

# Nature of Indian federalism: An analysis of historical basis and problems

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**Abstract :** Federalism constitutes a complex governmental mechanism for the governance of a country. It binds into one political union several autonomous, distinct, separate and disparate entities or administrative units. It seeks to draw a balance between the forces working in favor of concentration of power at a central point and the forces which favor a dispersal of the power in a number of units. Federalism thus seeks to reconcile unity with multiplicity, centralization with decentralization and nationalism with localism. The originality of the federal system which lies in that power is, at one and the same time, concentrated as well as divided. There is centralization of administration and legislation in certain areas along with decentralization in other areas. A federal constitution establishes a dual polity, comprising two levels of government a central government having jurisdiction over the entire country in some areas, and state governments, each of which exercises jurisdiction within defined regional boundaries.

**IndexTerms – Federalism, Jurisdiction, Administrative.**

## I. INTRODUCTION

A citizen in a federal country is subject to the decrees of two governments. The totality of governmental powers and functions are divided between the Centre and the states. Each level of government thus functions within its assigned field. The several governments do not, however, function in watertight compartments. They come in contact with each other at several points, and thus a host of inter-governmental relations arise in a federal country. The pattern of these relations is not static; it is dynamic and is constantly finding a new balance in response to the centripetal and centrifugal forces operating in the country, and, that is why the subject of inter-governmental relations is of much significance to a student of any federal constitution. The same is true of the Constitution of India which establishes a dual polity comprising a Central Government and several state governments. India have been governed by the foreign rulers since thousands of years i.e. French, Portuguese, Dutch, Shaka, Hunas, Kushans, Mughals and Britishers Therefore, the type and legacy of Government and administration was definitely influenced by the working and theories of above said rulers. After Independence the Indian Parliamentary Democracy was established by the constituent making assembly. This assembly was influenced by the various Acts of British Government ever passed to rule India and the act of 1935 became the most influencing act for the constituent making assembly of India, and this was quoted by W.S.Mauris Jhons in his various research and findings. i 15th August 1947, India's struggle for freedom came to end and the Constituent Assembly was responsible for drafting a new constitution which came into effect on January 26, 1950. One of the important features of the Indian Constitution included the distribution of powers between Parliament and the state's legislative assemblies.

The federal features which influenced the founding fathers of the Indian Constitution were mainly from American, Canadian and Australian Federations. The framers of the Constitution were influenced by the federal principles, with exceptions and modifications of the US and Canadian constitutions. On the other hand, Indian Leaders like Jawaharlal Nehru who was a staunch supporter of liberal democracy, was committed to democratic socialism and agrarian redistribution. For their policies to be successful, they believed that there should be a centralized direction for the establishment of federal system in India.

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Federalism thus seeks to reconcile unity with multiplicity, centralization with decentralization and nationalism with localism. The originality of the federal system which lies in that power is, at one and the same time, concentrated as well as divided. There is centralization of administration and legislation in certain areas along with decentralization in other areas. A federal constitution establishes a dual polity, comprising two levels of government a central government having jurisdiction over the entire country in some areas, and state governments, each of which exercises jurisdiction within defined regional boundaries. A citizen in a federal country is subject to the decrees of two governments.

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## II. SAFEGUARDS OF INDIAN FEDERATION

1 Indian Constitution is written and relatively rigid. 2. Provision of amendment that can be done with the consent of a majority of the state legislatures. 3. The Supreme Court of India has original jurisdiction to decide disputes between Union and state or a group of states. State to another state or a group of states. Our group of states to another group of states.

Nature of Indian federation in the context of art. 356 There are provisions which don't make Indian Constitution to be a federal in the sense of American Constitution. Though, it is said that within India, neither the Union nor the states enjoys [absolute] internal sovereignty due to the division of powers between the Union and the States in which both the Governments have plenary power within their assigned sphere, there exist certain provisions in the Constitution which are Considered to be going against the principle of federalism. For example, article 200 of the constitution in which it is said that certain bills passed by state legislatures may be reserved by the governors for the consideration of the president of India. The another article which is considered to be a deviation from the principle of federalism is Articles 356, 352 and 360 which gives the power to the president to declare emergency, which can transform federal system into a unitary system; however the provision is meant for temporary and can be used only under certain exceptional situations under certain restrictions created through judicial intervention, there are many circumstances in which the central government has used this power to dissolve the state governments of the opposite parties and to remain in power.

But this was never the case the Presidents power to issue the proclamation under Article 356 has been abused most of the time. So far the power under the provision has been used on more than 90 occasions and in almost all cases against governments run by political parties in opposition. This makes *S. R. Bommai v. Union of India* a Land Mark Judgment in which Supreme Court had discussed at length the provision of Article 356 and various issues associated with the said provisions. The next another landmark case where the nature of the Indian Constitution questioned was *State of Rajasthan V. Union of India*. In this case, Chief Justice Hon'ble Court, while interpreting Article 356, observed "Our difficulty is that the language of Article 356 is so wide and loose that to circumscribe and confine it within a strait-jacket will not be just interpreting or construing it but will be Constitution-making legislation which, again, does not, strictly speaking, lie in our domain." The debate whether India has a Federal Constitution' and Federal Government' has been grappling the Apex court in India because of the theoretical label given to the Constitution of India, namely, federal, quasi- federal, unitary. The first significant case where this issue was discussed at length by the apex Court was *State of West Bengal V. Union of India*. The main issue involved in this case was the exercise of sovereign powers by the Indian states.

### III. CHALLENGES FOR INDIAN FEDERATION

#### Centralized Planning

Although economic and social planning is found in the Concurrent List of the Seventh Schedule to the Constitution, the Union Government enjoys unbridled authority over national and regional planning in India. Centralized planning, through the Planning Commission, now NITI Aayog appointed by the O Centre, considerable preponderance in legislative power for the Union, the financial dependency of the states on the Centre's mercy, the administrative inferiority of the states make the states meek and weak. The States only fill the blank spaces meant for in the text for planning. There is no special planning commission for the states in India. It also adds to the misery of states and pose smooth functioning of federal spirit across the country.

#### Language Conflicts

Diversity in languages in India sometimes causes a blow the federal sprit of the Constitution. There are 22 languages constitutionally approved in India. Besides, there hundreds of dialects are spoken across the country. Trouble arises when the strongest unit of the federation attempts to force a particular language on others. The tussle for official language in India is still a burning issue. The southern states opposition to Hindi as the official language of India has led to deep-seated language crisis in India. It throws dirt on the federal character of the Union of India.

#### Issue of Religion

India is a fine example of religious heterogeneity that sometimes gives rise to turmoil to weaken the federation. But the religious process need not be always divisive. So long as there is a reasonable tolerance on the part of the people and a genuine secular policy on the part of the government, religion may not cause imbalances in a federation.

#### Relative Economic and Fiscal Incompatibilities among the Units

Differences economic standards and relative economic and fiscal incompatibilities among the constituent states also pose a threat to a federation. The forces of imbalances in the field are demands for economic planning and development and for regional economic equality and financial autonomy of states. Demand for a financial equality of a region creates problems in a federation. In India some states are declared as poor and on the principle of equalization, are getting grants-in-aid. But the dilemma in a federation emerges that if the principle of equalization is adhered to, the national income and the total income growth will suffer. Again, if much attention is paid to economic development, equalization of all units cannot be attained.

#### Physical Environment

Physical environment may also create hurdles for a federation by affecting communication. A federation in which the lines of communication are long and difficult has to face the difficulty of keeping in touch with all the units. It is easy for creating misunderstanding and conflict and perhaps this was one of the important causes for the separation of the east wing from Pakistan. Moreover, in the absence of good communication, the poorer units tend to develop a complex of neglect and feel that they are receiving less than their fair share of resources for development. In India, the North-Eastern states are having similar feelings and creating problems for the federation.

#### External Forces

External forces also create hindrances for a federation. The tension in North Eastern States in India is due to interference of neighboring countries. China's claim on some portion of the territory of Arunachal Pradesh on LAC threatens the territorial integrity of India. The Tamil issue in Sri Lanka creates disruptive forces in India. The alleged Pak hand in Khalistan movement in the past also has a say in weakening the Indian federation.

#### IV. CONCLUSION

As conclusion, federalism or federal form of government is the most suitable form for a vast and pluralistic country like India. It tries to facilitate the socio-political cooperation between two sets of identities through various structural mechanisms of shared rule'. However, the because of above factors center-state relations and the state autonomy have become the cardinal issues of the Indian federalism. The Sarkaria Commission in 1983 appointed by the Government of India to examine and review the working of the Indian Federalism, did not make any useful recommendations for structuring the Indian federalism in a proper manner. This reveals the fact that even though our constitution is said to be a federal, but this overemphasis on the power of the federal government makes unable to deal effectively with socioeconomic challenges and strengthening national unity. There is need for restructuring Indian Federalism to make it more viable and International Journal of Academic Research ISSN: 2348-7666: Vol. 8, Issue-8(2), August, 2021 Impact Factor: 6.023; Email: drtvramana@yahoo.co.in resilient in paving the way for promoting effective center-state relation perpetuating a federal tradition across the and country. Though India was to be a federation, the federation was not the result of an agreement by the States to join in a federation, and that the federation not being the result of an agreement, no State has the right to secede from it. The Federation is a Union because it is indestructible. Though the country and the people may be divided into different. States for convenience of administration, the country is one integral whole, its people a derived from a single source. Today, India's single people living under a single emporium political institutions are widely recognized as federal species. Self-rule and shared ruled have been linked in unorthodox ways which have enabled the union of India to not only survive, but also flourish and enhance in all its diversity.

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