

India's Power Balance

Federalism in India

Definition:

The Oxford dictionary defines federalism as a principle or system of government in which several states form a unity but remain independent in internal affairs.

The term "federal" is derived from the Latin 'foedus', which, like the Hebrew term brit, means covenant or an agreement or treaty. As such, etymologically speaking, a federation is a state that comes into existence by treaty or an agreement between several states.

Introduction:

A country large in size, having multiculturalism is difficult for its single government to reach every corner of the country, so, in such a situation federalism is applied in which powers are distributed between its central and state governments to which they have joined to form the federation.

In India, we follow a quasi federal system with a strong unitary bias. Quasi federal refers to a system of government where the distribution of powers between the Center and the state are not equal.

Constitutional viewpoint:

The Indian constitution contains both features of a federal constitution and unitary constitution.

The Constitution of India has not described India as a federation. On the other hand, Article 1 of the Constitution describes India as a “**Union of States.**” This means, India is a union comprising of various States which are integral parts of it. The Indian Union is not destructible. Here, the States cannot break away from the union. They do not have the right to secede from the union. In a true federation, the constituting units or the States have the freedom to come out of the union.

The Indian Constitution outlines this balance through Articles **245 to 263**, explicitly dividing powers between the Union and the states. However, in practice, these provisions often tilt towards centralization. For example, Article 356 allows the central government to impose President's Rule in states, suspending their autonomy under certain conditions. Similarly, Articles 249 and 250 enable the Union Parliament to legislate on state matters in specific scenarios, emphasizing the quasi-federal nature of the system.

This division of powers is primarily achieved through the Union, State, and Concurrent Lists outlined in the **Seventh Schedule**, which governs the distribution of legislative and executive powers

Seventh Schedule of the Indian Constitution:

The Seventh Schedule categorizes legislative subjects into three lists -

- (i) Union List - Contains items governed by the centre (**97** items including defence, foreign affairs, atomic energy and railways)
- (ii) State List - Contains items governed by the state (**66** items including police, public health and sanitation, agriculture and local government)
- (iii) Concurrent list - Contains items governed by the centre as well as the state. (**47** items including education, family and civil law, laws relating to preventive detention)

Reasons for choosing a quasi - federal framework

During the Constituent Assembly debates, the first prime minister, Jawaharlal Nehru cautioned that "it would be injurious to the interests of the country to provide for a weak central authority which would be incapable of ensuring peace, of coordinating vital matters of common concern and of speaking effectively for the whole country in the international sphere.

- Accommodation of diversity: Federalism in India allows for the accommodation of diversity by giving autonomy to states to govern their own affairs and address their unique needs and concerns.
- Effective governance: A robust federal structure needs to be in place to deliver effective governance and to ensure that the

diverse needs and interests of the states are represented in the decision-making process.

- Promotion of democracy: Federalism promotes democracy by ensuring that power is decentralized and shared between different levels of government. This allows for greater participation and representation of citizens in the decision-making process.
- Protection of rights: Federalism allows for more robust protection of individual and minority rights as state governments are better able to address the specific needs and concerns of their diverse populations and can tailor policies and legislation accordingly.

Impact of federalism in India:

- The strengthening of state governments and regional political parties has enhanced democratic representation by providing platforms for diverse regional interests and identities. This development has deepened democracy by bringing governance closer to the people and creating multiple channels for political participation
- The territorial basis of Indian federalism provides some protection for regional minorities and linguistic groups by allowing them to control state governments where they constitute majorities
- The competition between states for investment and the emphasis on performance-based allocation of central resources have created incentives for better governance

Unitary characteristics of the Indian constitution:

The Indian Constitution is the only supreme Constitution of the country. There is no separate Constitution for any states or unions.

The Indian Constitution only provides for single citizenship, as opposed to the dual citizenship system of the USA. This means that there is no separate state citizenship. Every citizen will be a citizen of only India, rather than possess a citizenship or separate identity on the basis of their State. The only exception to Single Citizenship was the special status provided to Jammu & Kashmir under Article 370 of the Constitution, which has since been abrogated

India also employs the system of unified judiciary, where the Supreme Court is at the zenith, with the subordinate courts trailing beneath, laying a common framework for functioning and jurisdiction of the Courts of all the various states of the Union

Asymmetrical Federalism:

Asymmetric federalism is based on unequal powers and relationships in political, administrative, and fiscal arrangement spheres between the federal units constituting a federation.

A special status in the form of greater autonomy relative to other states has been conferred upon certain states to safeguard them from the overriding power of the Centre owing to their rather sensitive socio-political demography

(i) The Constitution's Sixth Schedule encompasses certain provisions for governing tribal areas (Assam, Mizoram, Meghalaya, Tripura). Under this specific scheme, autonomous districts and regions are to be created, wherein an autonomous district with different Scheduled Tribes will be clubbed into separate autonomous regions, in which special Regional and District Councils have the authority to administer laws associated with.

(ii) The State of J&K was accorded an asymmetric position under Indian federation because of the special circumstances under which the state acceded to India. The special position was accorded to Maharaja Hari Singh when he acceded to India on three subjects viz defence, foreign affairs and communication. Sardar V Patel, the then home minister and the person who played an important role in the integration of princely states declared in the constituent assembly of India that “given the special problem with which the J&K government is faced, we have made special provisions for the continuance of the state with the union on the existing basis”.

(iii) The Fifth Schedule provides for the appointment of a Tribes Advisory Council to make recommendations to the Governor on matters

concerning the wellbeing and advancement of the Scheduled Tribes. The Governor is empowered to make regulations with respect to the prohibition or restriction of transfer of land from tribals, regulate the allotment of land to nontribals, regulate money-lending to tribals with the interests of tribals protected against extortion and exploitation in any form.

Conclusion:

In conclusion, the relationship between India's central and state governments embodies a dynamic interplay between centralized authority and regional autonomy. The Constitution provides a robust foundation for federal governance.

The Indian experience offers valuable insights for federal theory and practice globally. The country's success in maintaining democratic stability while managing extraordinary diversity through federal arrangements provides lessons for other diverse democracies

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