



INDIAN FEDERAL SYSTEM



In lesson 5 dealing with Salient Features of the constitution of India you have learnt that the founding fathers of Indian Constitution adopted a Federal structures.

In a federal set up there is a two tier of Government with well assigned powers and functions. In this system the central government and the governments of the units act within a well defined sphere, co-ordinate and at the same time act independently. The federal polity, in other words, provides a constitutional device for bringing unity in diversity and for the achievement of common national goals.



Objectives

After studying this lesson, you will able to

- recall the nature of federalism ;
- explain why India adopted a federal set up ;
- recognize the federal features of the Indian Constitution ;
- recall the unitary features of the Indian federation ;
- justify the reason for a strong centre ;
- list the process of the central government and those of the governments of the states ;
- analyse that India is federal in character and unitary in spirit ;
- recognise the legislative, administrative (executive) and the financial relations between the centre and the units ;
- examine how the central government has an edge over the State governments ;
- recognise demand for autonomy by various state governments ; and
- assess the recommendation of the Sarkaria Commission and the need for co-operation between the Centre and the States.

8.1 Features of Indian Federalism

The Constitution of India has adopted federal features; though it does not, in fact, claim that it establishes a federation The question whether the Indian Constitution could be

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called a federal constitution troubled the minds of the members of the Constituent Assembly. This question cannot be answered without going into the meaning of federalism and the essential features that are evident in federal state. Let us examine them and try to find out whether India is a federation or not.

8.1.1 Written Constitution

The most important feature of a federation is that its constitution should be a written one, so that both the Union Government as well as the State can refer to that as and when needed. The Constitution of India is a written document and is the most elaborate Constitution of the world. It establishes supremacy of the Constitution because both the union and the states are given powers by the Constitution as to be independent in their spheres of governance.

8.1.2 Rigid Constitution

The procedure of amending the Constitution in a federal system is normally rigid. Indian Constitution provides that some amendments require a special majority. Such an amendment has to be passed by majority of total members of each house of the Parliament as well as by two-thirds majority of the members present and voting there in. However, in addition to this process, some amendments must be approved by at least 50% of the states. After this procedure the amendment is signed by the head of the state i.e; the President. Since in India important amendments can be amended through this procedure. Hence, Indian Constitution has been rightly called a rigid constitution.

8.1.3 Division of Powers

In our Constitution, there is a clear division of powers, so that the States and the Centre are required to enact and legislate within their sphere of activity and none violates its limits and tries to encroach upon the functions of the other. Our constitution enumerates three lists, viz. the Union, the State and the Concurrent List. The Union List consists of 97 subjects of national importance such as Defence, Railways, Post and Telegraph, etc. The State List consists of 66 subjects of local interest such as Public Health, Police etc. The Concurrent List has 47 subjects important to both the Union and the State. such as Electricity, Trade Union, Economic and Social Planning, etc.

8.1.4 Supremacy of the Judiciary

Another very important feature of a federation is an independent judiciary to interpret the Constitution and to maintain its sanctity. The Supreme Court of India has the original jurisdiction to settle disputes between the Union and the States. It can declare a law as unconstitutional, if it contravenes any provision of the Constitution.



Intext Questions 8.1

Fill in the blanks :

1. In a federation the powers are _____. (with the Centre/ with the State / Divided between the Centre and the States)
2. Federation has a _____ Constitution. (Written/ unwritten/evolved)



3. In the Indian Constitution there are _____ Lists. (2,3,4)
4. 66 subjects are included in the _____ List. (Union/State/Concurrent)
5. The concurrent list consists of _____ subjects. (97,47,66)

8.2 Nature of Indian Federation

In spite of the fact that the Indian Constitution establishes a federal structure, it is indeed very difficult to put the Indian Constitution in the category of a true federation. The framers of the Constitution have modified the true nature of Indian federation by incorporating certain non-federal features in it. These are :

Article I of the Constitution describes India as a 'Union of States', which implies two things: firstly, it is not the result of an agreement among the States and secondly, the States have no freedom to secede or separate from the Union. Besides, the Constitution of the Union and the States is a single framework from which neither can get out and within which they must function. The federation is a union because it is indestructible and helps to maintain the unity of the country.

The Centre appoints the Governors of the States and may take over the administration of the State on the recommendations of the Governor or otherwise. In other words, Governor is the agent of the Centre in the States. The working of Indian federal system clearly reveals that the Governor has acted more as centre's representative than as the head of the State. This enables the Union government to exercise control over the State administration. The control of the Union over states after the imposition of National Emergency.

The equality of units in a federation is best guaranteed by their equal representation in the Uppers House of the federal legislature (Parliament). However, this is not applicable in case of Indian States. They have unequal representation in the Rajya Sabha. In a true federation such as that of United State of America every State irrespective of their size in terms of area or population it sends two representatives in the upper House i.e. Senate.

In addition to all this, all important appointments such as the Chief Election Commissioner, the Comptroller and Auditor General are made by the Union Government. Besides, there is single citizenship. There is no provision for separate Constitutions for the states. The States cannot propose amendments to, the Constitution. As such amendments can only be made by the Union Parliament.

In order to ensure uniformity of the administrative system and to maintain minimum common administrative standards without impairing the federal system. All India Services such as IAS and IPS have been created which are kept under the control of the Union. In financial matters too, the States depend upon the Union to a great extent. The States do not possess adequate financial resources to meet their requirements. During Financial Emergency, the Center exercises full control over the State's finances.

In case of disturbances in any State or part thereof, the Union Government is empowered to depute Central Force in the State or to the disturbed part of the State. Also, the Parliament, by law may increase or decrease the area of any State and may alter its name and boundaries.

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The federal principle envisages a dual system of Courts. But, in India we have unified Judiciary with the Supreme Court at the apex.

The Constitution of India establishes a strong Centre by assigning all-important subjects to the Centre as per the Union List. The State Governments have very limited powers. Financially the States are dependent on the Centre

From the above discussion, it is clear, that there is a tilt in favor of the Centre at the cost of the States. The States have to work in close co-operation with the Centre. This has lent support to the contention that the Indian Constitution is federal in form but unitary in spirit. Constitutional experts have called it 'semi-federal' or 'quasi federal' system.



Intext Questions 8.2

Fill in the blanks :

1. The _____ may change the area of a State by law. (Parliament/ State Legislature/Municipal Corporation)
2. All Indian Services are under the control of _____. (Union Govt/State Govt/ District Govt.)
3. In a federation there is _____ representation in the upper house of Parliament. (unequal/equal/proportional)

8.3 Centre-State Relations

We have seen that the Constitution of India provides for a federal system. Both the Union and the State are created by the Constitution and derive their respective authority from it. Yet there is a criticism that India is a federal State but with unitary features. How far is this criticism valid? To understand this, it is desirable to study the relationship between the Union and the States.

The relations between the Centre and the states which constitute the core of federalism have been enumerated in Parts XI and XII of the Constitution under the heads, legislative, administrative and financial relations. Let us examine them one by one.

8.3.1 Legislative Relations

Regarding legislative relations, there is a threefold division of powers in the Constitution. We have followed a system in which there are two lists of legislative powers, one for the Centre and the other for the State, known as the Union List and the State List, respectively. An additional list called the Concurrent List has also been added.

The Union List which consists of 97 subjects of national interest is the largest of the three lists. Some of the important subjects included in this list are: Defence, Railways, Post and Telegraph, Income Tax, Custom Duties, etc. The Parliament has the exclusive power to enact laws on the subjects included in the Union List for the entire country.

The State List consists of 66 subjects of local interest. Some of the important subjects included in this List are Trade and Commerce within the State, Police, Fisheries, Forests, Industries, etc. The State Legislatures have been empowered to make laws on the subjects included in the State List.



The Concurrent List consists of 47 subjects of common interest to both the Union and the States. Some of the subjects included in this list are: Stamp Duties, Drugs and Poison, Electricity, Newspapers etc. Both the Parliament and the State Legislatures can make laws on the subjects included in this list. But in case of a conflict between the Union and the State law relating to the same subject, the Union law prevails over the State law. Power to legislate on all subjects not included in any of the three lists vests with the Parliament.

Under certain circumstances, the Parliament can legislate on the subjects mentioned in the State List.

8.3.2 Administrative Relations

The framers of the Indian Constitution never intended to create administrative co-operation and co-ordination between the centre and states.

The executive power of the State is to be exercised in such a way as to ensure compliance with the laws made by the Parliament. Further, the Union Executive is empowered to give directions to a State, if necessary, for the requisite purpose.

The Union Government can issue directions to the States to ensure compliance with the laws of the Parliament for construction and maintenance of means of communications, declared to be of national and military importance, and also on the measures for the protection of Railways. In addition to all this, the Parliament can alone adjudicate on inter-state river disputes. Also, a provision has been made for constituting an Inter- State Council to advise the president on inter-state disputes.

Even the State governments may delegate some of its administrative functions relating to the State subjects, to Union Government for a specified period.

The Constitution of India has certain special provisions to ensure uniformity of the administrative system. These include the creation of All India Services such as IAS and IPS and placing members of these services in key administrative positions in the states. The presence of All India Service Officers further paves way for the Central Government to exercise its authority and control over the states. The members of these services are recruited by the Centre but are appointed in the States. No disciplinary action can be taken against them by the State Governments without the permission of the Centre. The Constitution also makes provision for the creation of new All India Service by the Parliament on the recommendation of the Rajya Sabha. The President also puts the entire control of the state administrative machinery under the control of the Union which you will study in details while going through the lesson on emergency provisions.

You would also recall that the Union executive is empowered to give such directions to a state as it may appear necessary for the purpose to the Union Government. The Union Government has wide powers to issue directions based on the subjective view of the Union and may, therefore, interfere with the state autonomy in the field of administration. Ordinarily, the central police force and Army are posted to the states at the request of the State Government. However, there have been occasions when the CRPF or BSF have been deployed in states much against the state wishes of the State Government. Thus, the center plays a very important role in the administrative sphere of activity concerning the States.

8.3.3 Financial Relations

The distribution of financial resources is especially critical in determining the nature of the State's relationship with the Centre. Both the Union and the State have been provided with independent sources of revenue by the Constitution. The Parliament can levy taxes on the subjects included in the Union List. The States can levy taxes on the subjects in the State List. By and large taxes that have an inter-state base are levied by the Centre and those with a local base by the State.

The Union List consists of items of taxation which fall under the following categories:

- (i) Taxes levied by the Union but collected and appropriated by the State such as stamp duties and duties of excise on medicinal and toilet preparations etc.
- (ii) Taxes levied and collected by the Union but assigned to the States viz. railways, sea or air etc.
- (iii) Taxes levied and collected by the Central and may be distributed between the Central and the states if the Parliament by law so provides, such as union excise duties, excise on toilet preparations etc.
- (iv) Taxes levied and collected and retained by the Centre such as customs, surcharge on income tax etc.
- (v) Taxes levied and collected by the Centre and distributed between the union and the states such as taxes other than agriculture etc.

It is clear that in the financial sphere too the Centre is better equipped. The Centre can exercise control over the state finances and grants-in-aid both general and special to meet the expenditure on developmental schemes. During financial emergency, the President has the power to suspend the provisions regarding division of taxes between the Centre and the State. He can also impose other restrictions on the expenses of the State.

State plans are framed within the priorities of the central plan and they are executed with the approval of the Planning Commission. Further, the States have to carry out the centre-sponsored schemes for which the Centre gives grants and the conditions under which these are to be made. The Planning Commission has created an over-centralized planning system. No initiative is left to the states and the centrally formulated schemes have been inappropriately and unimaginatively imposed upon them.



Intext Questions 8.3

Fill in the blanks :

1. The Union List consists of _____subjects. (97/66/47)
2. Post and Telegraph is subjects in the _____List. (Union/State/Concurrent)
3. The _____can legislate on subjects in the State List when there is President's rule. (State Legislature/Parliament/Both of them)
4. Trade and Commerce is a subject with_____List. (Union/State/Concurrent)



8.4 Demand for Greater Autonomy for the States

The founding fathers of the Indian Constitution were deeply concerned about ensuring the unity and integrity of the country. They were aware of the forces of disruption and disunity working within the country. These dangers at the time of independence could be handled only by a strong government at the Centre.

Therefore, the framers of the Constitution assigned a predominant role to the Centre. At the same time they made provisions for the establishment of a co-operative federalism.

The working of the Indian federation during the last five decades clearly shows that the relations between the Centre and the States have not always been cordial.

The administrative Reforms Commission and several other Commissions were appointed by the Government of India from time to time to regulate Centre State relations. The Union Government appointed Sarkaria Commission to suggest ways and means to improve Centre-State relations.

The recommendations of the Sarkaria Commission assume importance so as to evolve an appropriate policy in the areas of legislative, administrative and financial relations. It has not suggested wholesale structural changes in the fundamental fabric of the Constitution. It felt that federalism is more a functional arrangement for co-operative action than a static institutional concept. The Commission strongly recommended the establishment of permanent Inter-State Council. In addition, it desired that both the Centre and the States should have the concern for the development of backward territory or areas. If the economic development of these backward regions are undertaken in a planned manner, the separatist tendencies will be automatically controlled. Differences between the Union and the States should be resolved by mutual consultation. It has taken a favourable view on the demand of the States to provide more financial resources at their disposal. In order to improve Centre-State relations in the country, it has suggested economic liberalization and suitable amendments to the Constitution.



Intext Questions 8.4

Fill in the blanks :

1. Proposal for amendment to the Constitution can be initiated only by _____ government.
2. The Indian Constitution is _____ federal.
3. States are demanding _____ autonomy.
4. _____-commission has submitted its report relating to centre-state relation.



What You Have Learnt

In a federal system of government there is a need for clear cut division of power between the Union and States. This also requires a written and rigid constitution and an independent

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judiciary to decide disputes between the Union and the States. Though the Indian Constitution has all such features of a federal state, it is indeed difficult to put the Indian Constitution in the category of true federations.

The framers of the Constitution have incorporated certain non federal features in it such as single citizenship, single judiciary, a strong centre, appointment of the Governor by the President, unequal of representation in the Rajya Sabha and so on. All these indicate a tilt towards strong centre. The states have to work in close co-operation with the centre. The constitution is federal in form but unitary in spirit. The study of Center-State relationship in legislative, administrative and financial spheres also clearly shows that the Centre is stronger as compared to the states. The Centre has been assigned a dominant role which became necessary keeping in view the dangers to the unity and integrity of the nation. Therefore, there are provisions for a co- operative federalism.

The working of the Indian Constitution over the year indicates that relations between the center and the States have not remained very co-ordinal. The states have started demanding more autonomy. Various commissions have been appointed by the Government of India to review the centre- state relations. The Sarkaria Commission examined the problem and recommended changes in the area of federal, legislative, administrative and financial relations.



Terminal Exercises

1. Discuss the unitary feature of the Constitution of India.
2. Write a short note on the legislative relations between the center and the states.
3. Describe the financial relations between the center and states.
4. Explain that the Indian Constitution is federal in form but unitary in spirit.



Answers to Inext Questions

8.1

Q.1. Divided between the center and the states

Q.2. Written

Q.3. 3

Q.4. State

Q.5. 47

8.2

Q.1. Parliament

Q.2. Union Government

Q.3 Unequal



8.3

Q.1. 97

Q.2. Union

Q.3. Parliament

Q.4. State

8.4

(1) Central

(2) quasi

(3) Greater

(4) Sarkaria

Hints of Terminal Exercises

1. Refer to Section 8.1

2. Refer to Section 8.2.1

3. Refer to Section 8.2.3

4. Refer to Section 8.1