
HISTORY, EVALUATION AND DEVELOPMENT OF FEDERALISM

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ABSTRACT

The history of federalism in India is persistently linked to its constitutional framework and the country's diverse socio-political landscape. Unlike traditional federal systems, India's federalism has developed as a unique combination of unitary and federal characteristics, often referred to as "quasi-federal." This paper explores the historical development of Indian federalism, tracing its evolution from colonial times and the Government of India Acts to the framing of the Constitution in 1950. The text discusses the philosophical foundations and practical necessities that shaped India's federal structure, focusing on the Constituent Assembly's efforts to balance central authority with regional autonomy. It highlights significant events such as the linguistic reorganization of states, the Finance Commission's role, and the effects of political centralization during the Emergency period (1975–77). Additionally, it notes how recent trends in coalition politics, economic liberalization, and calls for greater regional empowerment have influenced the dynamics of federalism. The study concludes by evaluating the changing landscape of Indian federalism in the 21st century, emphasizing the persistent tension between centralization and decentralization within the context of a diverse society.

INTRODUCTION

Federalism in India reflects the country's rich diversity in geography, language, culture, and politics, alongside its historical evolution towards nationhood. Unlike typical federations that arise from the unification of independent states, Indian federalism was designed to integrate a multifaceted society under a cohesive constitutional framework. This introduction seeks to lay the foundation for an in-depth examination of the historical evolution and development of Indian federalism. It will explore how the framers of the Constitution envisioned a balance between unity and diversity, and how political, social, and economic forces have shaped federal dynamics over time. From the linguistic reorganization of states to the challenges of centralization during the Emergency and the subsequent decentralization driven by coalition politics and regional parties, the story of Indian federalism is one of constant negotiation and adaptation. Understanding this evolution is essential to appreciating the strengths, challenges, and future trajectory of federal governance in India. This framework was officially established by adopting the Indian Constitution in 1950, which created a federal structure characterized by a potent central government. The philosophical underpinnings of this federal approach can be traced back to the colonial period, especially through the Government of India Acts of 1919 and 1935, which introduced concepts of provincial autonomy and the delineation of powers.

FEDERALISM IN INDIA

India became the largest democracy in the world with the adoption of the Constitution by the members of the Constituent Assembly on 26th November 1949. The Constitution of India came into force on 26th January 1950. By this act of vigor and will, the Assembly members embarked on what was perhaps the greatest political venture since the one that originated in Philadelphia in 1787. The Indian Constitution, known as the world's largest Constitution, established the largest democracy globally. The makers of the Indian Constitution opted for a federal political system for various reasons. ¹Every federal system requires a division of powers between the Union and State Governments, ensuring that both operate independently within their own spheres and are not subordinate to one another. This division is crucial for preventing chaos and conflict between the two competing jurisdictions. One of the most important features of federal constitutions is this clear delineation of power. In India, the Constitution outlines various legislative items across three lists in the VII Schedule: the Union List, the Concurrent

¹ M.P Singh, V.N Shukla's Constitution of India

List, and the State List. Each list specifies the powers assigned to the Parliament, state legislatures, and those shared by both. When an issue does not fall under any of these three list, it is considered a residuary power of the Parliament. Additionally, the independent judiciary plays a vital role as the final interpreter of the Constitution within this federal structure, upholding constitutional values.

A CRITICAL ANALYSIS OF FEDERATION

Federation is a complex political structure that involves the pooling of power and resources by different levels of government. Understanding federation can be enhanced by examining three primary theories: The classical theory, original theory, and functional theory.

1. **Classical Theory:** Classical theory of federation focuses on the foundational principles and philosophical underpinnings of federal systems. Originating from the works of early political scientists, classical theory is rooted in the balance of power between central and regional authorities. It includes:

Division of Powers: The classical theory asserts that power should be divided between the national and state governments, each sovereign in its own right. The intent is to prevent over centralization and preserve regional autonomy.

Checks and Balances: By distributing power, classical theory emphasizes the importance of checks and balances to avoid tyranny and ensure representation. This framework allows regions to maintain their identity and interests while being part of a larger political entity.

Historical Context: This theory reflects the experiences of the United States and other early federations, emphasizing a conscious decision to unite for mutual benefit while respecting local governance.

2. **Original Theory:** Original theory focuses on the conditions and reasons under which federations were formed. It examines the historical processes and socio-political contexts that lead to the establishment of federal systems. It include: -

Constitutional Framework: The original theory posits that federations emerge from specific historical circumstances, often during nation-building processes. For example,

the Indian Constitution was shaped by the desire to unite diverse states while acknowledging their unique identities.

Negotiation and Compromise: The formation of a federation often involves intricate negotiations among political entities. The original theory highlights the compromises made to address regional disparities, ensuring that varying interests are considered in governance.

Dynamic Evolution: Federation are not static original theory recognizes the evolution of federations as new challenges arise. This might lead to amendments in constitutions, redistributions of power, and adaptations to societal changes.

3. **Functional Theory:** Functional theory of federation emphasizes the role and practical functions of federal structures within governance. This approach looks at how federations operate in practice rather than just their theoretical or historical foundations. It include: -

Efficiency in Governance: Functional theory argues that federal systems can enhance governance by allowing for localized decision-making on issues that require specific knowledge or cultural understanding, such as education and law enforcement.

Policy Innovation: Federations can serve as laboratories for policy experimentation, where states or regions can test new ideas that may later be adopted by the national government. This fosters innovation and responsiveness to local needs.

Conflict Resolution: The theory also posits that federations offer mechanisms for resolving conflicts between different levels of government and among regions, potentially reducing tensions and promoting cooperation.

The critical analysis of federation through these three theories reveals the depth and complexity of federal systems. Each theory contributes unique insights into the structure, formation, and functioning of federations. Understanding these perspectives allows for a richer comprehension of how federations like India can maintain unity amidst diversity, uphold democratic principles, and adapt to the evolving needs of their populations.

FEDERALISM AND THE INDIAN CONSTITUTION

Until 1935, India operated under a unitary system of governance. The Government of India Act of that year marked a significant transition by introducing a federal framework and officially using the term "Federation" for the first time in the country. Although the process of decentralization began with the earlier Government of India Act of 1919, the 1935 Act played a pivotal role in redefining the political structure. The Indian federal system emerged not from treaties or accords among the states but through the constitutional allocation of powers and responsibilities to them. Recognizing the country's vastness and social diversity, the framers of the Constitution sought to create a federal system that could accommodate these factors. However, they also understood the potential threat posed by fissiparous tendencies to national unity, emphasizing the need to resolve states' legitimate grievances within the framework of the federal Constitution.² The Constituent Assembly had various models to reference but chose to base the new Constitution on the Government of India Act, recognizing its significance in framing the structure of governance. The Indian Constitution was framed by the Constituent Assembly, which convened for its first meeting on December 9, 1946, under the Cabinet Mission Plan. Throughout their discussions, the framers explicitly referenced the term "federal," reflecting a shared understanding of the necessity for a federal structure. Given the external circumstances and the country's vastness along with its diverse elements, there was a clear consensus that a unitary system would be both undesirable and impractical. This led to the conclusion that India would adopt a federal constitution. To incorporate the Indian States into this federal framework, it was proposed that the Union would retain only three primary powers: defence, foreign affairs, and communications, as outlined by the Cabinet Mission Plan. The states were envisioned as autonomous entities, holding all residuary powers. The situation evolved with the Mountbatten Plan announced on June 3, 1947, which called for the partition of the country and the establishment of a separate Constituent Assembly for the proposed state of Pakistan. Following this announcement, the Union Constitution Committee convened on June 5, 1947, and decided that India's constitution should be federal, but with a strong central government. It was determined that there would be three legislative lists, with any unremunerated powers allocated to the union rather than the states, a decision later reaffirmed and implemented by the Constituent Assembly and the Union Powers Committee.

² H.R Khanna, *The Making of India's Constitution* 85 (Eastern Book Company)

The Indian Constitution is fundamentally federal in nature and exhibits the traditional characteristics typical of a federal system. These include the supremacy of the Constitution, a clear division of powers between the Union and state governments, the existence of an independent judiciary, and a stringent procedure for constitutional amendments. It establishes a dual polity, wherein both the Union and the states have clearly defined areas of authority, allowing them to operate within their designated fields. An independent judiciary plays a crucial role in resolving disputes between the Union and the states, or among states themselves. As Andrew Heywood noted, “Federal systems give regional and local interests a constitutionally guaranteed political voice.” In this framework, states possess a range of autonomous powers and have some representation in the central government through the Council of States. In essence, the division of powers between the Union and state governments is a vital feature of every federal system, as outlined in Part XI of the Indian Constitution along with the Seventh Schedule.

CHALLENGES TO INDIAN FEDERALISM

Federalism is often viewed as a concept that evolves in response to changing economic, social, and political conditions, with a notable emphasis on the need for adaptability compared to other areas of constitutional law.³ In India, the dimension of federalism has been in constant flux over time. It wasn't until 1967 that the federal principle could be fully executed in India. This was largely due to the dominance of a single political party at both the central and state levels, effectively making the center the guardian of the states. During this period, conflicts between the center and the states were rare, and if any issues did arise, they could often be resolved internally within the party. The states lacked the autonomy to diverge from the Union's directives, as they were all governed by the same party and obliged to adhere to its ideology. This dynamic is distinct in situations where different parties govern at the state level.

Indira Gandhi imposed an internal emergency in India, and following that period, the elections marked a significant shift; for the first time, the Congress party lost, leading to the Janata Party coming to power both at the center and in several states. This shift highlighted the importance of federalism, particularly to the ministers of Congress-ruled states. Although Congress returned to power in 1980, this period marked the end of its dominance. The 1989 parliamentary elections ushered in a multiparty system and coalition governments, which

³ V.N Shukla ,Constitution of India, Eastern book company

facilitated federal power-sharing among both smaller and national parties. This transition from a one-party rule to a coalition government transformed the concept of federalism. While it strengthened the federal framework by allowing multiple voices to be represented, it also introduced conflicts between the central and state governments due to the presence of different political parties ruling at both levels. In a coalition government, various political parties share power, each adhering to its own party line and ideology, which can sometimes hinder the process of passing laws or implementing policies. The emergence of regional parties has significantly influenced the central government's political dynamics, often limiting its capacity to exercise authority effectively. While the central government theoretically wields considerable power, particularly in terms of intervention and pre-emption, it operates within an ethno-political framework that requires these powers to be exercised in a manner that upholds the spirit of federalism. Since 1989, we have witnessed a persistent era of coalition governments. Over the past 30 years, fractured verdicts have led to the formation of multiple power centres, which have in turn impacted the role of the Prime Minister, resulting in a reduction of their previously dominant position. Historical context shows that within a federal structure, a Prime Minister with a national appeal has the potential to wield more power than one whose influence is primarily regional, as seen in the cases of Jawaharlal Nehru and Indira Gandhi. However, Mr. Narendra Modi's rise to power in 2014 with an absolute majority, which was reiterated in the 17th Lok Sabha elections, marked a significant shift. Despite the BJP securing a clear majority in both 2014 and 2019, it continues to govern in a coalition that includes several regional parties. These parties tend to focus on regional matters, which can pressure the central government into making decisions that may prioritize regional concerns. Additionally, in some states, the dominant parties in power may fail to coordinate effectively with the central government, potentially impeding development efforts within those states. There are many challenges before India federalism in the present-day scenario.

JUDICIAL VIEW ON FEDERALISM IN INDIA

The debate regarding whether India possesses a 'Federal Constitution' and a 'Federal Government' has been a subject of contention for the Apex Court in India. This discussion stems from the various theoretical labels attributed to the Constitution of India, which include terms like federal, quasi-federal, and unitary. Each of these labels carries different implications for the distribution of power between the Centre and the states, and this has led to diverse interpretations in legal and political arenas. The complexity arises from India's unique

governance structure, which exhibits characteristics of both federalism and centralization.⁴The Supreme Court has often had to navigate these nuances while adjudicating disputes involving the division of powers, the rights of states, and the authority of the central government. Ultimately, the resolution of this debate impacts not just legal interpretations but also the practical functioning of governance across India.

The evolution of a federal or quasi-federal structure in India has been influenced by the unique historical and social conditions of the country. A key aspect of the Constitution is the distribution of powers, which is outlined in the three legislative lists present in the Seventh Schedule. Article 1 of the Constitution explicitly states that India is a Union of States, emphasizing that while the Union has its own powers, the individual states also possess certain rights and responsibilities. This duality is an essential characteristic in interpreting the Constitution, reflecting the need for a balanced federal structure where both the central and state governments can operate effectively within their respective domains. The concept of federalism in India, therefore, underscores the importance of recognizing the autonomy of states alongside the authority of the central government, creating a dynamic relationship aimed at addressing the diverse needs of the nation. In the landmark case of ⁵**Keshavanand Bharti vs. Union of India (1973)**, the Supreme Court declared that federalism forms a part of the "basic structure" of the Constitution, beyond the amending power of Parliament. This perspective was reaffirmed in the ⁶**Minerva Mills vs. Union of India (1980)** case. Additionally, the judgment in ⁷**S.R. Bommai vs. Union of India (1994)** marked a significant turning point in the country's federal dynamics. In this case, the Court overturned its prior decisions which had deemed the determination of the breakdown of constitutional machinery in a state as an executive prerogative, beyond judicial oversight. Instead, the Court asserted that the President's satisfaction on such matters is subjective, not absolute, thus making the proclamation of emergency under Article 356 open to judicial review. The Court is empowered to scrutinize whether any material exists, assess its relevance, and check for mala fide, perverse, or irrational exercises of power. It is the responsibility of the central government to justify the existence of such material and evidence.

4. DD Basu, Comparative Federalism Wadhwa&Co,Nagpur

5. AIR 1973 SUPREME COURT 1461,1973 4 SCC 225

6. AIR 1976 SUPREME COURT 2030,1986 SCC 222

7. AIR 1918,1994 SCC (3)1

The Court established two important rules regarding the application of Article 356. First, it affirmed that secularism is a fundamental aspect of the Constitution, meaning any state government implementing non-secular policies in violation of this mandate could face action under Article 356. Consequently, it upheld the dismissal of the state governments in Rajasthan, Madhya Pradesh, and Himachal Pradesh following the Babri Masjid's demolition in 1992. Second, the Court ruled that no irreversible action could be taken by the President under Article 356 before the proclamation was ratified by Parliament. This ruling effectively prevented the dissolution of legislative assemblies without parliamentary approval and allowed the Court to reinstate dismissed ministries and dissolved legislatures if the proclamation was found unconstitutional. It also had the authority to issue interim injunctions to halt fresh elections while determining the validity of the proclamation. This pivotal judgment significantly mitigated the risk of state government autonomy being compromised through the misuse of Article 356, acting as a vital check on the Union's executive powers used in bad faith. Since this landmark ruling, the Supreme Court has frequently been called upon to address instances of Article 356 misuse and has consistently fulfilled its constitutional responsibilities. Notably, in ⁸**Rameshwar Prasad & Others vs Union of India (2006)**, the Supreme Court deemed the imposition of President's rule in Bihar unconstitutional. The last decade of the twentieth century saw a significant constitutional development with the establishment of local self-government through the 73rd and 74th constitutional amendments. These amendments introduced Panchayati raj institutions and municipalities as the third tier of democracy, effectively broadening the political base and democratizing governance. By engaging rural populations in local decision-making, these reforms allowed communities to have a voice in their affairs. A noteworthy aspect of these amendments is the mandatory reservation for marginalized groups, particularly women, significantly contributing to their empowerment. Elections for local bodies have become crucial indicators of state governments' grassroots support, compelling state politicians to pay attention to these institutions. Despite facing challenges, local bodies serve as vital training grounds for political participation and have played a key role in decentralizing what was previously a highly centralized polity.

CONCLUSION

The Indian Constitution embodies the key features of a federal system, ensuring that both the

8. AIR 1980, 104 SCR (1)456 1979 SCC(4) 368

central and state governments have the authority to legislate within their defined domains. Nevertheless, there are instances where the central authority holds supremacy, a provision explicitly stated in the Constitution. The role of an independent judiciary is crucial in this framework; it acts as the guardian of the Constitution, safeguarding against any overreach by either level of government. Over time, the interpretation of federalism in India has evolved, particularly as the political landscape shifted from a predominant one-party system to one characterized by coalition governments. Both governments operate simultaneously over the same populace and territory, so they must function with understanding and cooperation in modern times. However, conflicts sometimes arise between the Centre and state governments due to differing political ideologies. In today's era, governance should align with the needs of the common people, as it's unrealistic to expect that all 28 states are governed by the same party. It's evident that state parties may have ideologies different from the central party, which necessitates collaboration before decisions are made.

No policy or program can be effectively implemented without both governments working together to achieve constitutional goals. It is crucial for India to embrace the principle of cooperative or collaborative federalism, especially given the three levels of elected government, each accountable to their respective electorates. Critics of the Indian federal system often overlook that not only has the Federal Government in India been intentionally strengthened, but there are also centralizing tendencies present in other federal states around the world, including Switzerland, Australia, Canada, and the United States. It is imperative to conduct a thorough study of Indian Federalism to evaluate the trends, frictions, and challenges that have emerged in inter-governmental relations. This analysis can help identify strategies to enhance the robustness and functionality of the Indian federation, ensuring that the country can effectively address its goals of self-improvement and development. It is a constitutional obligation for each government to prioritize the welfare of the people. In light of changes such as globalization, technological advancements, and shifts in economic policy, it's essential for both the Union and state governments to work together, alongside local bodies, to address the common needs of the populace. The Indian judiciary has historically interpreted the Constitution to categorize India as a unitary nation. However, this perspective has recently evolved. The Supreme Court now acknowledges that the framers of the Indian Constitution aimed to establish a federal structure, while still maintaining a strong central government. This design was intended to ensure the integrity of the nation and prevent disintegration, reflecting a more nuanced understanding of India's federalism.