

Federalism in Constitution of India

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Abstract

Federalism is the distribution of power within an organization or, it is a type of government in which, the power is not only vested in the central government but rather, divided or shared among all the other governmental units. In the Indian system, it shows the relation between the Union and the States. Thus, sovereignty is split between two territorial levels so as to ensure their independence and equal distribution of power.

Introduction

The Government of India Act was passed by the British parliament in 1935 and came into effect in 1937. It was based on a report by a Joint Select Committee, led by Lord Linlithgow, set up the two houses of the British parliament.

The Government of India Act of 1935 provided for the establishment of an All-India Federation consisting of provinces and princely states as units. The Act divided the powers between the Centre and units in terms of three lists—Federal List (for Centre, with 59 items), Provincial List (for provinces, with 54 items) and the Concurrent List (for both, with 36 items). Residuary powers were given to the Viceroy. The provinces were allowed to act as autonomous units of administration in their defined spheres. Moreover, the Act introduced responsible or parliamentary governments in provinces, that is, the governor was required to act with the advice of ministers responsible to the provincial legislature.

The Government of India Act, 1935 was for strengthen the administrative frame. Ultimately this was transformed into a federal political system. The pursuing notice likes to be presented as:

Sovereignty in Indian history was crystallized in the main but was also partly diffused. Strong states were appreciably centralized but with some decentralising features in parts. This pattern of

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sovereignty not only allowed appreciably autonomies to groups and regions within the state but also visualized a complex interstate alliance system in the subcontinent in which the allies were the constituents of the sub-continental state. This was true of even strong sub-continental states like the Maurayas, the Mughals and the British. Feudal autonomies of the past as well as the earlier tradition of *ganasanghas* may be seen as precursors of the autonomy of state governments under the parliamentary federal constitutional system in India today.

The federal system of India is the parts of a subject of the historical interest. In contemporary India, the final outcome of federal system has unraveled through a long developmental process. A concise survey of different form of government with a monarch as the Supreme ruler or government of state affairs of earlier India had some convinced features which made easy their change into the polity of federalism. It can be observed interestingly that nearly most of the important periods of Indian history were indicated by a three types of frames which are as central, regional and local. But unmixed demarcation of these three types of frames does not form them federal. It may be employed for these types, the descent of powers through a series of changes frame the centre to the regions. This devolution of powers is placed on the jurisdiction which is contractually demarcated. Nevertheless, the decentralization may be degrees unfold into a federal decentralization.

Indian Constitution and Federal System

India after a long struggle was able to achieve its independence which is known to all. So, a number of historical, economic, socio-cultural and political forces conditioned the drafting of Indian constitution. The debates which happened in the Constituent Assembly disclose the adjustment and compromise that took place is any central discussion. To the members, the constitution which was proposed should provide enough property of suitability and responsiveness to the threats which come from outside. Along this, the constitution framers emphasized on the importance of the disrupting forces which were not highlighted during the critical process of history. In this matter, Paul Brass stated:

Indians constitution makers thought that they had good reasons to be fearful of disorder, even chaos, in the subcontinent as a consequence of the actions of a multiplicity of dangerous forces arising out of political movements associated with Muslim communalism, secessionism and revolutionary communism. Moreover, some of those forces were associated with acts of violence, revolutionary insurrection, extensive communal killings and war. The response of India's constitution makers to these threats and dangerous was to use them as a basis for framing a constitution with numerous provisions designed to deal effectively with the threat of disorder through the creation of a strong centralized state.

The Constitution of India is the supreme law of India. The document lays down the framework

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demarcating fundamental political code, procedures, powers and duties of government institutions and sets out fundamental rights, directive principles, and the duties of citizens. It imparts constitutional supremacy (not parliamentary supremacy, since it was created by a constituent assembly rather than Parliament) and was adopted by its people with a declaration in its preamble. Parliament cannot override the constitution.

It was adopted by the Constituent Assembly of India on 26 November 1949 and became effective on 26 January 1950. The constitution replaced the Government of India Act 1935 as the country's fundamental governing document, and the Dominion of India became the Republic of India. The constitution declares India a sovereign, socialist, secular, democratic republic, assuring its citizens justice, equality and liberty, and endeavours to promote fraternity. The original 1950 constitution is preserved in a helium-filled case at the Parliament House in New Delhi. The words 'secular' and 'socialist' were added to the preamble in 1976 during the Emergency.

From the starting time, the constitutional framers were busy to provide clear guideline to make India as strong Republican, Generally they emphasized on state and nation building why they felt about the importance of having a federal arrangement, and they compelled to keep India as unified and strong. For this, the centre has been given more powers with sharing of powers between the states and the centre. The prevalent political, social and economic circumstances of India right from the Indian independence can be focused too. The political situations were full of suspicious and despondency. The social relations endured vigorous changes. The governing systems of states were fully shattered. To solve of these situation, the constitutional makers emphasized on the creation of the situations of belief, hope, faith and commitment on which the Indian people always are in favour of democratic principles and ethos. Actually it seemed to be same to all the countries who got independent after a long struggle process.

The Indian federal settlement has been framed on the basis of the Government of India Act, 1935. For what in the matter of legislative relations, the states have been made less powerful. The centre on the other hand has been setup as in the directing place of the sphere of administrative relations. The state's most of the areas always depend on the centre excepting few members of states. The federal arrangement India has also become the witness of qualitative and quantitative changes while, the political aspects undergo changes with the time.

Since the Fourth General Elections, "the improvements can be quoted as the starting of a system of additional decentralization of powers which has gone beyond the frame of the India constitution." Like India's constitution, a constitution likes to get the features of what Austin has rightly said, "A vehicle for Social Revolution. Whether it is the goal of Indian constitution, then, it has to be flexible along with ready to respond with the changes."

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Despite this, the states are becoming very important and playing critical roles immediately after the beginning of coalition Politics in India. For this reason, there seems the important again to restructure the federal relations. The end of one dominant party system which is described by Rajni Kothari as 'Congress System', a new area of power sharing has emerged where the regional and local forces are in a greater position to demand the resources of the nation.

Nature of Indian Federalism

In a unitary form, the Centre has the sole administrative and legislative powers, whereas the states have very little autonomy. On the other hand, in a federal set-up, states which are formed on a linguistic or regional basis have various powers similar to that of the Central Government.

India doesn't follow a rigid form of the federal system. Truly unique in its nature, it is rather a blend of federal form and unitary form of government. However, it is important to note that even though the powers of the states are sovereign in nature along with the union, they do not coordinate with the Centre. In other words, it follows what is known as quasi-federalism.

Conclusion

The Constitution of India establishes a federal structure to the Indian government, it to be a "Union of States" under Article 1. Indian model of federalism is called the quasi-federal system as it contains major features of both a federal and unitary government.

There are many reasons why federalism was adopted in India. One of the most important factors were the vast size and diversity of the nation. India is a diverse nation in many senses, be it religious diversity, linguistic, regional or cultural. Thus, it would pose great difficulties in administration and governance to a unitary form of government and could eventually lead to a breakdown. Thus, there was the requirement of the system so designed to create harmony and prevent any action by the authorities which go beyond the purview of the constitution, by a system of check and balance.

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