

FEDERALISM

UNIT -1

CHAPTER- 2

WHAT IS FEDERALISM ?

- Federalism is a system of government in which the power is divided between a central authority and various constituent units of the country. Usually, a federation has two levels of government.
- One is the government for the entire country that is usually responsible for a few subjects of common national interest.
- The others are governments at the level of provinces or states that look after much of the day-to-day administering of their state.
- Both these levels of governments enjoy their power independent of the other.

FEDERAL V/S UNITARY GOVERNMENT

FEDERAL GOVERNMENT

- There are usually two or in some countries, more than two levels of government who execute their authority independent of each other.
- In a federal system, the central government cannot order the state government to do something.
- State government has powers of its own for which it is not answerable to the central government.
- Both these governments are separately answerable to the people.

UNITARY GOVERNMENT

- Under the unitary system, either there is only one level of government or the sub-units are subordinate to the central government.
- The central government can pass on orders to the provincial or the local government.

FEATURES OF FEDERALISM

1. There are two or more levels (or tiers) of government.
2. Different tiers of government govern the same citizens, but each tier has its own JURISDICTION in specific matters of legislation, taxation and administration.
3. The jurisdictions of the respective levels or tiers of government are specified in the constitution. So the existence and authority of each tier of government is constitutionally guaranteed.

4. The fundamental provisions of the constitution cannot be unilaterally changed by one level of government. Such changes require the consent of both the levels of government.

5. Courts have the power to interpret the constitution and the powers of different levels of government. The highest court acts as an umpire if disputes arise between different levels of government in the exercise of their respective powers.

6. Sources of revenue for each level of government are clearly specified to ensure its financial autonomy.

7. The federal system thus has dual objectives: to safeguard and promote unity of the country, while at the same time accommodate regional diversity. Therefore, two aspects are crucial for the institutions and practice of federalism. Governments at different levels should agree to some rules of power-sharing. They should also trust that each would abide by its part of the agreement. An ideal federal system has both aspects : mutual trust and agreement to live together.

The exact balance of power between the central and the state government varies from one federation to another. This balance depends mainly on the historical context in which the federation was formed.

TYPES OF FEDERALISM

COMING TOGETHER

- The first route involves independent States coming together on their own to form a bigger unit, so that by pooling sovereignty and retaining identity they can increase their security.
- This type of 'coming together' federations include the USA, Switzerland and Australia.
- In this first category of federations, all the constituent States usually have equal power and are strong vis-à-vis the federal government.

HOLDING TOGETHER

- The second route is where a large country decides to divide its power between the constituent States and the national government.
- India, Spain and Belgium are examples of this kind of 'holding together' federations.
- In this second category, the central government tends to be more powerful vis-à-vis the States.
- Very often different constituent units of the federation have unequal powers. Some units are granted special powers.

WHAT MAKES INDIA A FEDERAL COUNTRY ?

- India had emerged as an independent nation after a painful and bloody partition. Soon after Independence, several princely states became a part of the country. The Constitution declared India as a Union of States. Although it did not use the word federation, the Indian Union is based on the principles of federalism.
- The Constitution originally provided for a two-tier system of government, the Union Government or what we call the Central Government, representing the Union of India and the State governments.
- Later, a third tier of federalism was added in the form of Panchayats and Municipalities. As in any federation, these different tiers enjoy separate jurisdiction. The Constitution clearly provided a threefold distribution of legislative powers between the Union Government and the State Governments.
- Thus, it contains three lists:

THE THREE LISTS OF SUBJECTS

UNION LIST

Includes subjects of national importance such as defence of the country, foreign affairs, banking, communications and currency.

They are included in this list because we need a uniform policy on these matters throughout the country.

The Union Government alone can make laws relating to the subjects mentioned in the Union List.

STATE LIST

Contains subjects of State and local importance such as police, trade, commerce, agriculture and irrigation.

The State Government alone can make laws relating to the subjects mentioned in the State List.

CONCURRENT LIST

Includes subjects of common interest to both the Union Government as well as the State Governments, such as education, forest, trade unions, marriage, adoption and succession.

Both the Union as well as the State Governments can make laws on the subjects mentioned in this list.

If their laws conflict with each other, the law made by the Union Government will prevail.

What about subjects that do not fall in any of the three lists?

Subjects like computer software that came up after the constitution was made? According to our constitution, the Union Government has the power to legislate on these 'residuary' subjects.

MORE FEATURES OF FEDERALISM IN INDIA

SPECIAL POWERS TO SOME STATES

Some States enjoy a special status. Jammu and Kashmir has its own Constitution. Many provisions of the Indian Constitution are not applicable to this State without the approval of the State Assembly. Indians who are not permanent residents of this State cannot buy land or house here.

There are some units of the Indian Union which enjoy very little power. These are areas which are too small to become an independent State but which could not be merged with any of the existing States. These areas, like Chandigarh, or Lakshadweep or the capital city of Delhi, are called Union Territories. These territories do not have the powers of a State. The Central Government has special powers in running these areas.

CENTRE -STATE RELATIONS

This sharing of power between the Union Government and the State governments is basic to the structure of the Constitution. It is not easy to make changes to this power sharing arrangement.

The Parliament cannot on its own change this arrangement. Any change to it has to be first passed by both the Houses of Parliament with at least two-thirds majority. Then it has to be ratified by the legislatures of at least half of the total States.

ROLE OF JUDICIARY

The judiciary plays an important role in overseeing the implementation of constitutional provisions and procedures.

In case of any dispute about the division of powers, the High Courts and the Supreme Court make a decision.

The Union and State governments have the power to raise resources by levying taxes in order to carry on the government and the responsibilities assigned to each of them.

HOW IS FEDERALISM PRACTICED IN INDIA ?

LINGUISTIC STATES

LANGUAGE POLICY

CENTRE - STATE RELATIONS

LINGUISTIC STATES

- The creation of linguistic States was the first and a major test for democratic politics in our country. If you look at
- the political map of India when it began its journey as a democracy in 1947 and that of 2017, you will be surprised by the extent of the changes. Many old States have vanished and many new States have been created. Areas, boundaries and names of the States have been changed.
- In 1947, the boundaries of several old States of India were changed in order to create new States. This was done to ensure that people who spoke the same language lived in the same State. Some States were created not on the basis of language but to recognise differences based on culture, ethnicity or geography. These include States like Nagaland, Uttarakhand and Jharkhand.
- When the demand for the formation of States on the basis of language was raised, some national leaders feared that it would lead to the disintegration of the country. The Central Government resisted linguistic States for some time. But the experience has shown that the formation of linguistic States has actually made the country, more united. It has also made administration easier.

LANGUAGE POLICY

- Our Constitution did not give the status of national language to any one language. Hindi was identified as the official language. But Hindi is the mother tongue of only about 40 per cent of Indians. Therefore, there were many safeguards to protect other languages. Besides Hindi, there are 21 other languages recognised as Scheduled Languages by the Constitution. A candidate in an examination conducted for the Central Government positions may opt to take the examination in any of these languages. States too have their own official languages. Much of the government work takes place in the official language of the concerned State. Unlike Sri Lanka, the leaders of our country adopted a very cautious attitude in spreading the use of Hindi. According to the Constitution, the use of English for official purposes was to stop in 1965.
- However, many nonHindi speaking States demanded that the use of English continue. In Tamil Nadu, this movement took a violent form. The Central Government responded by agreeing to continue the use of English along with Hindi for official purposes. Many critics think that this solution favoured the Englishspeaking elite.
- Promotion of Hindi continues to be the official policy of the Government of India. Promotion does not mean that the Central Government can impose Hindi on States where people speak a different language.

CENTRE- STATE RELATIONS

- For a long time, the same party ruled both at the Centre and in most of the States. This meant that the State governments did not exercise their rights as autonomous federal units. As and when the ruling party at the State level was different, the parties that ruled at the Centre tried to undermine the power of the States. In those days, the Central Government would often misuse the Constitution to dismiss the State governments that were controlled by rival parties. This undermined the spirit of federalism.
- All this changed significantly after 1990. This period saw the rise of regional political parties in many States of the country.
- This was also the beginning of the era of COALITION GOVERNMENTS at the Centre. Since no single party got a clear majority in the Lok Sabha, the major national parties had to enter into an alliance with many parties including several regional parties to form a government at the Centre.
- This trend was supported by a major judgement of the Supreme Court that made it difficult for the Central Government to dismiss state governments in an arbitrary manner. Thus, federal power sharing is more effective today than it was in the early years after the Constitution came into force.

DECENTRALIZATION IN INDIA

- When power is taken away from Central and State governments and given to local government, it is called decentralisation.
- The basic idea behind decentralisation is that there are a large number of problems and issues which are best settled at the local level. People have better knowledge of problems in their localities. They also have better ideas on where to spend money and how to manage things more efficiently. Besides, at the local level it is possible for the people to directly participate in decision making.
- This helps to inculcate a habit of democratic participation. Local government is the best way to realise one important principle of democracy, namely local self-government.

A MAJOR STEP TAKEN IN 1992 TO DECENTRALIZE INDIA :

- Now it is constitutionally mandatory to hold regular elections to local government bodies.
- Seats are reserved in the elected bodies and the executive heads of these institutions for the Scheduled Castes, Scheduled Tribes and Other Backward Classes.
- At least one-third of all positions are reserved for women.
- An independent institution called the State Election Commission has been created in each State to conduct panchayat and municipal elections.
- The State governments are required to share some powers and revenue with local government bodies. The nature of sharing varies from State to State.

STRUCTURE OF DECENTRALIZED GOVERNMENT IN INDIA

- Rural local government is popularly known by the name panchayati raj. Each village, or a group of villages in some States, has a gram panchayat. This is a council consisting of several ward members, often called panch, and a president or sarpanch. They are directly elected by all the adult population living in that ward or village. It is the decision-making body for the entire village.
- The panchayat works under the overall supervision of the gram sabha. All the voters in the village are its members. It has to meet at least twice or thrice in a year to approve the annual budget of the gram panchayat and to review the performance of the gram panchayat.
- The local government structure goes right up to the district level. A few gram panchayats are grouped together to form what is usually called a panchayat samiti or block or mandal. The members of this representative body are elected by all the panchayat members in that area. All the panchayat samitis or mandals in a district together
- constitute the zilla (district) parishad. Most members of the zilla parishad are elected. Members of the Lok Sabha and MLAs of that district and some other officials of other district level bodies are also its members. Zilla parishad chairperson is the political head of the zilla parishad.
- Similarly, local government bodies exist for urban areas as well. Municipalities are set up in towns. Big cities are constituted into municipal corporations. Both municipalities and municipal corporations are controlled by elected bodies consisting of people's representatives. Municipal chairperson is the political head of the municipality. In a municipal corporation such an officer is called the mayor.

THANKYOU