

Federalism

[UPSC Notes]

What is Indian Federalism?

In actuality, whether the clear trend towards centralization is characteristic of most western governments or whether the federal aspects entrench or strengthen themselves as they have in Canada.

- These federal parts of the Constitution must dwindle away in a world of crisis. Even while the unitary ties have been strengthened in some ways, a review of how the Indian constitution has really operated over the past so many years would hardly support the claim that the schedule elements have completely “faded away”.
- In practice, two reasons have made our Constitution's unity tilt even more pronounced, leaving little room for Federalism. These two causes are:
 - The union's colossal financial power and the states' complete reliance on union grants to carry out their tasks, and
 - The Union Planning Commission's extensive reach was established under the Union's concurrent control over planning.
- However, the critique may not be supported in its entirety for two reasons:
 - The larger states are not permitted to use all of these resources, and the methodology of assignment and distribution of tax reserves by the Union (Articles 269, 270, and 272) results in the states' significant dependency on the Union. But if left alone, the bigger, stronger states might have overtaken the smaller ones weakening the unity of our country. These two measures of control are intended to ensure that the nation as a whole develops consistently.
 - Even in a nation like the United States, these dynamics actually reinforce the nation's government to a magnitude that the framers of the Constitution could never ever imagine. In fact, in the majority of federal countries today, cooperative Federalism has replaced the conventional principle of mutual independence of the two administrations, Central and state.

Federal Features of Indian Constitution

According to the Constitution, there is a dual polity with the Union at its core and the states at its periphery. It is bestowed with sovereign rights to be used in the particular areas the Constitution has delegated to them.

- The Constitution establishes the boundaries within which the federal and the state governments must work as well as their organizational structures, powers, and duties. As a result, it prevents miscommunication and conflicts between the two.

- According to the Union, State, and Concurrent list in the seventh schedule, the Constitution allocated the powers between the federal government and the states. The Constitution is the highest and most significant law in the country. The center's and the state's laws must adhere to its stipulations. As a result, the legislative, executive, and judicial branches of government at both levels must exercise their authority in accordance with the Constitution.
- The Supreme Court is the head of an autonomous judiciary system established by the Constitution to resolve differences between the Centre and the states or between the states.
- There are more topics on the union list and the state list. The union list now includes some more crucial topics. The concurrent list is under the exclusive control of the Centre. Also, the Centre has been given residuary powers.
- The Parliament may unilaterally modify the majority of the Constitution using either a basic majority or a special majority. Additionally, only the Centre has the authority to propose a constitutional modification.
- In times of crisis, the central government assumes absolute power, and the states are completely under its control. Without a formal revision of the Constitution, it transforms the federal system into a unified one.

7th Schedule of the Indian Constitution

The division of powers between the union and the states is addressed in the seventh schedule of Article 246 of the Constitution. Union List, State List, and Concurrent List are the three lists that are included.

Union list of Seventh Schedule

- The Union List is a list of 100 topics over which the Union or Centre government has exclusive authority.
- It is a list of issues of national significance about which only the central government has the authority to make judgments.
- The Union list includes topics of National concern such as banking, atomic energy, rail transportation, post, and foreign affairs.

State list of Seventh Schedule

- It is a list of 61 topics over which state legislatures have authority.
- The state legislature can enact laws and oversee the aforementioned subjects, to put it simply.
- The state list identifies the areas in which each state has jurisdiction, including civil safety, prisons, healthcare, the production, manufacture, transportation, marketing, and consumption of alcoholic beverages, as well as agricultural, fisheries, education and research, and state public services.

The concurrent list under Seventh Schedule

- The list of 47 topics on which both the Union and State legislatures have authority is known as the concurrent list.
- The Indian Constitution includes topics like population control and family planning, trade unions, industrial and labour conflicts, criminal process, precautionary imprisonment, criminal law, forests, and safeguarding of birds and wild animals to the concurrent list.

Residual Powers

- Simply expressed, residual powers are the authority to exercise jurisdiction over matters that are not included in the state or concurrent list.
- Over such matters, the union government has sole jurisdiction.
- The Union Parliament has the only authority to enact laws pertaining to any issue not included in the Concurrent List or the State List, according to Article 248 of the constitution.

Types of Federalism

The types of Federalism are as follows:

Cooperative Federalism

- Cooperative Federalism is a common practice of administrative cooperation between general and regional governments, the regional governments' partial reliance on payments from the general governments.
- The fact that general governments frequently encourage advancements in areas that are constitutionally reserved for the regions through the use of conditional grants.
- Consequently, the system of federal cooperation was established by the Indian Constitution. This is accomplished through the allocation of the Union's collected taxes, direct grants, or the distribution of plan money, which does not necessarily conflict with the idea of Federalism.
- In light of this, we prefer to refer to Indian Federalism as "cooperative Federalism," which "produces a powerful and influential central government. However, it does not always result in weak regional governments that are primarily administrative vehicles for national policy."

Competitive Federalism

- The idea of competitive Federalism is pushing the Indian states to hurriedly implement reforms to make it simple to conduct business in their state and hasten the approval of pending projects.
- As states typically compete with one another to obtain funding in this situation, the Centre government is solely responsible for establishing regulations in this type of free market.
- Depending on how the previously designated funds were used, the Union government distributes funds to the states.
- As a result, money and investments flow more freely to states that have made the best use of previously allotted funds, both from the central government and private companies.

Characteristics of Federal Government

The Indian Constitution gives both the Union and the State the authority to delegate executive tasks to one another with the other's approval. This harmonious, cooperative structure is not hindered by any concerns about the "surrender of sovereignty" by any one government to another.

- The Indian Constitution allows the federal government to have the power of a unitary system in times of emergency, despite the fact that the federal system is intended for use in regular circumstances.
- When a pronouncement of emergency is issued, the Union Executive's authority to issue directives to the state governments, which it is permitted to do in regular times, applies to all concerns, and the Union's legislative authority covers state subjects.
- The fact that India was able to stand as one man during the Chinese attack of 1962 or the Pakistan aggression of 1965, despite the federal structure, shows the appropriateness of these emergency laws in relation to external invasion, as distinguished from "internal turmoil."

Federalism at Risk

It is evident that the strong Central bias has helped to keep India united as separatist groups such as communalism and linguism struggle for control and cause chaos throughout the country. even after 50 years of the Constitution's operation, the mechanisms of central control.

1. It also demonstrates that the States are not actually acting as the Union Government's agents or following its directives, else events like those in Assam

- (over the language issue) or the territorial conflict between Karnataka and Maharashtra (over the Lingayat dispute) would not have been possible.
2. However, other states agree with the expansion of State political authority at the expense of the Union, arguing that given the current situation, a weakened Union poses a threat to both internal and external security.
 3. Though, the States agree in principle that if they are to effectively carry out their development projects within the State sphere under List II of the 7th Schedule, they should have more financial powers than those granted by the existing Constitution. The Morarji Desai Government (1977) tried to appease the States by granting significant grants through "Plan support," sometimes known as the "Desai award."
 4. Therefore, it should be emphasized once more that the Indian Constitution combines both Federalism and unitarianism. It is a novel sort of Union or composite State. It affirms the idea that "the national interest needs to be paramount despite Federalism."