Democratization Impact upon State's Role in Indian Foreign Policy

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ABSTRACT

This paper examines impact of democratization and liberalization after 1991 upon role of states Government in Indian Foreign Policy. Research departs from comparative approach based on other federal countries practices and India practice in the past with four basis variable: constitutional foundation; state-center in formal and informal consultation; cooperation to solve problematic overlapped authority; and accountability of state-center. By reviewing Appadorai’s research in 1970s, this paper tries to reveal change and practice before and after the wave on democratic consolidation and globalization. This paper content four main ideas. First, background on federalism determinant on India Foreign Policy and wave of democratic consolidation and globalization. Second, the research methodology: theory, concept and operational term of foreign policy definition. Third, data and analysis for state voice in foreign policy related to border and territory. Fourth, data and analysis for state voice in foreign policy related to economic relation with international actors. At last, it contains of conclusion.

Keywords: federalism, Indian foreign policy, comparative approach, democratization


Kata-Kata Kunci: federalisme, politik luar negeri India, pendekatan komparatif, demokratisasi.
Article 1 of the constitution stated that India is a union of states. According to Schedule I of Indian constitution, those 28 states are Andhra Pradesh, Assam, Bihar, Gujarat, Kerala, Madhya Pradesh, Tamil Nadu, Maharashtra, Karnataka, Orissa, Punjab, Rajasthan, Uttar Pradesh, West Bengal, Jammu and Kashmir, Nagaland, Haryana, Himachal Pradesh, Manipur, Tripura, Meghalaya, Sikkim, Mizoram, Arunachal Pradesh, Goa, Chhattisgarh, Uttarakhand, and Jharkhand (Bhaksi 2008).

India use federation mechanism among other twelve countries including Argentina, Australia, Austria, Belgium, Canada, Germany, Malaysia, South Africa, Spain, Switzerland, and the United States. Some authors call its distinctive federal political system as quasi federal. Constitution provide federal basis: Parliament is bicameral, consist of Lok Sabha and Rajya Sabha; division of authority listed in Schedule VII (97 lists for center and 66 lists for state). Besides providing these federalism character, constitution also give emphasize on unitary system: Article 3 give power in the hand of Parliament to decide the continuity of state; Representative on Rajya Sabha is on the basis of population not the state; and article 5 said Indian has single citizenship (Roy 2003).

In Indian federal mechanism, parliament has full power to give legitimate decision in foreign policy including accession to any treaty and resort to war. This authority gives power to union executive to implement any agreement and treaty with external party, all over India, whereas, the government only has to implement it. In practices, union also needs the consent of state government to implement. Concurrent list give space for state to interact with external party. In Concurrent list, both state and union have concern and authority to handle the subject. But the state could not make law against the union (Appadorai 1974).

Effort to give greater share for state in foreign policy, even though problematic, came from necessity from both side. Center willing was showed when India proposes for mechanism in which the state Government can give recommendation according to the covenant of Human Right. Although this suggestion is not approved to be included in the covenant, but it already shows the will of federal Government to take state consideration.

From states itself, there were demands on greater share in foreign policy start from 1970s. Chief Minister of Maharastra, in 1971, demands that the state should have a voice in the formulation of export policy, in respect of products which were produced substantially in their area. Tamil Nadu wants greater authority to deal with foreign direct investment so it can deal with foreign collaborator and undertaking licensed industry. In north border area, comment from Nagaland come
for issue related to border with Myanmar (Appadorai 1974).

India and Global Democracy after 1991

Since intensive engagement with the United States in early 1990s, India made priority in promoting democracy. United States, under Clinton administration, start criticizing India regarding human right situations on Kashmir which is also related to democracy since 1990s. When US approach change, reaction from India also changes. After its reluctant engagement in the early 1990s, then India and nine other countries founded Community of Democracies initiative in 1999. More positive reaction from India starts from 2000 during Kargil War (Mohan 2007).

The rise of democratization in India based on four reasons. First, the triumph of democracy post cold war 1991. Second, produce policy to involve other backward caste into government and other public services. Third, effort from government to strengthening India as secular state against communalism. Fourth, policy of economic liberalization gives consequence in empowering state Government (Sing&Verney 2003).

Although reluctant to take greater part, India already have role in promoting democracies internationally by UN Democracy fund. Dormandy (2007) believe that India, as the world's largest democracy, has enormous soft power and influence which can be used to promote more actively in promoting world democracy.

The extent of democracy in Indian federal system is varying. The past two decades institutions in India has change the legitimacy of traditional social authority, converted it with new generation of political entrepreneurs, and created spaces in which new groups have been successfully mobilized. Election has become more competitive (Heller 2000).

Post 1991, towards Democratic Foreign Policy?

During 1970s, Appadorai saw a progress toward achieving better management in foreign policy making between state and union Government relation. Question arises after Appadorai wrote the paper, what happen in the next decade, particularly in the wave of democratization? Do states have role in foreign policy formulation and implementation in India? In which manner and limitation? In which issues?

This paper examines the role of states within Indian Federal Union in foreign policy formation in democratization and liberalization era after
1991. Year 1991 in important as tipping point to note the downfall of USSR into Russia and other states and this year also saw a dramatic change for liberating India economy after crisis under PM Narasimha Rao.

**Comparative Approach toward Federalism as Determinant on Indian Foreign Policy**

Gilberto Marcos Antonio Rodrigues (2006; the program titled as Global Dialog) meeting on fifth themes relating to Federalism and Foreign Policy (For details visit http://www.forumfed.org). His report represents twelve countries experience on their federal structure and foreign policy. There were twelve round tables. Each round table discuss each country which coordinated by a scholar from the very country. For example, India round table was coordinated by Amitabh Mattoo (Chairperson of the Centre for International Politics, Organizations and Disarmament at Jawaharlal Nehru University). Discussion was being followed by various ambassadors from federal state and other countries which interest in debate on center and state relation. For example, Sadewo Joedo (Indonesian Ambassador for Canada), represented Indonesia.

Rodrigues's report has fourth main point which helps in explaining comparatively the practices of other federal country with India. First, the foreign relations of constituent unit governments have indeed been formalized in some federal countries under constitution. In Germany the länder are represented in the Bundesrat. In Switzerland, the Cantons participate in decisions of an international nature. In Belgium the federal government, regions and communities all act on the international scene in their respective areas of competence. In Spain, the country’s Supreme Court has ruled that “state” is not restricted to the central government in that so, autonomous regions are able to initiate international relations.

In case of France, Germany and Argentina, state has possibility to act as representative of the sovereign. All the German länder are permanently represented within the EU in Brussels. Article 124 of Argentina constitution authorizes provinces to enter into international accords in their areas of competence. Second, state and center's role in foreign policy decision making may vary in different country. Some including Canada argues that formal interaction between state and federal Government is necessary. Some including Australia argues that informal interaction is necessary. Australia has established a Council of Treaties from the country's states representatives to held annual meeting since 1996. And some other including Belgium believe both formal and informal arrangements can coexist and complement each other.
Third, the cooperation to avoid the problems in overlapped areas of competency and jurisdiction. The Vienna Convention on the Law of Treaties (1969) allows state Government to sign treaties with foreign governments if the national state grants international capacity to its federative entities, and if other actors recognize it. German constitution provides this law, with the consent of the central government. The German's länder exercise this constitutional right in their dealings with the European Union. And fourth, the accountability of state and central Government to each other and the public when it comes to foreign policy.

**Domestic Insight on State-Union Relation in Indian Foreign Policy before 1991: An Appadorai's Benchmark**

Appadorai (1974) writing on federalism and Indian foreign policy has found four main field issues. Except from these four points, he already noted about Tamil Nadu demand in relating with foreign direct investment, but he did not process it further. First issue is foreign affairs with international organization, India-international organization relation in 1970s with United Nations for Education and Scientific Organization (UNESCO) and International Labor Organization (ILO). In dealing with the first organization, UNESCO delegation meets directly to the states apparatus and recommends them to apply some criteria for curriculum study for better international understanding. In almost case, state Governments accept UNESCO's recommendation but they could not bring the recommendation into action because of limited or without incentive. In relating affairs with ILO recommendations for labor in India, there is procedure in which state government has voice on the proposal. ILO held formal negotiation with both state and center relating to labor law and its implementation. Recommendation from ILO also subject to ratify by both state and center.

Second, cession of part of territory. One is cessation of Berubari Union No. 12 to Pakistan. West Bengal send letter of disagreement with treaty between central Government and Pakistan. State want amendment article 3 of constitution. By consultation with cabinet and Supreme Court, Nehru answered in front of Lok Shaba. Center disagrees to amendment but center willing to consult with Pakistani to change the agreement. Pakistan disagrees to change. Finally, parliament pass the bill on cessation of Berubari No. 12 into Pakistan. This give lesson for better consultation and coordination regarding negotiation and agreements in the Case Rann of Kutch in Gujarat. In this case, Central Government did consultation with the state Government in every stage during negotiation and dispute settlement by International Tribunal.
There was still strong criticizes from opposition as well as senior official at state level. But both central and state Government accepts the Kutch award from the tribunal.

Third, the liberation of Goa in 1961 from Portugal. Elites of Maharastra disagree with calm central's position. Elites for example N.G Goray, a leader from Praja Socialist Party of Maharastra led people to be satyagrahis. Mass continuesly pressure the government to take action. Until December 18th 1961, Indian take arm force against Portugal's Goa. Finally, ethnically and linguistically concern of Tamilian to Sri Lanka conflict in 1972. Central Government made consultation step by step with Tamil Nadu State but not consul in the final negotiation.

**Definitional and Operational Concept of Foreign policy**

Demand from State of West Bengal and state's engagement with UNESCO and ILO are part of foreign policy formation and implementation. Those state's action and demand inclusively covered by Frankel and Carlsnaes below. Charles Burton Marshall defines foreign policy as the course of action undertaken by authority of state and intended to affect situations beyond the span of its jurisdictions (Arora and Chander, n.d.).

For Walter Carlsnaes (Carlsnaes et al. 2002), unit analysis in this study is nature of foreign policy actions. Foreign policies consist of those actions which, expressed in the form of explicitly stated goal, commitments and/or directives, and pursued by governmental representatives acting on behalf of their sovereign communities, are directed toward objectives, conditions and actors –both governmental and non governmental—which they want to affect and which lay beyond their territorial legitimacy. This acting could be verbal and non verbal, ranging from cooperation, into participation and conflict. This policy action is best described by McClelland and Hoggard (Rousenau 1969) in shape of system category for Interaction. Part belows examine state action in influencing foreign policy in border area and in economy foreign policy.

**State Voice on Foreign Policy in Border Area After 1991**

India has land border with Pakistan, China, Nepal, Bhutan, Myanmar, and Bangladesh. It have sea border with Indonesia, Thailand, Myanmar, Bangladesh, and Pakistan as shown in map belows. Until 1970s, India show cession of India territories to foreign statements, liberation of Indian territories from Portuguese, and ethnic and linguistic concern of
Tamilian to Sri Lanka conflict in 1972. The change on issue and practices in some border areas including Assam, West Bengal, Kashmir, and Nagaland after 1991 is examined.

Supreme Court disbanded Illegal Migrants Act in 2005 in response to demand from various Pressure Groups from Assam such as All Assam Student Union (AASU), Asom Gana Parishad (AGP), and print Medias. Within the Court decision, state of Assam could set up sufficient tribunal in accordance to Foreign Act. Since 1960s, Assami politician already has strong voice in border and migrants. They ignored center suggestion to go softly, by continuing deporting immigrants and proposing fencing border (Rizwana 2003).

AGP itself is a regional political party. It’s established by merger from AASU, and two regional political parties. Party won election in 1996 made Prafulla Kumar Mahananta became Chief Minister. In 2001, AGP is in coalition with BJP (Asom Gona Parishad 2009). Dosani and Vijaykumar (2005) give us brief explanation on federalism in border area after 1991. They found that State in border area which are West Bengal and Kashmir have voice in foreign policy making rather than Tamil Nadu. Ruling party in state which not part of national coalition are more successful in influencing foreign policy which related to their territory rather than ruling party which a part of national coalition. Dravida Munetra Kazagam, was part in national coalition during their research.
His conclusion is relevant to previous Appadorai's finding in state views. In 1971, Chief Minister of Tamil Nadu comply with the assembly that the federal Government, although Union did dialog with Dravida Munnetra Kazhagam, but did not ask chief minister for consideration (Appadorai, 1974). While strengthening national coalition, elite from DMK did not pursue strong pressure on border and immigrants issue of Tamilian.

In West Bengal from 1998 until 2004, state government has voice in joint border patrol (2004). States since 1990s ask for greater autonomy on handling border patrol until finally high court give it in 2004. This legacy happen after West Bengal put Border Security Forces (BSP) of center formation into legal question. Center also gives delegation for deporting Bangladeshi which have passport but overstay in India to government of West Bengal. According to schedule list no 1; the state has responsibility in patrol border. Whereas, list of center no.10 has full authority in deportation. But the center asks the state to participate on all of these issues.

Since similarity of ethnic background shared between the peoples of West Bengal and Bangladesh, the state has always been careful about this issue. In 1998, when the Maharashtra government attempted to deport around eighty Bengalis from New Delhi through West Bengal into Bangladesh, the West Bengal government protested. In state's views, some of the immigrants were bona-fide Indians. The state demands that Maharashtra inform it in advance about any deportations. Despite Maharashtra government had followed the law and acted in accordance with the Foreigner's Act, the Union home ministry accepted the demands.

In case of Kashmir, the responsibility of State to manage for law and order, overlapped with authority of center for detention to prevent danger condition to defense and security of India. Since 1980s state of Kashmir has release of suspected militants in Kashmir. Center and state make dialogue and conclude the mid way in 2002 to set up screening committee in releasing the militants. Another case in Kashmir shows that center could not do another way than respect state authority. Mufti Government of Kashmir decides to disband Special Operation Group (SOG), a police branch established in 1995 by the very state itself. Center wants to maintain the force because of security reason against terrorism. But the state insists and keeps it decision to disband SOG in 2003.

Different with previous Border States, people of Naga in Nagaland and in its border with Myanmar did not enjoy similar treatment of close consultation. It was signing treaty of Indo-Myanmar border in 1980 based on center position without properly consult people and state. Until
Indo-Myanmar border trade treaty in 1994, some Nagas people still grunted. Some of them engage in secessionist group under the Khaplang and National Socialist Council of Nagaland (NSCN). Center government also divides Nagas into four states and some of them live outside border with Myanmar. Nagaland has more than simple border problem. After 1991, there is no similar story like Berubari No. 12 or Case Rann of Kutch in Gujarat. The issue is more on management of border territory which are related to border fencing, identity card, and deportation. Tamilian issue still becomes problematic, in case of conflict between center and LTTE.

**State Voice and Foreign Policy: Complex Economic Liberalization**

There are at least three issue regarding federalism impact on Indian economic foreign policy. First, state role in engagement with WTO. Second, state– center and World Bank multi negotiation in foreign loan. Third, bigger role for state in actively promoting foreign direct investment.

Jenkins (2003) observes federalism impact on India engagement multilateral agreement particularly with WTO. In 1994, under Narasimha Rao. Punjab, West Bengal, Tamil Nadu put their objections for center’s decision to flow into WTO system into Supreme Court. These are not purely constitution and economic issue but also political problem. Punjab's Shiromani Akali Dal Party (SAD) try to raise the issue to blaming the BJP led Government. Congress ruling Andra Pradesh also criticizes Government although the Congress at center itself introduces WTO liberalization in previous administration.

Although elite in state of Tamil Nadu sacrifice on Tamilian issue in Sri Lanka but its politician has been mediating interest of Tamilian Tea Small growers to Tea Board, Commerce Ministry and Finance Ministry when these elites have seats at national Assembly. As the result, the Union government increase tariffs from 15% to 35% for non-SAARC tea.

In common, after 1991, state have bigger role in determining and managing Foreign Direct Investment within country and also have strong initiative to engage in international trade. This happen particularly to those state who contribute mainly in some sector of economy. In case of WTO, state strongly influences on Agriculture of Agreements (AoA) particularly by non formal consultation.

Second, issue on foreign loan. State now is able to deal directly with World Bank by consent of central Government. However, it is important
to note that under list 37, Seventh Schedule of Indian constitution, Union has authority in foreign loan. After 1991, state has become more independent in its foreign economy policy. Union chooses not to over implement the list. But pose it self only as regulatory. Union tries hard not to resist (formally) loan proposal when it is already negotiate between state and World Bank. Union tends to choose to influence informally before the negotiation happen.

This tendentious happens after lesson from Andra Pradesh case. The center firstly opposed to agree on Andra Pradesh and World Bank agreements on fund development. Chief Minister Naidu of Andra Pradesh pressures the center to permit the agreements. Center Government agrees because of power formation at national coalition. Telugu Desam Party (TDS) based on Andra Pradesh masses, supported national coalition during 1998-2004. After the lesson, center tends to choose indirectly influence by partly determining the content of the agreements. Particularly the ministries of finance, power, and rural development play important role on these agreements.

There is external factor which made center Government's voice still important. The World Bank always consults the center bureaucrat to maintain good relation with the center. Once, the World Bank reject Rajasthan’s proposal in the mids 1990s for lending money because of negative consent from India bureaucrat. Sometimes difficult negotiation rises because state wants to have new loan, whereas center want to stop it. This happens when Karnataka and Andra Pradesh want to have new loan.

The third issue, promoting foreign direct investment, State indeed is able to deal with Multinational Corporation. For example, the agreements between Maharashtra and Enron Corporation in 1993 (Jenkin 2003). List 14, schedule VII contain union authority related to treaties with foreign countries (Bhaksi, 2008). Since Enron is a company, so this agreement is not against the list. this possible after Narasimha Rao introduce decentralization control over industrial licensing and foreign direct investment. In this energy sector case, FDI agreements with Enron prove highly politic and economic problematic (Devraj, 2002).

Arrangement for these treaties is the same case with relation to World Bank. The agreements still need Union's consent as Union provide guaranty for both the loan from the World Bank and also for the contract between Maharashtra and Enron if there is something happen in the future. Negotiation is complex and simultaneous. That all level in Indian government negotiate in the same issue and time with foreign government and companies.
Since further privatization in 1991, all India has been accumulated almost $20 billion for FDI per capita though the actual value is lower. States actively compete to get the FDI that makes FDI varies among states. The variety depends on state's policy and focused infrastructure. In case of Karnataka, state competes effectively for FDI. In case, of Punjab, it lags in FDI although its have highest index of infrastructure. One of success story of FDI is in IT sector (Singh, N. and Srinivasan, T.N., 2004).

### Table 1

<table>
<thead>
<tr>
<th>States</th>
<th>FDI Approvals (Rs. Million)</th>
<th>1991 Population (Million)</th>
<th>FDI per capita (Rs.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bihar</td>
<td>8833.43</td>
<td>86.374</td>
<td>102.27</td>
</tr>
<tr>
<td>Rajasthan</td>
<td>25916.09</td>
<td>44.006</td>
<td>588.94</td>
</tr>
<tr>
<td>Uttar Pradesh</td>
<td>43304.25</td>
<td>139.112</td>
<td>311.29</td>
</tr>
<tr>
<td>Orissa</td>
<td>82289.14</td>
<td>31.660</td>
<td>2599.15</td>
</tr>
<tr>
<td>Madhya Pradesh</td>
<td>97709.14</td>
<td>66.181</td>
<td>1476.39</td>
</tr>
<tr>
<td>Andhra Pradesh</td>
<td>124701.31</td>
<td>66.508</td>
<td>1874.98</td>
</tr>
<tr>
<td>Tamil Nadu</td>
<td>222804.00</td>
<td>55.859</td>
<td>3988.69</td>
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<td>Kerala</td>
<td>14360.83</td>
<td>29.098</td>
<td>493.53</td>
</tr>
<tr>
<td>Karnataka</td>
<td>208156.32</td>
<td>44.977</td>
<td>4628.06</td>
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<tr>
<td>West Bengal</td>
<td>84234.59</td>
<td>68.078</td>
<td>1237.32</td>
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<tr>
<td>Gujarat</td>
<td>168555.48</td>
<td>41.310</td>
<td>4080.26</td>
</tr>
<tr>
<td>Himachal</td>
<td>31917.46</td>
<td>16.464</td>
<td>1940.41</td>
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<tr>
<td>Maharashtra</td>
<td>456286.23</td>
<td>78.937</td>
<td>5780.38</td>
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<tr>
<td>Punjab</td>
<td>19519.22</td>
<td>20.282</td>
<td>962.39</td>
</tr>
<tr>
<td><strong>14 States</strong></td>
<td><strong>1588618.09</strong></td>
<td><strong>788.846</strong></td>
<td><strong>2013.85</strong></td>
</tr>
</tbody>
</table>

Source: Singh, N. and Srinivasan, T.N., 2004

Table 1 above shows state of Maharashtra, Tamil Nadu, and Karnataka gain the highest FDI, which amount 55 percent of total 14 major states. The gap between one largest FDI state with other lower FDI gain states can be large significant. For example, Maharashtra state which gain Rs. 456,286 Million FDI approvals comparate with Bihar that only get Rs. 8,833 Million And Punjab than only Rs. 19,519 Million.

### Conclusion

After 1991, Dosani and Vijaykumar saw the same progress achieving better consultation between state and center Government in foreign
policy just like Appadorai assumed in 1970s in Border States. Lesson on Berubari is memorised in the latter affairs. The different is, the issues in 1970s more on cessation of territory, whereas after 1991, the question more on management of border area and migration. Border States like West Bengal, Assam proven always engage in active role on border issues before and after 1991. Problem of secessionist in Nagaland also still continue. It’s also interesting to note that even though Tamil Nadu sacrifices its pressure on state issues regarding border and ethnic with Tamilian in Sri Lanka, nevertheless, Tamil Nadu prove to have good performance in its foreign direct investment. It also prove that it able to lobby the center apparatus to make better arrangement for these state's tea grower. In foreign economy policy, center plays direct role by its consent on agreements between states and World Bank. Center also play indirectly role to limit the borrowing from the state by consultation with the World Bank upon various issue.

By looking Gilberto Marcos Antonio Rodrigues (2006), it derive fourth main conclusion relating to Federalism and Indian Foreign Policy. First, the foreign relations of constituent unit governments have indeed been not formalized in some federal countries under constitution unlike Germany ländere, or Switzerland's Cantons, Belgium, and Spain. Even at WTO negotiation, state in India influences in informal way, not having any diplomatic status. This also can be reasonable, because India did not engage in the same federalism context like German engagement with Europe Union.

Second, state and center consultation on foreign policy is more informal for their coordination character. This consultation is necessary. In case of border issues, union gives greater share after 1991 to the state because more effective handling is in the state's hand. This is particularly true in case of West Bengal. Border area is in their concurrent list. But in Case of Maharashtra vs. State of Bengal, the Center politically decides greater authority in the hand of state. In case of economy, center government wants to increase the independent of state to take care of their development. Consequently, it give greater space for state to engage in relation with various economic international actor such as the World Bank and Multinational corporation. In the same time, by informal way, center already decides which and how much World Bank can give the loan to the state.

Third, cooperation between different spheres of government to avoid the problems in overlapped areas of competency and jurisdiction is true in case of border area, particularly with West Bengal. Center tends to give larger responsibility to state when the two levels meet in trouble regarding overlapping authority in this issue.
Fourth, accountability of state and central Government to each other in foreign policy is being implemented at least in two ways: by consultation between state and center in every step of international negotiation, and by taking the problem into court.

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