

Introduction to Politics

Federalism in India

Federalism in India

Federalism is a form of government in which the sovereign authority of political power is divided between the various units.

The Article 1 of the Constitution of India describes India as a 'Union of states' for Indian federalism.

The word "Union" has been used because according to Dr Ambedkar (Chairperson of the Drafting Committee) the "federation in India was not a result of an agreement between different states to join a Federation". It is the result of the devolution of power, not the result of an agreement. This does not give a state the right to secede from India.

He further said that “Our Constitution would be both unitary as well as federal according to the requirements of time and circumstances”

Cooperative Federalism, holding together federalism, instead of coming together federalism, quasi-federal system

Federalism in India

Federal Features

- Dual Government
- Division of Powers
- Written and Rigid Constitution
- Independent Judiciary
- Supreme Court as the Guardian of Constitution
- Basic Structure of the Constitution

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Basic Structure of Constitution

The **doctrine of Basic Structure** was propounded by the Indian Judiciary on 24th April 1973 in the **Keshavananda Bharati case** to put a limitation on the amending powers of the Parliament so that the 'Basic Structure of the Constitution' cannot be amended in the exercise of its 'constituent power' under **Article 368** of the Indian constitution. Supremacy of the Constitution.

- Unity and sovereignty of India
- Democratic and republican form of government
- Secular character of the Constitution
- Federal character of the Constitution
- Parliamentary system
- Individual freedom
- Separation of power
- Judicial review
- Rule of law
- Rule of equality
- Free and fair elections

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7th Schedule- Division of Power

The Seventh Schedule to the Constitution of India defines and specifies allocation of powers and functions between Union & States. It contains three lists;

Union List - Defence, Army, International Relations, Ports, Railways, Highways, Communication etc.

State List - Public order, Police, Public health and sanitation, Hospitals and dispensaries, Betting and gambling etc.

Concurrent List - Education, Forest, Trade unions, Marriage, Adoption etc.

Residuary Matters- Space Technology, Cyber Law, Computational Technology etc.

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Division of Power

- 1) If on a concurrent list subject the Union and a state's laws conflict, the Union law will prevail.
- 2) If Rajya Sabha by a majority of two-thirds of its members, decide by a resolution that a certain subject belonging to the state list is of national importance, the Parliament will be able to legislate on it.
- 3) When a proclamation of emergency is in operation the Parliament may legislate on any of the state subject. The force of such law will lapse six months after the proclamation ceases to operate.

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Emergency Provisions

- **National Emergency (Article 352)**- The president can declare a national emergency when the security of India or a part of it is threatened by war or external aggression or armed rebellion.
- This term 'armed rebellion' is inserted from the 44th amendment (1978). Before this term it was known as internal disturbance.
- The proclamation of emergency must be approved by both the houses of parliament within one month from the date of its issue.
- If approved by both the houses by special majority, the Emergency continues for 6 months and can be extended to an indefinite period with an approval of the Parliament for every six months. A proclamation of Emergency has drastic and wide-ranging effects on the political system. Centre becomes entitled to give executive directions to a state on 'any' matter. The parliament becomes empowered to make laws on any subject mentioned in the state list, the president can issue ordinances on State subjects also, if the parliament is not in session.

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Emergency Provisions

- While a proclamation of National Emergency is in operation, the life of the Lok Sabha may be extended beyond the normal term for one year at a time. However, this extension cannot continue beyond a period of six months after the emergency has ceased to operate.
- According to Article 358, when a proclamation of National Emergency is made, the six fundamental rights under article 19 are automatically suspended. Article 19 is automatically revived after the expiry of the emergency. The 44th Amendment Act laid out that Article 19 can only be suspended when the National Emergency is laid on the grounds of war or external aggression and not in the case of armed rebellion.
- Under Article 359, the President is authorised to suspend, by order, the right to move any court for the enforcement of Fundamental Rights during a National Emergency. Thus, remedial measures are suspended and not the Fundamental Rights.
- A proclamation of Emergency may be revoked by the President at any time by a subsequent proclamation. Such proclamation does not require parliamentary approval.
- The emergency must be revoked if the Lok Sabha passes a resolution by a simple majority disapproving its continuation.
- This type of emergency has been proclaimed three times so far- in 1962, 1971 and 1975

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Emergency Provisions

Article 356 says that whenever a state fails to comply with or to give effect to any direction from the centre, it will be lawful for the President to hold that a situation has arisen in which the government of the state cannot be carried on in accordance with the provisions of the constitution. A proclamation imposing president's rule must be approved by both the houses of parliament within two months from the date of its issue. The President acquires the following extraordinary powers when the President's rule is imposed in a state:

- He can take up the functions of the state government and powers vested in the governor or any other executive authority in the state.
- He can declare that the powers of the state legislature are to be exercised by the parliament.
- He can take all other necessary steps including the suspension of the constitutional provisions relating to any body or authority in the state.

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Emergency Provisions

Article 360 empowers the president to proclaim a **Financial Emergency** if he is satisfied that a situation has arisen due to which the **financial stability** or credit of India or any part of its territory is threatened. A **proclamation declaring financial emergency must be approved by both the Houses of Parliament within two months from the date of its issue.**

- Extension of the **executive authority of the Union over the financial matters of the States.**
- Reduction of **salaries and allowances of all or any class of persons serving in the State.**
- **Reservation of all money bills or other financial bills for the consideration of the President after they are passed by the legislature of the State.**
- **Direction from the President for the reduction of salaries and allowances of all or any class of persons serving the Union; and the judges of the Supreme Court and the High Courts.**

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Unitary Features

- Single Constitution
- Single Citizenship
- Single Currency
- Distribution of Powers favours the Centre
- Proclamation of Emergency
- Extension of Union Parliament's authority
- Parliament's power to change the territory of states and new states formation
- Unequal Representation of States in Rajya Sabha
- Appointment of Governor by the President

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Unitary Features

- Governor's Power to send bills to President
- Parliament to legislate on subjects under State List when two or more states pass a resolution requesting this
- All India Services
- Reserve Bank of India
- Lok Sabha is more powerful than the Rajya Sabha
- Integrated Judiciary
- Integrated audit machinery
- The failure of a state to give effect to any of the directives may lead to a declaration of constitutional breakdown in a state.
- Finance Commission