

Federal Features of Indian Constitution

– Federalism in India

- Federalism refers to the institutional framework in which the powers are shared between the center and its constitutional parts which include the states and provinces.
- Generally, the Constitution can be either unitary or federal, depending on the powers and responsibilities attributed to the central and States.
- The nature of the Constitution can be defined by looking into the many powers and duties given to the States by the Constitution and interpreting the Constitution accordingly.

Federal System – Two Types of Federations

There are two kinds of federations in the case of India:

1. **Holding Together Federation-** Powers are shared between various constituent parts for the accommodation of diversity, like India.
2. **Coming Together Federation-** Independent states come together for the formation of a larger unit and states come to enjoy more autonomy. An example is the USA.

Features of the Federal System of India:

Some important features of the federal system of India include the following:

1. Dual government polity
2. Independence of Judiciary
3. Dual Citizenship
4. Bicameralism
5. Division of powers between various levels
6. Rigidity of the Constitution

Nature of the Indian Constitution:

- Indian constitution is federal in nature, there are differences of opinion along with jurists as to the nature of the Indian constitution.
- According to the framers of the Indian constitution, it is general in nature.
- However, K.C. Wheare says that it is quasi-federal a unitary state with subsidiary federal features rather than a federal state with subsidiary unitary features.
- Jennings stated it as a federation with a unitary tendency.
- The report on the central-state relations and the Sarkaria Commission reports have also nowhere mentioned that it is a federation constitution.
- The supreme court in the Kesavananda Bharti case merely mentioned that federal character is one of the basic features of the Indian Constitution.

Key Features of Federalism by the Supreme Court:

- Federalism is one of the methods of limiting the government.
- The Supreme Court enlisted the condition to fulfill by the constitution to be federal, given in the State of W.B. Union of India as,
 1. A contract or agreement between independent and sovereign units to surrender partially their authority in the common interest and vest it in a union and retain the residue of the authority in the constituent units. Generally, both central and state unit has their separate constitution by which it is governed in all matters except those which are subject to the union, and the Constitution of the union primarily operates upon the administration of the units.
 2. Supremacy of the Constitution. (The Constitution is no doubt supreme in India but it can be altered by the Parliament alone also).
 3. Distribution of powers between the union and the regional units each in its sphere coordinate and independent of the other. (There is no doubt a distribution of powers in

India but the distribution of powers is not the index of political sovereignty. The powers of the states in that sense are fettered by several restrictions.)

4. The supreme authority of courts to interpret the constitution and to invalidate actions violative of the constitution. A federal constitution consists of checks and balances of disputes and rights.

Key Features of Federalism under the Indian Constitution:

1. Division of Powers:

It is an essential feature of the federal constitution and division of power is done by the Constitution itself. The Constitution clearly demarcates and defines the power of the Union and the States.

Both governments are independent in their rights, powers, and jurisdiction.

e.g. In the Indian constitution subjects of national importance like defense, foreign affairs, currency, etc. fall under the domain of the center while subjects of local importance like land, water, and agriculture fall under the domain of the States.

2. Supremacy of the Constitution:

The Constitution is the main source of all the powers of the Executive, legislative, and judiciary.

All the institutions function under the control of the Constitution, they derived their existence from the Constitution. Supremacy is necessary for the smooth working of the federal government according to K.C. where.

3. Written Constitution:

The federal constitution must be specific and documented. Without a written constitution it is never possible to easily demarcate the division of powers between the Centre and the State.

Also, it would be impossible to maintain the supremacy of the Constitution without a written constitution. The establishment of federal polity is quite complex and therefore clarity must be in their constitution.

4. Rigid Constitution:

The rigidity of the Constitution renders amending the Constitution easy, as the written Constitution is rigid. It cannot be easily amended, and this is to maintain the supremacy of the Constitution. e.g. Amendments can be made by simple majority, special majority, or special majority plus ratification of the state.

5. Judiciary:

In federal states, it is natural that disputes may arise between the center and the state regarding the interpretation of the Constitution according to them. In this condition, it's necessary to have an institution or authority which can properly interpret the Constitution and adjudicate the dispute. The role of the judiciary thus assumes importance and the interpretation of the Constitution by the judiciary is binding on all the authorities.

6. Bi-Cameral Legislature:

India has a Bi-cameral legislature and it is an essential feature of federalism. In India bicameral legislature i.e. two houses in the Parliament of India i.e. Upper House (Rajya Sabha) and the lower house (Lok Sabha). For any amendment, the bill should be passed from both houses for enforcement of such amendments in law. Few states in India have also a bicameral legislature; Andhra Pradesh, Bihar, Karnataka, Maharashtra, Telangana, and Uttar Pradesh each have two houses Vidhan Sabha as the Upper House and Vidhan Parishad as the lower house. While the remaining states are unicameral legislatures.