

Comparative Government and Politics(Federal System)

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What is Federalism?

- Federalism is a system of government in which the power is divided between a central authority and various constituent units of the country. Each of them is independent in its own sphere as they derive power from the same sources, i.e., Constitution.
- *Dicey* defines a federal state “a political contrivance intended to reconcile national unity and power with the maintenance of “state rights”.

Features of Federalism

- Precise distribution of powers between the Union and the States
- Supremacy of the Constitution
- Supremacy of Judiciary
- Independence of Judiciary
- Dual Citizenship
- Rigid Amendment Procedure

Federalism in India

- The Constitution declared India as a 'Union of States'. Although it did not use the word federation, the Indian Union is based on the principles of federalism.
- In India it is tripartite division of Power, i.e. Certain powers vested exclusively in the Union. Certain powers exclusively to the States and some powers to both Union and States.
- The distribution of Powers between the Centre and states have been done in accordance with the Constitution, which in turn, envisions three lists:
- Union List- Union has exclusive right and monopoly over those matters enlisted in it, such as Communication, Foreign policy, International trade, Coinage etc.
- State List-States have been vest with certain exclusive powers, such as police, irrigation etc.
- Concurrent List-Both Centre and State has power, in case of violation the centre law shall prevail to the extent of violation
- Residuary Power-the power do not find mention in any of the above three list and Art.248(2) hands out the parliament to make law on it. For e.g., Information technology Act, Copyright etc.

Nature of Indian Federal System

While submitting the Draft Constitution, Dr. Ambedkar, the Chairman of the Drafting Committee, explained the advantages of the term “**Union**”. These advantages were to indicate two things, viz–

- that the Indian federation is not the result of an agreement of the units;
- that the component units have no freedom to secede from it.

Normally two forms of federal principles are in operation. First involves independent states coming together on their own to form a bigger unit. This type of ‘*coming together*’ federation includes the USA, Switzerland and Australia. In this all the constituent units have equal power and are strong vis-à-vis the federal government.

Nature of Indian Federal System

The second trajectory is where a large country decides to divide its power between the constituent states and the national government. This is called as '*holding together*' federation and India, Spain and Belgium are the best examples of this kind. In it, the central government tends to be more powerful vis-à-vis the States.

Federalism in India is both a colonial and a nationalist legacy in the institutional sense of the term. The British unitary (nation-state) model of governance proved relatively ineffective for a vast and diverse country like India.

Austin pointed out the pragmatic character of Indian federalism which, to him, was a 'new kind of federalism to meet India's peculiar needs' and which is what he calls 'a co-operative federalism' that 'produces a strong central government yet not necessarily resulting in weak provincial governments

Indian Federal System: Key Features

1. There are *two tiers* of government-Centre and States with varying boundaries,
2. Different tiers of government govern the same citizens, but each tier has its own *Jurisdiction* in specific matters of legislation, taxation and administration.
3. The jurisdictions of the respective levels or tiers of government are specified in the constitution. So the existence and authority of each tier of government is constitutionally guaranteed.
4. The fundamental provisions of the constitution cannot be unilaterally changed by one level of government. Such changes require the consent of both tiers of government.
5. Jurisdiction means the area over which someone has legal authority. The area may be defined in terms of geographical boundaries or in terms of certain kinds of subjects.

Key Features

5. The Supreme Court has been vested with the power to interpret the constitution and the powers of different levels. The Supreme Court has an obligation to see that no unit should interfere or encroach upon each other's sphere.
6. Sources of revenue for each level of governments are clearly specified to ensure its financial autonomy.
7. The Federal system has been entrusted to safeguard and promote unity of the country, while at the same time accommodate regional diversity.

Federalism in USA

- The U.S. Constitution gives certain powers to the federal government, other powers to the state governments, and yet other powers to both.
- The federal government determines foreign policy, with exclusive power to make treaties, declare war, and control imports and exports. The federal government has the sole authority to print money.
- Federalism has evolved evenly in the USA. There are two theories explaining the entire process of working and evolution of Federalism in USA.
- First theory entertains the view that Federalism is co-equal and almost concurrent evidenced by the large scale transferring of power to the States whereas the control of Union is limited to only ‘constitutional’ matters.

Federalism in USA....

- The second theory, popularly characterized as ‘Cooperative Federalism’ emphasizes upon the collective endeavours and cooperation among the National, State and Local Governments to settle out the differences within the ambit of the Constitution. However it holds out the primacy of National government. Let us discuss the way power has been distributed
- *Delegated Powers*-assigned to the Union Government in matters specific to the regulation of interstate trade and international trade, coinage and currency, maintenance of armed forces ,postal system, power to enforce treaties etc.

Federalism in USA...

- ***Reserved powers***-The powers which are not vested to Union rather transferred to the States, such as power to establish and maintain Schools, police powers, establishment of Local governments etc.
- ***Concurrent Powers***-Powers which are shares and simultaneous in nature. For e.g. Power to tax, maintain courts and the ability to construct and maintain roads etc.
- ***Implied power***- A unique kind of powers, not specially mentioned in the Constitution but are, nevertheless important and necessary. The ‘necessary and proper clause’ in the Constitution enjoins upon the Congress to make all laws which shall be necessary and proper for carrying into execution the foregoing powers.(***Art.1 Sec.8*** of the Constitution)

Federalism in Switzerland

Being a Federal State Switzerland comprised 26 cantons (States herein known as Canton) divided into 2300 Communes.

The power, both the Political as well as Legislative, is divided into Confederation, Cantons and Communes. All three political levels have a legislative (law-making) and an executive (government). Only the Confederation and the cantons have judicial powers (courts).

Together with *direct democracy*, which offers the people the option of launching popular initiatives and referendums, federalism is one of the cornerstones of the Swiss political system.

Federalism in Switzerland

- All 26 cantons are equally represented at the Federal Level except the 6 half canton having power to have only one representative in the Council of States, known as *Bern*.
- All 26 cantons have the right to launch a popular referendum on a piece of federal legislation provided that at least eight cantons express support for it.
- The powers of the Confederation are limited to those areas explicitly entrusted to it by the Federal Constitution. Responsibility for all other matters, such as education, health and policing, fall to the cantons, which enjoy a high degree of policy-making autonomy in these areas.
- As far as the Communes are concerned, their responsibilities are explicitly granted by either the canton or the Confederation. However they can legislate on matters explicitly not given to the Cantons.

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