



Federalism in India

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Abstract

The federal system of government is the result of historical evolution. The federal structure of government was originated from America after being experimented in ancient Greece. It developed out of necessity for the union of a number of independent states which are not strong enough individually to protect themselves from any impending danger and whose union is requisite for their safety and for the promotion of their economic interest, at the same time they are not prepared to surrender their independence completely. The twin desire of security and independence lead to the formation of a federation. Thus, the federal form of government is a historical product or a necessity arising under certain political conditions.

According to AV Dicey, there are two requisite conditions of the formation of a federation. First by history, there must be a body of states, so closely connected by locality, by race or the like, as to capable of having, in the eyes of their inhabitants an impression of common nationality.

Secondly, there must be the existence of a very peculiar state of sentiment among the states which propose to unite. The constituent units desire union, but not unity.

A federal state will have a written Constitution. The Constitution in a federal state becomes the supreme law of the land. The authority of state is necessarily divided between the national government and the federating units. Each unit, thus need to function within the delimited sphere of powers.

In a federal state, a federal court is an indispensable part of the system. The judiciary in federal state is at once the guardian and interpreter of the Constitution i.e. the law of the land. It is the highest tribunal for the settlement of disputes between the component units of the federation and the Union Government.

Characteristics of Federal Unions

1. Supremacy of the Constitution.
2. Distribution of powers among bodies with limited and coordinate authority.
3. Authority of the Federal Court to act as interpreter of the Constitution.
4. Second chamber to the Parliament.
5. National Unity & power with maintenance of state rights.

Federalism: Theory and Practices in India

In India, federalism was intended to meet the exigencies of political situation, thus a unitary state was divested for introducing a federal state. The concept of federalism for India originated from the First Round Table Conference held in London in 1930. Two exigencies were to be overcome for evolving a constitutional settlement for India.

1. One was to meet the aspirations of the Muslims for regional autonomy in respect of provinces in which they were in majority.
2. The other was to integrate the Indian native states with the British Indian provinces in one common central administration.

In contrast to a unitary state where the component parts are general powerless federalism appeared to be viable alternative. Federation promised equal participation by all states. Thus, the participation of reactionary states in the central administration which was to be run on the model of parliamentary democracy would also operate as a counter poise to the extremism of Congressmen, who were bound to capture power in the new government in independent India and this was the reason which aroused British interests government never appealed to the India states (princely states), but they were willing to work out the scheme for the sake of unifying India under one common government at centre.

Federal Features of Indian Federal Structures

Written Constitution: - it is essential for a federation to have a written Constitution so that both the units as well as the centre can refer to that for a precise understanding of their respective spheres of powers.

Supremacy of the Constitution:-The Constitution of a federation should be the supreme source of authority both for the centre as well as the federating units. The Constitution is the supreme law of the land and laws passed by the Union or the State Governments must conform to the Constitution.

Rigid Constitution:- Rigidity is another feature of a federal Constitution. Rigidity is specially desired by the federating units so that the centre subsequently does not change the list of subject to suit its convenience. The Indian Constitution is partly flexible determined by the procedure of amendment.

Division of Powers:- A clear division of powers is desirable in a federal set-up, so that the units and the centre are required to enact and legislate within their sphere of activity and none violates its limits and tries to encroach upon the functions of others. The 7th Schedule of the Indian Constitution contains three Legislative Lists, which enumerates subjects of administration i.e., Union, State and Concurrent, Legislative Lists.

Independent Judiciary:- The judiciary, being the custodian of the Constitution need to be supreme and independent. The Constitution of India has ensured an independent and neutral judiciary to secure its supremacy. To maintain the impartiality of the judiciary, the judges in India are not removable by the executive and their salaries cannot be curtailed by Parliament.

Bicameral Legislature:- A bicameral legislature is an essential part of Federal System because it is in the upper house alone that the units can be given equal representation. The Constitution of India also provides for a bicameral legislature at the centre consisting of *Lok Sabha* and *Rajya Sabha*.

Unitary Features of Indian Federal Structure

Single Citizenship: - Under a Federal Government usually a double citizenship to guaranteed i.e., a citizenship of the union as a whole and citizenship of each constituent states. The Indian Constitution however allows single citizenship.

A Strong Centre: - The powers of the respective governments are specified in the 7th Schedule to the Indian Constitution, but the Union Government have been authorize by the Constitution to exercise powers over the State Government and has residuary power over the whole territory.

Single Constitution for both Union and the States: - In a federal set-up usually the states have their own Constitution separate from that of the union as in the case of United States. On the contrary in India, the Constitution is common for both the union as well as states.

Single Judiciary: - A federation being a dual polity often has a double system of judiciary. However in India, the Supreme Court and the High Courts are integrated

into a single judicial system they have jurisdiction over cases arising under the same laws, State Legislature, civil and criminal.

Unitary in Emergencies: - The Constitution of India provides for three types of emergencies National Emergency (Article 352) State Emergency on the Ground of breakdown of Constitution machinery of the state (Article 356) and Financial emergency (Article 360). During the operation of any of these emergencies the federal set-up gets converted into a unitary the authority of the Constitution.

Common All-India Services: - The Constitution has certain special provisions to ensure the uniformity of the administrative system and to maintain minimum common administrative standards without impairing the federal essence. The creation of All India Services common to both the union and the states may be referred to in this context.

Inequality of Representation in Council of States: - Indian Parliament being bicameral the states i.e., the component units are represented in the upper house of the legislature i.e., Rajya Sabha, Council of States. In the Rajya Sabha, all the states are not equally represented their representation very proportion of their population. This is again against the spirit of federation.

President Appoint the Governor of a State: - The Governor, who is the Constitution head of a State Administration I appointed and removed by the President. They hold office during the pleasure of the President. This enables the Union Government to exercise control over the state administration.

Appointment of judge of high Court judges by the president: - The judges of the high court are appointed by the President and may be transferred from one High Court to another By President.

Special Powers of Rajya Sabha over State Subjects: - The Constitution authorities the Rajya Sabha to make laws on the subjects contained in the state lists, if required in national interest. Similarly, Parliament can pass laws on the items if it is deemed essential by the government of India to honor an international obligation.

State Financially Dependent on the Union: - The states though have access to their sources of financial resource, but they often prove insufficient there by making the states dependent on the centre to meet their development needs. The financial dependency of the centre is a major constraint is securing autonomy of the states.

Conclusion:

In India, the Centre-States relations constitute the core elements of the federalism. The Central Government and State Government cooperate for the well-being and safety of the citizens of India. The work together in field of environment protection, terror control, family control and socio-economic planning.

The Indian constitution aim at reconciling the national unity while giving the power to maintain state to the state governments. It is true that the state governments, but this is a question of degree and not quality, since all the essential feature of a federation are present in the Indian constitution.

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