The Sustained Attack on Federalism

What is the issue?

Amid the pandemic, some statements by states resonate strongly with the raising complaints about the Union government's anti-federal moves.

What is federalism?

- Federalism is basically the division of power between the government at centre and the state.
- Their powers are divided equally in the constitution of India as centre list, state list and concurrent list, but in the concurrent list both has equal powers and the power struggle occurs.
- In India, the powers are shared between the Union and the States, while inclining towards the strong Centre.

K.C. Wheare analyses India's "centralized state with some federal features" as "quasi-federal".

What steps by the Union government undermined the principles of federalism?

- **Fiscal federalism**
  - Increasing monetary share of the States in Centrally Sponsored Schemes (CSS)
  - The terms of reference of the 15th Finance Commission
  - Imposition of demonetisation without adequate consultation with the States
  - Institutionalisation of the Goods and Services Tax (GST)
  - Outsourcing of the statutory functions under the Smart Cities Mission
  - Delay in transfer of GST compensation
  - Enlarging the non-divisible pool of taxes in the form of cess in petrol tax
  - Instituting the Agriculture Infrastructure and Development Cess
  - One Nation One Ration, etc.
- **Weakening of States' autonomy**
  - The farm laws
  - The Banking Regulation (Amendment) Act of 2020
  - The Government of National Capital Territory Amendment Act, 2021
  - The Indian Marine Fisheries Bill, 2021
  - The Draft Electricity (Amendment) Bill, 2020
  - The Dam Safety Bill, 2019
  - The National Education Policy of 2020
  - The Draft Blue Economy policy
  - The creation of the Ministry of Co-operation and the Reserve Bank of India directives on cooperatives

How did the pandemic complicate the issue?

- **Curtailing the powers**- States were curtailed in aspects relating to COVID-19 management such as
    - Procurement of testing kits
    - Vaccination
    - Use of the Disaster Management Act
    - Unplanned national lockdown
- When the second wave caught the government unprepared, Union Ministers used the 'health is a State subject' argument to counter criticism.
- **Cess and surcharge**- The share of non-divisible pool cess and surcharge in total taxes collected by the Union government jumped from 12.67% in 2019-20 to 23.46% in 2020-21.
- **GST** - During the pandemic, the Union government repeatedly violated the compensation guarantees to the States under the GST regime.
- The crisis was aggravated in 2020, when the Union government proposed borrowing as an option to address the shortfall in GST compensation.
- This meant that they were not only getting the share of GST collections due to them, but were forced into debt which they would have to service.
- The Comptroller and Auditor General found that the Union government, in 2018-19, wrongly retained Rs. 47,272 crore of GST compensation cess in the Consolidated Fund of India that was supposed to be transferred to the States.
- **Reduction of States' share of Union tax**- The 2021-22 Budget Estimates indicate that the States' share of Union tax has reduced to 30% against the mandated 41% devolution prescribed by the 15th Finance Commission.
- **Non-tax avenues**- The Union government issued a clarification that funding to the Chief Minister's Disaster Relief Funds will not be considered as CSR expenditure, unlike the case with PM-CARES.
- It suspended and transferred the Member of Parliament Local Area Development (MPLAD) funds to the Consolidated Fund of India.
- **FRBM borrowing limit**- Most States demanded for increasing borrowing limits under the Fiscal Responsibility and Budget Management Act (FRBM), from 3% to 5%.
- The Union government decided to increase FRBM borrowing limits, linking it to the performance of States in fulfilling certain conditions
    - Implementation of the One Nation, One Ration policy,
    - Ease of doing business reforms,
    - Urban local body/utility reforms
    - Power sector reforms making it difficult for the States.

What are the solutions?

- As recommended by the **National Commission to Review the Working of the Constitution**, a formal institutional framework has to be created to facilitate consultation between the Union and the States in the areas of legislation under the Concurrent List.
- Instead of reaching out to each other only during crisis situations, Chief Ministers should try to create forums for regular engagement on this issue.
- Since federal flexibility is a crucial factor in shaping the future of our democracy, the Union government needs to invest resources towards effective consultation with States as a part of the lawmaking process.
- The Union needs to establish a system where citizens and States are treated as partners and not subjects.

Reference

1. https://www.thehindu.com/opinion/op-ed/the-sustained-attack-on-federalism/article37999902.ece

