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# Concept of Federation and Centre and State Relation

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DR. ARUN SHRIVASTAVA<sup>1</sup> AND DR. FARHAT JABEEN<sup>2</sup>

## ABSTRACT

*The concept of federation refers to a governance system where authority is constitutionally divided between a central government and regional entities like states or provinces. This division ensures a balance of power and autonomy, accommodating diversity while upholding unity. Each region has the ability to govern itself in specific areas while still being part of a single nation. Centre-State relations are essential in any federation, shaping how these two levels of government interact, cooperate, and share responsibilities. These relations involve legislative, administrative, and financial dimensions, which are crucial for the effective functioning of a federal system. A clear and cooperative Centre-State relationship enhances national integration, facilitates efficient governance, and helps prevent conflicts. However, tensions can emerge when one government level seeks to dominate or override the other, highlighting the necessity for a well-defined constitutional framework and an impartial judiciary that can interpret and resolve disputes effectively.*

## I. INTRODUCTION

The concept of federation emphasizes the sharing of power among various levels of government within a unified political framework. In a federal system, sovereignty is divided constitutionally between a central authority and regional entities like states or provinces. This division ensures that each government tier operates independently within its designated area, facilitating both national cohesion and regional self-governance. In such systems, Centre-State relations encompass the interactions and legal frameworks that define the connection between the national and state governments. These relations are essential for ensuring harmony, coordination, and effective administration across the nation. They primarily focus on three areas: legislative relations (concerning law-making authority), administrative relations (related to the execution of laws and policies), and financial relations (involving the distribution of resources and revenue).

The effectiveness of Centre-State relations significantly influences the overall success of a

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<sup>1</sup> Author is an Assistant Professor and Professor Incharge at Bihar Institute of Law, Patna, Bihar, India.

<sup>2</sup> Author is the Dean at Faculty of Law, Patliputra University and Director at Bihar Institute of Law, Patna, Bihar, India.

federal system. A balanced relationship encourages cooperative federalism, while any disparities can result in conflicts, inefficiencies, or political tensions. India has always functioned as a federation, with power distributed among various state governments and the central government. While India is more centralized compared to other federations like the United States, it has never operated as a unitary state as seen in countries like France or the United Kingdom. The Indian Constitution does not explicitly address the concept of federalism; instead, it is the distribution of power between the center and the states that shapes the country's federal character.

Modern federations differ significantly from traditional confederations, which date back to the establishment of the American Constitution in 1787. The American colonies sought a more robust national government than was possible under the 1781 Articles of Confederation, which created a loose alliance among the states. This shift marked a significant evolution in the concept of federal government, moving towards a structure that allows for greater authority at the national level while still accommodating the states' rights.

Therefore, a comprehensive understanding of federation and its real-world implications through Centre-State relations is crucial for assessing how well a federal democracy operates.

## **II. RELATION BETWEEN CENTER AND STATE**

Centre-State relations are fundamental to the functioning of federalism in India, significantly impacting the nation's political landscape. These relations can be categorized into three key types:

1. **Legislative Relations:** This framework is outlined in Chapter I of Part XI of the Constitution of India, 1950. It details the distribution of law-making powers between the Centre and the States, establishing the legislative jurisdiction of both levels of government.
2. **Administrative Relations:** Covered in Chapter II of Part XI of the Constitution, these relations focus on the execution and implementation of laws and policies. They define how the Centre and States interact in administrative functions and the responsibilities of each tier in governance.
3. **Financial Relations:** Found in Part XII of the Constitution, financial relations pertain to the allocation of resources and revenues between the Centre and the States. This section lays down the principles governing financial transfers and grants that support the functioning of both levels of government. Understanding these three types of

Centre-State relations is crucial for comprehending the dynamics of federalism in India and its implications for governance and political stability.

### **III. TYPES OF CENTRE STATE RELATION**

Part XI of the <sup>3</sup>Indian Constitution focuses on center-state relations, addressing aspects related to legislative and administrative connections. In contrast, Part XII deals with financial relations, outlining the financial dealings between the central government and the states.

#### **LEGISLATIVE RELATIONS**

Articles 245-255 of the Indian Constitution outline the legislative relations between the Union (Parliament) and the states (state legislatures).

These articles define the scope of legislative powers, establishing that Parliament has overriding authority in certain matters. They also address the subjects available for legislation, the resolution of inconsistencies between state and national laws, and the allocation of residual powers.

Additionally, Schedule VII categorizes the subjects into the Union List, State List, and Concurrent List, clarifying the distribution of legislative responsibilities.

#### **ADMINISTRATIVE RELATIONS**

Articles 256-263 of the Indian Constitution address the administrative ties between the Central and state governments. While India is federal in structure, it also exhibits unitary traits, necessitating that states comply with national laws. <sup>4</sup>The concept of cooperative federalism, advocated by the Sarkaria Commission, seeks to enhance the relationship between the two levels of government, promoting collaboration and coordination in governance.

#### **FINANCIAL RELATIONS**

Part XII, encompassing Articles 264-293, regulates the financial relations between the Center and the states in India. The federal structure necessitates a division of tax powers, with the Central government responsible for allocating funds to the states. Schedule VII delineates the taxation powers and includes regulations concerning levies, grants, and surcharges. A significant example of this taxation framework is the Goods and Services Tax (GST), which is designed to streamline tax collection and improve compliance across the country.

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<sup>3</sup> K.C. Wheare, *Federal Government* (4<sup>th</sup> edition 1963)

<sup>4</sup> A.V. Dicey, *Law of the Constitution* (10<sup>th</sup> edition)

## **EVOLVING FEDERAL RELATION**

The concept of federal relations is not static; it evolves in response to political, social, economic, and legal developments within a country. Evolving federal relations refer to the gradual transformation and adjustment in the interaction between the central and state governments in a federal system, reflecting changing national priorities, regional aspirations, and governance challenges.

Federal relations are continually reshaped by the dynamics of governance, policy needs, and democratic pressures. The evolution from centralized authority to cooperative and competitive federalism marks a significant trend in modern federal systems. A responsive, inclusive, and balanced federal structure is essential for sustaining democratic values, ensuring equitable development, and addressing the diverse needs of a nation.

## **IV. CHALLENGES AND SOLUTIONS**

While India's federal system leans towards a strong Centre, regional demands for autonomy and development have led to a more accommodative approach. The supplement of the third tier of local self-government has decentralized power and reinforced federalism. However, challenges persist, such as political bias impeding cooperation between the Centre and states, political partisanship presents significant challenges. Utilizing inter-governmental institutions like the Inter-State Council and the GST Council can help resolve disputes and promote effective governance. Federalism entails the division of constitutional and political power to enable governance at two levels, with the possibility of including local governments within a state. The power division between the federal and state governments, ensuring autonomy for each, is a fundamental aspect of any federal system. The Indian Constitution's Seventh Schedule consists of three legislative lists-the Union List, the Concurrent List, and the State List-delineating the powers of Parliament, state legislatures, and both simultaneously. Notably, the independent judiciary plays a crucial role in interpreting the Constitution and upholding constitutional ideals.

## **V. FEDERALISM IN INDIAN CONSTITUTION**

The design of the Indian Constitution is predominantly federal in nature, yet several aspects raise questions about its genuine federal characteristics. One of the critical areas of concern is the provision that allows the Centre to assume overriding powers during emergencies, specifically under Article 352. During such times, the Central Government can issue directives regarding the execution of powers at the State level and, if deemed necessary, even

take control of a State Government. This assertion of central authority can blur the lines of federalism. For instance, in the case of <sup>5</sup>**State of Rajasthan v Union of India**, the Constitution was characterized as being more unitary than federal. This reflects a tension inherent in the structure, where the necessity for national progress and development often leads to a dilution of federal principles. Additionally, the Centre's ability to legislate on subjects in the Concurrent List further complicates this balance, leading to situations where central legislation can override state laws. This tendency toward centralization can impede the autonomy of State Governments, undermining the federal spirit enshrined in the Constitution.

Ultimately, while the Indian Constitution maintains the framework of federalism, the exercising of extraordinary powers and legislative supremacy of the Centre during emergencies significantly impacts the practical application of federal principles in the nation. This ongoing dynamic illustrates the complex relationship between the Centre and the States, shaped by the demands of governance and development in a diverse country like India.

In the case of <sup>6</sup>**Karnataka v Union of India**, the Supreme Court upheld the Centre's authority, further emphasizing the strong unitary features of the Indian Constitution. This decision reaffirmed the notion that while India is structured as a federal system, there are significant provisions that allow for central dominance, especially when it comes to maintaining national integrity and addressing broader governance challenges. The ruling illustrated the extent to which the Centre can exert its powers over states, particularly in scenarios where the stability of the nation is perceived to be at risk. This aligns with the provisions in the Constitution that enable the Centre to intervene in state matters under certain circumstances, reinforcing the idea that the federal structure can tilt towards unitary governance when necessary. Such cases reflect the ongoing debate regarding the balance of power between the Centre and states. While the federal design is intended to provide autonomy to various regions, instances like **Karnataka v Union of India** spotlight the unitary aspects that can emerge, especially during times when the Centre deems it imperative to exercise greater control for the sake of national unity and progress. This highlights the adaptability of the Constitution in meeting the challenges posed by India's complexity and diversity.

## **VI. UNDERSTANDING CONSTITUTIONAL AMENDMENT AND FEDERALISM IN INDIA**

In India, the process of constitutional amendments is complex and multi-layered. There are three categories of amendments under the Indian Constitution: the first category requires a

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<sup>5</sup> 1977 AIR 1361, 1978 SCR (1) 1

<sup>6</sup> 1978 AIR 68, 1978 SCR (2) 1, AIR 1978 SUPREME COURT 68, 1977 4 SCC 608, 1978 2 SCR 1, 1978 2 SCJ 190

simple majority, the second requires a special majority, and the third necessitates ratification by one-half of state legislatures in addition to a special majority.

These rules are outlined in Article 368 of the Constitution. A bill proposing an amendment can be introduced in either House of Parliament or as a Private Member Bill. The Supreme Court took over two decades and involved nineteen judges to delineate the scope and nature of constitutional amendments under Article 368. The landmark case of *Kesavananda Bharati v. State of Kerala* was pivotal in interpreting the meaning of the word 'amendment' and the extent of Article 368. However, the 39th Amendment posed challenges to these definitions by introducing legislative judgments like Acts of Attainder or Princely Firmans as constitutional amendments. Article 368 itself was amended to incorporate the term 'constituent power,' representing the combined superpower of the legislative, executive, and judiciary branches in amending the Constitution. The case of <sup>7</sup>*Indira Gandhi v. Raj Narain* was significant as it scrutinized the amended Article 368 for the first time under Chief Justice Ray. This case emphasized that judicial power is exclusively vested in the courts and should not be shared with the executive. The interpretation of 'constituent power' was criticized as extreme and potentially contrary to the Constitution's objectives, as it risked rendering Article 368 completely unamendable.

## **VII. FEDERALISM IN DEMOCRATIC COUNTRIES**

### **USA**

In the context of the United States, federalism plays a crucial role in shaping the political landscape and the functioning of democracy. The U.S. Constitution, established in 1787, outlines the framework of federalism by distributing powers between the national government and the individual states. The Tenth Amendment further emphasizes this division by stating that powers not delegated to the federal government are reserved for the states or the people. This structure allows for a balance of power, enabling states to exercise authority in various areas such as education, transportation, and public safety, while the federal government manages issues of national importance like defence and immigration. One of the key advantages of federalism in the U.S. is that it encourages political participation. Citizens can engage with both state and federal levels of government, providing them more opportunities to influence policies that affect their lives directly. States can also serve as "laboratories of democracy," experimenting with different policies and programs that can be adopted by other states or at the federal level if they prove successful. However, federalism also presents

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<sup>7</sup> 1975 AIR 1590, 1975 SCC (2) 159, AIR 1975 SUPREME COURT 1590, 1975 2 SCC 159

challenges. Conflicts can arise when state laws contradict federal laws, leading to complex legal disputes. Additionally, disparities in resources and governance between states can result in unequal access to services and opportunities for citizens, highlighting the ongoing debates about the balance of power and equity within the federal system. In conclusion, federalism in the USA is a defining feature of its democratic framework. It promotes local governance, encourages civic engagement, and allows for diversity in policy-making, all while navigating the complexities of a multi-tiered government system.

## **CANADA**

Federalism in democratic countries, particularly in Canada, plays a crucial role in governance and the distribution of power. Canada operates under a federal system where powers and responsibilities are divided between the national government and the provinces. This structure allows for a balance of power, enabling regional governments to address local issues while still aligning with national policies. One key aspect of Canadian federalism is its recognition of the unique cultural and linguistic diversity of the provinces. For instance, Quebec has a distinct status due to its French-speaking population, reflecting the country's commitment to bilingualism and multiculturalism.<sup>8</sup> This diversity is enshrined in the Constitution Act of 1867, which outlines the powers of both levels of government. Additionally, Canada's federal system allows for various policies and approaches tailored to the needs of different regions. This can lead to innovation and experimentation in governance, as provinces may implement different solutions to common problems such as healthcare, education, and environmental issues. However, federalism also presents challenges, notably the potential for conflict between provincial and federal authorities. Disputes over jurisdiction can arise, often requiring negotiation and compromise. Overall, the dynamic of federalism in Canada underscores the importance of collaboration in a diverse democracy, fostering a sense of unity while respecting regional autonomy.

## **GERMANY**

Federalism in democratic countries, particularly in Germany, is characterized by a division of powers between the central government and regional states, known as *Bundesländer*. This structure allows for a balance between national unity and regional autonomy, enabling local governments to address specific needs of their populations while adhering to national laws. In Germany, the Basic Law established federalism after World War II, aiming to prevent the centralization of power that had contributed to past authoritarian regimes. The federal system

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<sup>8</sup> HM Seervai, *Constitutional Law of India*, vols. 1-3

gives the Bundesländer significant political authority, including their own parliaments and government structures, which allows them to legislate on various issues such as education, law enforcement, and cultural affairs. The Bundesländer also participate in the federal legislative process through the Bundesrat, the federal council, which represents their interests at the national level. This ensures that regional voices are heard in the federal decision-making process and helps maintain a balance of power. Moreover, federalism in Germany fosters diversity and adaptability, allowing different states to implement policies that suit their unique socio-economic conditions. This system has proven effective in accommodating the needs of a diverse populace while promoting stability and democracy within the country.

### **VIII. DISPUTE BETWEEN CENTRE AND STATE**

In India, numerous rivers flow across state borders, leading to disputes over their regulation and development. These disputes concern water utilization, control, and distribution from inter-state rivers for purposes like irrigation and power generation. In the <sup>9</sup>Indian Constitution, water-related issues within a single state fall under the State List, while matters related to inter-state river waters are placed in the Union List.

Recognizing the persistent nature of these river water disputes, the framers of the Constitution exclusively vested the authority to address them in Parliament. As a result, Parliament has the authority to enact laws for resolving disputes or complaints regarding the use, distribution, or control of such waters. In 1956, Parliament enacted the Inter-State Water Disputes Act, establishing tribunals responsible for adjudicating water disputes referred to them.

### **IX. ANALYSIS OF MECHANISM AND ROLE OF SUPREME COURT**

If we approach the discussion from the perspective of the constituent assembly, it likely would have favoured the inter-state council route, as outlined in Article 263, due to the straightforward process for establishing these councils via a presidential resolution. Unfortunately, this avenue has not been utilized effectively. Given that legal mechanisms often fall short in resolving water disputes, this platform should have been leveraged more extensively. On the other hand, Zonal Councils were established as an extra-constitutional mechanism through the State Reorganization Act of 1956. A major aim behind their creation was to mitigate the adverse effects of state reorganization, particularly related to water disputes. The then Home Minister, G V Pant, highlighted the point that "rivers know no linguistic boundaries." Despite this intention, not a single dispute has been referred to these councils. In terms of legal doctrine, Article 131 grants original jurisdiction to the Supreme

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<sup>9</sup> De Smith, *Constitutional and Administrative law* (2<sup>nd</sup> ed, 1973)

Court; this was the primary avenue for resolving disputes until 1956. With the enactment of the Interstate Water Disputes Act in that year, water disputes were excluded from the Supreme Court's jurisdiction. Nevertheless, the Supreme Court continues to act as an arbiter in such matters through Article 136, which allows for special leave petitions.

The approach of states to challenge tribunal judgments in the Supreme Court often renders the entire tribunal process ineffective, leading to unnecessary wastage of public funds. Instead of resolving disputes efficiently, this trend creates additional burdens on both the judicial system and taxpayers. Moreover, the Supreme Court faces its own challenges, with a significant backlog of appeals already overwhelming its capacity. The court's foray into activism can detract from its core responsibilities, further exacerbating the issue of case pendency. It's important to highlight that the special leave petition is intended to be an exceptional remedy, meant for rare circumstances. However, it has become almost routine, leading to a situation where over 30,000 special leave petitions are presently pending in the Supreme Court. This not only dilutes the significance of the special leave petition process but also contributes to the overall congestion within the judicial system.

## **X. CONCLUSION**

India's federal system, enshrined in the Constitution, is a nuanced balance between central authority and regional autonomy. Despite various challenges, this federal structure has shown resilience in adapting to diverse interests and aspirations. In a federal system, the process of constitutional amendments is essential for keeping the Constitution relevant and effective in a changing society. By balancing adaptability with stability, these amendments help maintain the longevity and vitality of both the Constitution and the country. Thoughtful and prudent amendments are pivotal in upholding and strengthening the principles of federalism. Federalism serves as a cornerstone of governance in India, firmly established in the supreme Constitution. Important features of federalism include the division of powers, constitutional supremacy, a written constitution, rigidity, an independent judiciary, and a bi-cameral legislature. These elements highlight the significance of federalism in ensuring a fair distribution of authority between the center and the states. Understanding the interplay of constitutional amendments and federalism in India is crucial to preserving the balance of power and maintaining the integrity of the Constitution. While the Indian Constitution is regarded as federal, the exceptional powers vested in the Center and instances of its oversight over states reflect a strong unitary aspect. Despite ongoing challenges to federalism, the Constitution seeks to strike a balance between center-state dynamics, fostering the overall

progress and development of the nation.

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