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## **FEDERALISM IN INDIA: A CONSTITUTIONAL AND JUDICIAL PERSPECTIVE**

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### **ABSTRACT**

The concept of federalism in India represents a unique constitutional innovation tailored to the needs of a diverse, multilingual, and culturally pluralistic society. Unlike classical federations where sovereignty is equally shared between the Centre and States, the Indian Constitution adopts a quasi-federal model—one that combines the features of both unitary and federal systems. This article critically examines Indian federalism from both a constitutional and judicial perspective, analysing how the division of powers and institutional mechanisms have functioned in practice, and how the judiciary has interpreted and evolved the contours of Centre-State relations.

**Keywords:** Constitution, Federation, Judiciary, Interpretation.

### **INTRODUCTION**

Since its adoption in 1787 by the framers of the U.S. Constitution, the federal system has emerged as a widely accepted model of governance and is now a topic of scholarly research, holding practical importance to a significantly greater degree than in the past. A distinguished scholar on federalism, Daniel Elazar, has noted that federal principles and structures have become widespread as they align with contemporary attitudes, with federalism aimed at attaining a degree of political integration through a blend of self-governance and shared governance.

The origins of Indian federalism can be linked to the British colonial rule. The ineffective functioning of their unitary system prompted the British to implement a federal system in the final eighty years of their rule, and ultimately, the Act of 1935 helped solidify the belief in the necessity of a federal system.

Indian Federalism is distinctive and customized to meet the particular requirements of the nation. Federalism is a fundamental characteristic of the Indian Constitution where the Union of India remains eternal and unbreakable. The Centre and the States are collaborating and coordinating bodies that possess autonomy and should utilize their respective authorities with mutual adjustment, respect, comprehension, and accommodation. The interests of the Centre and the respective units often create tension and conflict, which is a fundamental aspect of federalism. It is essential to prevent and improve conflicts. Consequently, Indian federalism was designed with a powerful central authority. Federalism featuring a powerful Centre was unavoidable because the creators of the Indian Constitution recognized that there were economic inequalities, with many regions of India being economically and industrially lagging compared to others. The country was dedicated to a socio-economic transformation

not just to fulfill the basic requirements of everyday citizens and unify the economy, but also to initiate a significant alteration in the framework of Indian society aligned with egalitarian ideals. Considering these factors, the framers of the Constitution created the Indian federation featuring a robust Union.

## **MEANING AND TYPES OF FEDERALISM**

The term “federalism” originates from the Latin word *foedus*, meaning a league or pact. In constitutional theory, federalism denotes a system of governance in which powers are constitutionally divided between a central authority and various constituent units, such as states or provinces, in such a manner that both levels of government are legally independent within their respective spheres of competence. Federalism is essentially a normative arrangement that seeks to reconcile the need for a strong central government with the demands for regional autonomy, thereby enabling unity without uniformity and diversity without disintegration. The federal principle rests upon the co-existence of dual authority and the guarantee of autonomy, which is constitutionally entrenched and judicially protected.

According to K.C. Wheare, widely regarded as the father of modern federal theory, “the federal principle is the method of dividing powers so that the central and regional governments are each within a sphere coordinate and independent.” Wheare’s classical definition stresses formal equality between the two levels of government, particularly in the legislative and financial domains. However, later scholars have contested this rigid model and introduced more flexible and pragmatic interpretations. For instance, William H. Riker views federalism as a political organisation in which at least two levels of government rule the same land and people, and each level has at least one area of action in which it is autonomous. This definition underscores the political nature of federal bargains and the necessity of shared rule through institutional arrangements that permit mutual influence and negotiation.

Federalism is not monolithic and manifests in various types. The two primary models of federalism are dual federalism and cooperative federalism. Dual federalism, also referred to as “layer-cake federalism,” posits a clear and distinct separation of functions and responsibilities between the Centre and the states. Under this model, both levels of government operate in watertight compartments and seldom interfere in each other’s jurisdictions. This model closely resembles the American federal system, where the Constitution provides for an explicit and rigid division of powers through the Tenth Amendment.

On the other hand, cooperative federalism, sometimes termed “marble-cake federalism,” envisions interdependence and collaboration between the Centre and the states. It acknowledges the overlapping nature of governmental functions and encourages joint decision-making and coordinated action, especially in areas of concurrent jurisdiction such as education, public health, and infrastructure development. This model is increasingly prevalent in modern federations, including India, Canada, and Australia, where functional cooperation is seen as essential for managing complexity and ensuring effective service delivery. Cooperative federalism has gained prominence in the Indian context post-liberalisation, particularly through institutions like the Inter-State Council and the NITI Aayog.

Another important distinction in federal theory is between symmetrical and asymmetrical federalism. Symmetrical federalism implies that all constituent units enjoy equal powers and status under the Constitution. In contrast, asymmetrical federalism refers to a structure where some states or provinces are granted special autonomy or privileges due to historical, ethnic,

or geographical reasons. The Canadian federation, which affords special status to Quebec, and the Indian Constitution's erstwhile Article 370 in relation to Jammu and Kashmir, are classic examples of asymmetrical federalism. This model attempts to accommodate diversity and regional aspirations without fracturing the national unity, although it also raises concerns regarding equality and uniformity among states.

In addition to the above, other variations such as competitive federalism, fiscal federalism, and emergent forms like post-sovereign federalism have also gained scholarly attention. Competitive federalism refers to a system in which subnational units compete with each other and with the Centre for resources, investments, and administrative efficiency. Fiscal federalism focuses on the financial relationships between different levels of government, especially the principles of revenue sharing and financial accountability. Post-sovereign or quasi-federalism, as seen in the European Union, denotes arrangements that do not conform strictly to the classical federal paradigm but still embody a complex sharing of sovereignty among multiple levels of governance.

### **CHARACTERISTICS OF THE INDIAN FEDERAL SYSTEM**

There exists a disagreement among constitutional scholars regarding the character of the Indian constitution. One perspective is that it operates as a quasi-federal constitution and exhibits more unitary characteristics than federal ones. The alternative perspective is that it is a federal constitution with a unique characteristic that adapts to national crises. A different perspective suggests that India is distinctive because her Constitution is not purely unitary nor purely federal in the conventional manner. It is primarily unitary, featuring some federal aspects that have hindered effective administration. In India, there exist two tiers of governance: the Central Government and the State Government. The Indian constitution explicitly outlines the authorities and responsibilities of both the Central Government and the State Government. Both governments operate independently within their designated fields of activity. The Central Government has authority over 97 matters while the State List contains 66 matters. Additionally, there exists a Concurrent List comprising 47 subjects where both governments share concurrent authority. Conflicts concerning the authorities and roles of the Central Government and State Governments are resolved by an impartial judiciary as outlined in the Constitution. Therefore, the Indian Constitution grants India a federal structure.

A federal state consists of multiple states grouped together. Every state serves as a representative of the federal government and derives its power from the Constitution. Alongside it, states have no authority to withdraw from the federation at their discretion. A federal state obtains its authority and existence from the Constitution, highlighting the Constitution's supremacy in such a state. The courts possess the ultimate authority to interpret the Constitution as well as any power, whether it be executive, legislative, or judicial. To put it another way, in a federal system, the Constitution is the highest law. There exists a separation of legislative and administrative authority between the Union and State Governments, with the Supreme Court at the apex of our judiciary.

In his book 'Federal Government (1951),' Prof. K C Wheare states that the Indian Constitution establishes a government system that is quasi-federal—more of a unitary state with additional federal characteristics, instead of a federal state with supplementary unitary traits. Prof. C H Alexandrowicz, in his book 'Constitutional Developments in India (1957),' has conveyed similar opinions. He mentioned that the Constitution of India is not entirely federal nor entirely unitary, but it represents a blend of both. It is a new type of union or composite state. It establishes the idea that despite Federalism, the national interest should

take precedence.

In contrast, some scholars believe that the Indian Constitution is fundamentally unitary. It has been suggested that the Indian Constitution fails to meet specific key criteria of federalism, specifically the units' ability to create their own Constitution and the inclusion of dual citizenship. Additionally, in the three-tiered division of powers, the most significant topics are part of the Union list, which is the longest among the three lists, containing 97 items. Even concerning the Concurrent list, Parliament holds a superior authority over the State Legislatures. Article 253 grants the Union Parliament the authority to create laws that enforce any treaty, agreement, or convention with another nation, as well as any resolution made at any international conference, association, or similar organization.

Several other Constitutional provisions frequently cited to support the Unitary nature of the Indian Constitution include the president's emergency powers to declare a national emergency or impose emergency measures in a state due to a failure of Constitutional machinery, the appointment of governors, the unification of the judiciary, and the reliance of the States on the Centre for financial resources. The authority of the Union to change the names and boundaries of the states, implement Constitutional amendments, facilitate coordination among the States, and resolve their mutual conflicts is also seen as a sign of the unitary nature of the Indian Constitution.

## **JUDICIAL ANALYSIS**

The discussion about whether India possesses a 'Federal Constitution' and a 'Federal Government' has been challenging the Apex court in India due to the theoretical designation attributed to the Constitution of India, such as federal, quasi-federal, or unitary. The initial major case in which this matter was extensively addressed by the Supreme Court was *State of West Bengal V. Union of India*. The primary concern in this case was the implementation of sovereign authority by the Indian states. The Parliament's legislative authority to create a law for the Union's mandatory acquisition of land and properties held by or owned by the state, as well as the sovereign powers of states as separate entities, was also analyzed. The Supreme Court determined that the Indian Constitution did not advocate a doctrine of complete federalism. Despite the decentralization of authority, it was primarily a result of the difficult challenge of managing the vast region. The court specified the features that emphasize the notion that the Indian Constitution is not a "conventional federal Constitution". Firstly, there isn't a distinct Constitution for each State as is necessary in a federal system. The Constitution is the highest document that regulates all the states. Secondly, only the Union Parliament can modify the Constitution, and the country's units, i.e., the States, lack the authority to make changes. Thirdly, the allocation of powers is intended to enable local governance by the states and for the Centre to determine national policies. Finally, unlike a federal Constitution that features internal checks and balances, the Indian Constitution grants the courts the ultimate authority to annul any action that contravenes the Constitution. The Supreme Court additionally determined that the legislative and executive authority of the States is subordinate to the respective supreme powers of the Union. The legal sovereignty of the Indian nation is held by the people of India. Political sovereignty is allocated between the Union and the States, with a heavier emphasis on the Union. Another argument against the theory of State supremacy is that dual citizenship does not exist in India. Consequently, the learned judges determined that the Indian Union's structure, as outlined in the Constitution, is centralized, placing States in a subordinate role compared to the Centre, which therefore held the necessary authority to acquire properties owned by States.

Since the ruling in *W.B. v. Union*, our Supreme Court has held that the Unitary aspects of our Constitution are so numerous that the federal elements nearly vanish.

The subsequent landmark case in which the characteristics of the Indian Constitution were extensively examined was *State of Rajasthan V. Union of India*. The knowledgeable judges initiated a dialogue regarding the theoretical concepts of federalism despite the clear stipulations of the Constitution. It was mentioned that although one might discern a federal framework in the creation of distinct executive, legislative, and judicial bodies within the States, it is clear from the stipulation outlined in Article 356 that the Union Government has the authority to impose its perspectives on governing and delegating power within the States. The degree of federalism in the Indian Union is significantly diluted by the requirements for progress, development, and the integration of the nation, both politically and economically aligned, as well as socially and spiritually elevated. The Court subsequently outlined several Constitutional provisions that affirm the Parliament's superiority over State legislatures. In summary, the apex Court determined that it was the 'prerogative' of the Union Parliament to issue directives that served the interests of the State's citizens and were intended to fulfill the goals outlined in the Preamble.

The topic of federalism was continued in *S.R. Bommai V. Union of India*. Four perspectives were provided, showcasing a range of opinions. Justice Ahmadi believed that grasping the essence of the Indian Constitution requires understanding the idea of federalism. The core of the federation lies in the presence of the Union and the States along with the allocation of powers among them. The notable lack of terms such as 'federal' or 'federation' in the Constitution, the authorities of Parliament under Articles 2 and 3, the exceptional powers granted for emergency scenarios, residual powers, the ability to give instructions to the States, the idea of single citizenship, and the unified judiciary system raise questions regarding the federal character of the Indian Constitution. Therefore, it is more fitting to refer to the Constitution of India as quasi-federal or unitary instead of a federal Constitution in the true sense of the term. In contrast, Justices Sawant and Kuldeep Singh viewed democracy and federalism as vital elements of the Indian Constitution. The Centre's dominant authority during emergencies does not undermine the federal nature of the Indian Constitution.

The Court has acknowledged that the authors of the Indian Constitution aimed to establish a federal system with a robust Centre, which would avert national disintegration. In a later case, Chief Justice P.B. Gajendragadkar highlighted the federal character of the Constitution and affirmed that the Judiciary is the exclusive interpreter of the Constitution, a role that cannot be altered through regular legislative procedures. In the fundamental framework case of *Keshavananda Bharti V. State of Kerala*, several judges in the complete Constitutional Bench indicated that federalism is one of the essential characteristics of the Indian Constitution. In another instance, Justice Bhagwati characterized the Indian Constitution as either federal or quasi-federal in nature. In *Sat Pal V. State of Punjab*, the Supreme Court reiterated that our Constitution combines a federal framework with unitary characteristics. In *Pradeep Jain V. Union of India*, the Supreme Court articulated a practical and non-traditional perspective while clarifying the federal concept within the framework of India's integrated legal system. India does not conform to the traditional definition of a federal State. It is not an agreement of independent States that have united to create a federation by relinquishing clearly federal characteristics.

## KEY TRENDS IN INDIAN FEDERALISM

- **Rise of "One Nation" Policies:** The Union government is pushing for uniform policies under the banner of "One Nation, One Tax" (GST), "One Nation, One Ration Card," and discussions around "One Nation, One Election," which aims for greater national coordination but reduces state-level policy autonomy
- **Fiscal Federalism and GST Disputes:** The implementation of GST has centralized taxing powers, leading to tensions over the timely release of compensation to states, creating a trend of "confrontational federalism".
- **Centralization and Reduced State Autonomy:** Despite rhetoric about cooperative federalism, there is a trend of the Union government exerting more control, exemplified by the restructuring of Jammu & Kashmir into Union Territories.
- **Cooperative and Competitive Federalism:** Institutions like NITI Aayog are meant to encourage cooperation, but states are simultaneously engaged in "competitive federalism" to attract investment and resources.
- **Role of Regional Parties:** Regional parties remain powerful, often acting as key players in the national political landscape and challenging the dominance of national parties in various states.
- **Judicial Intervention:** The judiciary continues to play a vital role in balancing federal relations, often interpreting the scope of state versus central powers in sensitive matters

These developments suggest that Indian federalism is moving away from purely cooperative, shifting toward a more centralized model while still grappling with regional aspirations and the need for decentralized governance..

## CONCLUSION

The evolving political landscape, marked by the resurgence of coalition politics and the increasing influence of regional parties, offers a unique opportunity to redefine and strengthen the federal structure. A forward-looking approach to federalism in India will be one that celebrates its diversity, fosters cooperation and builds a harmonious and prosperous future for all its citizens. This is not just a political necessity but a testament to the resilience and unity that defines the Indian Republic.

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