investments to touring foreign locales in search of MoUs.

The process of constituent units of federal governments playing a role in foreign policy making have been variously characterised as perforated sovereign⁴, paradiplomacy⁵, constituent diplomacy⁶, foreign policy localisation⁷, multilayered diplomacy⁸ and plurinational diplomacy⁹ among others. The terms mentioned above seek to capture the entire gamut of processes currently underway where constituent units are pursuing foreign policy making on their own. Sub-national diplomacy has been identified as an emerging trend in the political landscape of several nations across the world. For instance, in Russia, considerable sub-national diplomacy was visible during the campaign of its constituent units from the Far East region of Sakhalin, which sought to prevent the Russian central government from transferring the South Kuril Islands to Japan during the 1990s.¹⁰ In China, it has been noted that its provinces, municipalities, and autonomous regions have indulged in sub-national diplomacy as they have "...gradually taken a key position in not just outward FDI and investment, but also aid in Africa, Latin America, and Southeast Asia".¹¹

Several explanations have been put forth to comprehend the rise of sub-national diplomacy. It has been stated that regional integration schemes, especially free trade agreements have forced central governments to seek cooperation from the constituent units leading the latter to play a role in the

foreign economic policy. It is also opined that in many cases central governments are unable to keep the sub-national units away from the foreign policy arena, especially those decisions, which impact economic, ecological and ethno-nationalistic concerns that in turn compel cooperation between the centre and the states, leading to “diplomatic federalism”.¹² The foreign policy forays of such constituent units have been visible in trans-border regional links, trans-regional neighbourly contacts and global micro diplomacy.¹³

India’s Constitution: Asymmetric Power Distribution between the Centre and States

In India’s case, the Constitution empowers the centre with greater powers compared to the powers of the constituent units. Some have described India as a “quasi federal” state because of the inadequate autonomy it affords to the constituent units.¹⁴ The Constitution, in a variety of ways, empowers the centre over the states. For instance, the Constitution clearly delineates a Union List (97 items), a State List (66 items) and a Concurrent List (47 items) where both the state and centre have jurisdiction. However, whenever there is any conflict over the laws on the Concurrent List, the centre prevails. The centre can also legislate on certain matters in the State List under Article 248 which allows the Parliament to legislate on items in the State List.¹⁵ In addition, all residuary powers rest with the union government. The centre, moreover, appoints the governor of each state to oversee the functioning of the state governments. The Parliament is empowered to redraw the boundaries of the states, to divide them, and to create new ones. The centre has the power to dismiss an elected state government in certain circumstances and to replace it with President’s Rule. Significantly, the Indian federation has not resulted from any agreement among the constituent units, and the union is indestructible, no unit can secede from it.¹⁶

With regard to conducting foreign affairs, Article 246 in Schedule 7, List I (Union List) of the Indian Constitution defines foreign affairs as “all matters which bring the union into relation with any foreign country”. Therefore, the Constitution puts the onus of conducting foreign policy unambiguously on the centre, leaving little room for constituent units to follow suit.

Despite this constitutional clarity on the role of the centre in foreign policy matters, there is an incremental involvement of the constituent units of the country in foreign policy. Indian states with an international border and others with commercially driven agendas are particularly at the forefront of

such foreign policy pursuits. The next part of the article examines the reasons, which underlie and make possible such state involvement in India's foreign policy.

Sub-national Diplomacy in India: Enabling Factors and Permitting Conditions

For the constituent units to play a role in foreign policy there have to be conditions, which enable such behaviour on their part. The rise of coalitions in Indian politics and the liberalisation of the Indian economy have been identified as the twin factors, which have created the conditions for the constituent units of India to play a role in foreign policy. Additionally, those states that share a border with a foreign nation have historical, cultural, linguistic, religious, and ethnic links with the bordering nation that have made it imperative for their respective governments to indulge in some activities. These have foreign policy overtones at some point of time or the other. While the third factor is self-explanatory, the first two are elaborated below.

Coalition politics in India have enabled some regional parties to exert their influence in foreign policy matters. Being a part of a coalition government at the centre, these parties have used their bargaining power to influence certain decisions or policies towards a neighbouring country. Coalitions, however, were not the norm in Indian politics. Instead the Indian political landscape for the first twenty years was dominated by the Congress party both at the centre and at the state level. Congress won the general elections of 1952, 1957 and 1962 and it returned to power in almost all the states.¹⁷ In 1967, the Fourth General Election took place, which resulted in the breakdown of the Congress monopoly of political power in several states.¹⁸ However, in the mid-term elections to the Lok Sabha, the Congress party under Indira Gandhi came back to power in the centre as well as the states. The forty-second amendment to the constitution increased the powers of the central government at the expense of the states. The centralisation of authority increased with the National Emergency of 1975–77.¹⁹

In 1977, the Congress lost political power at the centre and the Janata Party formed the government, which was a coalition government. It was, however, short-lived and in 1980, Indira Gandhi came back to power. In 1983, demands for decentralisation in the form of an increased sharing of sovereignty in India were voiced by various regionalist parties and the Sarkaria Commission was established to study the state of federal relations in India.²⁰ The report argued that federalism "...is not a static paradigm. It is a changing

notion”.²¹ Rajiv Gandhi, during his tenure, called for strengthening the Panchayati Raj, speeding up elections to local bodies, and emphasised the virtues of decentralisation but continued to be biased against opposition ruled state governments.²² Thus, the period until 1989, with only small periods of respite, was an era of one party rule at the centre and the states, this arrangement did not witness any constituent unit demanding a role in influencing the foreign policy of India.

From 1989 the Congress dominance dwindled and regional parties asserted themselves. The governments at the centre from 1989 indicated the reinforcement of a significant shift from centralised governance towards shared rule and federal governance.²³ Participation of regional parties in the centre increased greatly. In 1989, they won 27 seats in the Lok Sabha. In the 1999 elections, this figure rose to 158 and in the 2004 elections to 193.²⁴ The emergence of coalition governments like the Janata Party, the Janata Dal, the National Democratic Alliance, United Progressive Alliance I and II, gave the states governed by the members of the ruling coalition considerable leverage in the union government’s policies. They had the space to pursue some foreign policy related activities without attracting censure from the centre. On the whole, the collapse of single party dominance and the rise of coalition politics provided a fertile ground for sub-national diplomacy to take root.

The second most important enabling factor for the rise of sub-national diplomacy in India is economic liberalisation. Revision of the “License Raj” and initiation of a series of economic reforms by the then Prime Minister, Narasimha Rao and the then Finance Minister Manmohan Singh in 1991 almost coincided with the emergence of the coalition era in Indian politics. Economic restructuring with macro-economic stabilisation and structural economic programmes under the New Economic Policy of 1991 led to the dismantling of the Industrial Control Regime and, provided a window of opportunities to the state governments to pursue their growth strategies.²⁵ This made way for the states to pursue foreign investments without routing their efforts through the central bureaucracy. In this new environment, states could partially pursue their own economic diplomacy- by seeking foreign direct investments, promoting foreign trade, participating in negotiations with foreign investors, and access global economic opportunities. Consequently, India moved away from “command and control economy” towards a “federal market economy” under which the states have come to command considerable economic decision making power, which was hitherto not the case.²⁶ Susan and Lloyd Rudolph point out that

sub-national economic diplomacy was evident when in 1993 Maharashtra entered into negotiations with Enron, a Texas energy giant.²⁷ It signed the largest contract in history with the company on a Power Purchase Agreement. The centre's role was confined to providing a sovereign counter-guarantee.

Involvement of Indian States in External Issues

There are several instances where constituent units of the Indian Union have influenced, affected, created, conditioned and had an impact on the foreign policy of India. Some states have influenced the foreign policy more than others. States have made overtures in matters ranging from economic and environmental to human rights and cultural issues. They have aided or hampered the centre's foreign policy decisions. India has witnessed an expanding ambit of sub-national diplomacy in recent years.

Parties, which are part of central coalitions naturally gained utmost importance in foreign policy matters affecting their respective constituencies or states. For instance, pressure from the Dravida Munnetra Kazhagam (DMK) leader M. Karunanidhi, an important ally of the UPA government, did influence India's Sri Lanka policy to quite an extent. As a result of pressure from the DMK, New Delhi was compelled to vote against Sri Lanka at the United Nations Human Rights Council in March 2012. The DMK, a crucial ally of the UPA alliance, threatened to withdraw support to the UPA government in case New Delhi did not vote against Sri Lanka.

The initiation of economic reforms in 1991 provided ground for chief ministers of Indian states to go abroad in search of foreign investment. The chief ministers of West Bengal, Orissa, Madhya Pradesh, Gujarat, Madhya Pradesh, Andhra Pradesh, Tamil Nadu, Kerala, Delhi, Maharashtra, among others, have clocked several flying miles and have ushered in the era of "flying Chief Ministers", giving the definition of shuttle diplomacy a whole new meaning.²⁸ The chief ministers compete with each other to attract foreign investment. They embark on regular foreign tours along with state finance and industries secretaries and other businessmen to negotiate with industrial houses, international organisations and commercial wings of foreign governments with the aim of achieving investment deals for their own states.

N. Chandrababu Naidu, the erstwhile chief minister of Andhra Pradesh, was one of the most successful among the "flying Chief Ministers". The then US president Bill Clinton and Microsoft owner Bill Gates visited Hyderabad,

while Naidu was chief minister. Naidu's international trips consisted of attending seminars, discussions, meetings with foreign dignitaries and businesspersons, concluding MoUs, attracting investments on matters ranging from agriculture, IT, education, sports, to development grants. Naidu was also the first to negotiate a state-level World Bank development loan for a constituent unit in India.

Gujarat, with Narendra Modi as chief minister, also took great strides in the sphere of sub-national diplomacy. Under his leadership and direction, the state administration launched a 'Vibrant Gujarat' conference in 2003 with a view to attracting foreign investment to the state. Modi is credited with making Gujarat one of the most preferred destinations for foreign investments. In 2007, during the Vibrant Gujarat investor's summit, 343 MoUs worth Rs 461835 crore were signed with foreign companies. In 2009, 8668 MoUs having a total investment of Rs.12, 24, 482 crores were formalised. The number further went up in 2011, when nearly 8,000 MoUs worth \$450 billion were made official.²⁹

Narendra Modi was not deterred by the denial of a diplomatic visa to travel to the US in 2005 for his alleged role in the 2002 riots in Gujarat. Despite being unable to enter the US, Narendra Modi interacted via video conferencing with the Gujarati Diaspora in the US where he pointed out that in the Vibrant Gujarat Summit held in 2011, about 50 American companies had signed MoUs worth Rs 15,000 crores. His overtures to foreign nations continued and in 2013 he sent delegations to promote the upcoming 'Vibrant Gujarat' investors summit to China, France, Germany, Switzerland, Australia and Singapore, Canada, Czech Republic, Hungary, Poland, Russia, Algeria, Morocco, Nigeria, Israel, Austria, Sweden, Finland, South Korea, and the USA.³⁰

Apart from purely economic ventures like the one listed above, there are instances of some other chief ministers undertaking visits to the neighbouring countries to strengthen socio-cultural contacts. The Chief Minister of Bihar, Nitish Kumar, and the then Deputy Chief Minister of Punjab, Sukhbir Singh Badal, visited Pakistan to leverage socio-cultural ties.³¹

Moreover, constituent units sharing an international border have sought a role in India's policies towards the neighbouring countries. West Bengal in particular has been asserting its right to be heard with regard to resolution of border disputes, river sharing arrangements, and the issue of immigration. West Bengal's former Chief Minister Jyoti Basu's support and active engagement with Bangladesh with regard to the Ganges Water Treaty was crucial for New Delhi to steer this bilateral agreement.³² The treaty on the Teesta river was jeopardised due to Chief Minister Mamata Banerjee's refusal

to accompany Prime Minister Manmohan Singh on his visit to Bangladesh in 2011 along with the chief ministers of Assam, Meghalaya, Tripura and Mizoram.

Non-economic sub-national diplomacy is discernible in the activities of Kashmiri political parties. The People's Democratic Party (PDP), for example, acted on issues that affected the border issue. Most notably, the PDP managed to get the separatist Hurriyat group included in dialogue with the centre and was also responsible for the Special Operation Groups being disbanded.³³

The increasing role of states in India's foreign policy arena has drawn the attention of foreign leaders. While visiting dignitaries would previously confine their focus on Delhi for official interactions, cities like Mumbai, Hyderabad and Bangalore have begun to attract world leaders.³⁴ During his visit to India in 2010, US President Barack Obama stopped at Mumbai before landing in Delhi. In 2012, the US Secretary of State Hillary Clinton visited West Bengal before visiting New Delhi and met Chief Minister Mamata Banerjee to discuss the possibility of US investment in West Bengal. South Asian countries, on the other hand, have reached out to sub-national units of India. For instance, there is Bangladesh's Prime Minister Sheikh Hasina's meeting with Jyoti Basu to seek his support for the Ganges Water Treaty in 1996, or the Foreign Minister of Bangladesh Dr. Dipu Moni's meeting with the Bharatiya Janata Party (BJP) leaders to seek their support for Land Boundary Agreement (LBA).³⁵ Sri Lanka's Presidents, Junius Richard Jayawardane, Ranasinghe Premadasa and Mahinda Rajapaksa, had sought the involvement of Tamil Nadu with regard to the situation with the LTTE. However, it is to be noted that the centre still remains the trusted avenue for external entities to enter into negotiations.

Although, there are several foreign policy analysts who attest to the rise of sub-national diplomacy in India and rising influence of some states on the country's foreign policy, there are voices which state the contrary. Some analysts are of the view that instead of states assuming greater role in foreign policy making, the reverse is happening. States are actually losing their jurisdiction over important state subjects. For instance, Jenkins argues that although states interact increasingly with multilateral institutions (such as the WTO), the result has been "...to take domestic policy to an arena—the intergovernmental negotiations within the WTO—where India's sub-national authorities have difficulty gaining access".³⁶ Others point out that while states can now negotiate with foreign investors, and even as the centre becomes less able to intervene, it still assumes the role of a regulator of commercial activities of states.³⁷ It is also mentioned that the centre exercises a degree of discretionary control by influencing the external agencies, like the World Bank,

which then engage in prior consultations with the centre on its plans for states.³⁸ These conditions add weight to the argument that the centre remains the bastion of foreign policy making in the country despite the rise of sub-national diplomacy among the constituent units.

Conclusion

Sub-national diplomacy has come to be a conspicuous feature of most federal polities in the world today. The space provided by constitutions for sub-national diplomacy varies from country to country. For instance, at one extreme is Canada, which provides a very permissive context for sub-national diplomacy, while in Germany, the federal government enjoys superior status but their constitution clearly provides the constituent units a role in the foreign policy process.³⁹ With regard to India, it can be stated that sub-national diplomacy is a political process afoot in the country, encompassing several arenas and many states. Although, the constitution clearly places foreign policy in the ambit of the centre, factors like coalition politics and economic liberalisation, allows some room for constituent units to engage in limited foreign policy pursuits, while the centre retains the final authority.

Sub-national diplomacy has also triggered off a debate about its impact on sovereignty, federalism and the nation-state as a whole. Sub-national diplomacy puts into perspective the transient nature of federalism as a process, which is undoubtedly delineated by the Constitution, yet is receptive to local and national processes, foreign influences, and regional dynamics, giving it an intangible flavour. This makes it nearly impossible to classify a nation as federal or not, instead pushing analysis to take cognizance of the fact that federalism and sovereignty are best understood in a continuum, making government classification and typologies essentially redundant for epistemological enquiries.

It is opined that sub-national diplomacy is leading to the gradual decline of the authority of central governments within the nation-state model.⁴⁰ Given the trajectory of sub-national diplomacy in India, it can be stated that undoubtedly, some conditions have led to the constituent units carving a space to influence foreign policy processes of the country. However, this need not mean that sovereignty of India is under threat as constituent units of the country are also integral parts of India. It is instead the federal system of government, which is evolving with the growth of sub-national diplomacy, wherein constituent units are increasing their role vis-à-vis the centre, albeit with qualifications, in the

realm of foreign policy decision making. Moreover, sovereignty of the nation is not threatened as despite the rise of sub-national diplomacy, the central government remains responsible for most foreign policy decisions, which should be made after taking into consideration the national interest of the country as well as concerns and apprehensions of the constituent units.

Although, the central government in India has been constitutionally empowered to decide on foreign affairs, this article has attempted to portray that sub-national units have influenced and affected external engagements to a certain extent. The central government as well as foreign audiences have acknowledged the role of the states of India in external engagements and have often included them in discussions and negotiations relating to foreign affairs. Sub-national diplomacy has taken varied manifestations in India. First, states have embarked on economic diplomacy with foreign audiences. Secondly, states sharing an international border have influenced neighbourhood policy and thirdly, regional parties, which have served as coalition partners at the centre have often leveraged their status to exert pressure on the centre in certain foreign policy decisions. The centre, being the final authority on external affairs in India, must continue to conduct foreign policy with an aim to secure the national interest of the country as well as to ensure that the legitimate interests and concerns of the states are adequately accommodated.

Notes

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- ¹⁸ Ibid. p. 176.
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- ²⁰ Saez, n. 15, p. 41.
- ²¹ Sarkaria Report, Vol. I, p 11.
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