

UNIT – II SYSTEM OF GOVERNMENT

2.2 Federal System in Indian Constitution, Merits and Demerits

Federalism is a system of government in which powers have been divided between the centre and its constituent parts such as states or provinces. It is an institutional mechanism to accommodate two sets of politics, one at the central or national level and the second at the regional or provincial level.

The topic of federalism is an important one concerning Indian polity. It is also in the news nowadays, especially with respect to the spats between the central and the state governments. Hence, the topic of federalism is extremely crucial for the IAS exam.

In the context of the Supreme Court's upholding of the government's abrogation of Article 370, the concept of federalism in India is under discussion once again. According to some critics, the Court's assertion that the President holds unbridled power to abrogate Article 370 contradicts the principles of federalism and constitutional democracy.

In a federation system, there are two seats of power that are autonomous in their own spheres. A federal system is different from a unitary system in that sovereignty is constitutionally split between two territorial levels so that each level can act independently of each other in some areas.

There are two kinds of federations:

1. **Holding Together Federation** – In this type, powers are shared between various constituent parts to accommodate the diversity in the whole entity. Here, powers are generally tilted towards the central authority. Example: India, Spain, Belgium.
2. **Coming Together Federation** – In this type, independent states come together to form a larger unit. Here, states enjoy more autonomy as compared to the holding together kind of federation. Example: USA, Australia, Switzerland.

Features of the Federal System of India

1. Dual government polity
2. Division of powers between various levels
3. Rigidity of constitution
4. Independence judiciary
5. Bicameralism

All federations might not have all the above features. Some of them may be incorporated depending on what type of federation it is.

Federalism in India

India is a federal system but with more tilt towards a unitary system of government. It is sometimes considered a quasi-federal system as it has features of both a federal and a unitary system. Article 1 of the Indian Constitution states, 'India, that is Bharat, shall be a **union of states**'. The word federation is not mentioned in the constitution.

Elements of federalism were introduced into modern India by the Government of India Act of 1919 which separated powers between the centre and the provincial legislatures.

Federal Features of the Indian Union

- Governments at two levels – centre and states
- Division of powers between the centre and states – there are three lists given in the Seventh Schedule of the Constitution which gives the subjects each level has jurisdiction in:
 - Union List
 - State List
 - Concurrent List
- Supremacy of the constitution – the basic structure of the constitution is indestructible as laid out by the judiciary. The constitution is the supreme law in India.
- Independent judiciary – the constitution provides for an independent and integrated judiciary. The lower and district courts are at the bottom levels, the high courts are at the state levels and at the topmost position is the Supreme Court of India. All courts are subordinate to the Supreme Court.

Significance of Indian federalism

Indian federalism is significant for several reasons:

Accommodation of diversity: Federalism in India allows for the accommodation of diversity by giving autonomy to states to govern their own affairs and address their unique needs and concerns.

Effective governance: A robust federal structure needs to be in place to deliver effective governance and to ensure that the diverse needs and interests of the states are represented in the decision-making process.

Promotion of democracy: Federalism promotes democracy by ensuring that power is decentralized and shared between different levels of government. This allows for greater participation and representation of citizens in the decision-making process.

Protection of rights: Federalism allows for more robust protection of individual and minority rights as state governments are better able to address the specific needs and concerns of their diverse populations and can tailor policies and legislation accordingly.

Unitary Features of the Indian Union

- **The flexibility of the Constitution** – the Constitution is a blend of flexibility and rigidity. Certain provisions of the Constitution can be easily amended. In case the amendments seek to change aspects of federalism in India, the provision to bring about such amendments is not easy.
- **More power vests with the Centre** – the constitution guarantees more powers with the Union List. On the Concurrent List subjects, the parliament can make laws that can override the laws made by a state legislature on some matters. The parliament can also make laws regarding certain subjects in the State List.
- **Unequal representation of states in the Rajya Sabha** – the representation of the states in the upper house is based on the states' populations. For example, Uttar Pradesh has 31 seats and Goa, 1 in the Rajya Sabha. In an ideal federal system, all the states should have equal representation.
- **The executive is a part of the legislature** – in India, the executive in both the centre and the states is a part of the legislature. This goes against the principle of division of powers between the different organs of the government.
- **Lok Sabha is more powerful than the Rajya Sabha** – in our system, the Lok Sabha is more powerful than the upper house and unequal powers to two houses is against the principle of federalism.
- **Emergency powers** – the centre is provided with emergency powers. When an emergency is imposed, the centre has increased control over states. This undermines the autonomy of the states.
- **Integrated judiciary** – the judiciary in India is integrated. There is no separate judiciary at the centre and the state levels.
- **Single citizenship** – in India, only single citizenship is available to citizens. They cannot be citizens of the state as well. This helps in increasing the feeling of nationality as it forges unity amidst regional and cultural differences. It also augments fundamental rights such as the freedom of movement and residence in any part of the nation.
- **Governor's appointment** – the governor of a state acts as the centre's representative in the state. The state government does not appoint the governor, the centre does.
- **New states formation** – the parliament has the power to alter the territory of a state by increasing or reducing the area of the state. It can also change the name of a state.
- **All India Services** – through the All India Services such as the IAS, IPS, etc. the centre interferes in the executive powers of the states. These services also offer uniformity in administration throughout the nation.
- **Integrated election machinery** – the Election Commission of India is responsible for conducting free and fair elections at both the centre and the state levels in India. The members of the EC is appointed by the president.
- **Veto over states bills** – The governor of a state can reserve certain kinds of bills for the president's consideration. The president enjoys absolute veto on these bills. He can even reject the bill at the second instance that is when the bill is sent after

reconsideration by the state legislature. This provision is a departure from the principles of federalism.

- **Integrated audit machinery** – the president of the country appoints the CAG who audits accounts of both the centre and the states.
- **Power to remove key officials** – the state government or state legislature does not have the authority to remove certain key government officials even at the state level like the election commissioner of a state, judges of the high courts, or the chairman of the state public service commissions.

Federal provisions under the Indian Constitution

Indian Constitution establishes dual polity (**Article 1 read with Part V and Part VI**) and the division of powers between them (**Article 246 read with the 7th Schedule**). The states have the same authority over the state list during ordinary times as the union has over the union list. **Part VI** of the Indian Constitution provides for the states of the Indian Union with independent constitutional existence.

Article 1	India, that is Bharat, shall be a union of states .
Article 79	Parliament is constituted with two chambers, namely the <u>Lok Sabha</u> and the <u>Rajya Sabha</u> . The Rajya Sabha is designed to function as a representative body for the states in the Indian federal system.
Article 131	The Supreme Court in India is independent and is the sole arbitrator of disputes between federal constituents of the centre and states.
Article 246	Distribution of legislative subjects between the Union and the State governments, listed under the union, the state, and the concurrent list.
Article 368	Provides for 2 types of amendment processes, making the Constitution of India a unique mixture of rigidity and flexibility. Also, the federal provisions of the Constitution can be amended with the concurrence of at least half of the state legislatures.

Indian federalism is called a quasi-federal structure because it exhibits features of **both federal and unitary systems** of government.

- The Constitution of India has a federal structure as it divides powers between the central government and the state governments.
- However, it also has certain unitary features that give the central government more power in certain situations.
- This blend of features makes the federal structure of the Indian Constitution more flexible and adaptable as per the needs.
- The **Chairman of the Drafting Committee, Dr. Ambedkar**, said that “**Our Constitution would be both unitary as well as federal according to the requirements of time and circumstances**”.