
INDIAN FEDERAL STRUCTURE: A BALANCED MODEL OF UNITARY AND FEDERAL

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ABSTRACT

It is said that India is federal in structure but unitary in spirit and substance. As a result, it has been given the name "quasi-federal system," which is a hybrid of the federal and unitary systems. India is the only country with this kind of system, and the country's government has been adapted and changed to fit the country's needs and environment. The Indian federal structure is the subject of this paper. In addition, it will provide an analysis of the various unitary and federal characteristics of the Indian structure.

Keywords: Federalism, Unitary Government, Quasi-Federalism, Cooperative federalism, Features of Constitution.

I. INTRODUCTION

India has a federal structure and is a "union of states." As a result, it has been called a "quasi-federal" system rather than a "true" federal or unitary system. A power divide between the central government and the states is created by this kind of system. There is evidence that the Central or Union government is in control and has more authority than the state governments. Additionally, it operates under a parliamentary government.

India's federal system can be traced back to the British era.¹ During the British era, unitary government, similar to the UK's structure, was used. However, the British ultimately concluded that India's vast diversity and diverse cultures and systems made this model unsuitable for the country. The unitary government model is inefficient and ineffective for maintaining stability. The British decided to introduce the idea of federalism to India as a solution to this dilemma.

Part II of the Government of India Act of 1935 contained a provision for federalism.² However, the structure and concept of federalism were abandoned during the Second World War. After independence, the Indian Independence Act of 1947 included the idea of federalism as part of the basic structure.³ However, Dr. Ambedkar argued that the partition should have given the central government more power than the previous Acts had given it.⁴ It was also well-established that the Constitution's authors needed to use a federal structure of government while keeping a powerful central government. As a result, the Constitution itself contained it. According to K.C. Wheare, the Indian Constitution is quasi-federal in nature and neither entirely federal nor entirely unitary.⁵

II. ANALYSIS OF GOVERNMENT STRUCTURE IN INDIA

The federal model of government and the unitary model of government differ significantly. In a federal system, the central government is in charge of the powers; in a unitary system, the powers are split between the central government and the state governments, forming a relationship between the central government and the states. In addition, politics takes

¹ Rajashekara, H. M. (1997). The Nature of Indian Federalism: A Critique. *Asian Survey*, 37(3), 245–253. <https://doi.org/10.2307/2645661>

² Dash, S. P. (2007). INDIAN FEDERALISM & DISTRIBUTION OF RESPONSIBILITIES. *The Indian Journal of Political Science*, 68(4), 697–710. <http://www.jstor.org/stable/41856368>

³ Ibid

⁴ Constituent Assembly Debates, Vol IV, Pt. 741.

⁵ Wheare, K.C., 1946. *Federal government*/KC Wheare. London; New York: H. Milford; Oxford University Press, 1946.

precedence in the unitary model, whereas the state constitution holds precedence in the federal model.⁶ The history of the UK government demonstrates that administration lags behind politics. It is in direct opposition to, for example, the structure of the government. USA, where the government operates within the framework of the Constitution. As a result, there is a significant difference between the two systems of government.

India has a federal government structure. It is stated in Article 1 of the Constitution that "India, that is Bharat shall be a union of States."⁷ However, the term "union" has been chosen to be used in the Constitution rather than "federation."⁸ The omission of the term "federation" was deliberate and well-thought-out.⁹ This was done to show that India is an absolute and indestructible union and that no state can leave the union. This step was taken with foresight by taking into account India's particular political and social climate. However, despite the absence of this term, federalism was the primary system that the government embodied. As a result, it produced a unique mixed form of government that incorporated both federal and unitary components.

In India, there is a government structure with two levels: the Central Government and the State Government. As a result, it superficially divides the powers by defining distinct and distinct spheres of operation between the two levels of government using a complex and convoluted mechanism.

Cooperative federalism, which allows for a flexible federal structure, has become more popular in recent years¹⁰. In order to ensure effective administration, this necessitates coordination between the Centre and the States. Cooperative federalism necessitates a more stable and efficient government because it does not maintain a culture of rivalry or power competition between the federal government and the states.

⁶ Elazar, D. J. (1997). Contrasting Unitary and Federal Systems. *International Political Science Review / Revue Internationale de Science Politique*, 18(3), 237–251. <http://www.jstor.org/stable/1601342>

⁷ Dash, S. P. (2007). INDIAN FEDERALISM & DISTRIBUTION OF RESPONSIBILITIES. *The Indian Journal of Political Science*, 68(4), 697–710. <http://www.jstor.org/stable/41856368>

⁸ M.P. JAIN, INDIAN CONSTITUTIONAL LAW Pg. 20 (2020)

⁹ Maharana, D. (2010). IN DEFENCE OF INDIAN PERSPECTIVE OF MULTICULTURALISM, *The Indian Journal of Political Science*, 71(1), 69-83.

¹⁰ RAJU, K. H. C. (1991). Dr. B. R. AMBEDKAR AND MAKING OF THE CONSTITUTION: A Case Study of Indian Federalism. *The Indian Journal of Political Science*, 52(2), 153–164. <http://www.jstor.org/stable/41855548>

1. Federal Features of the Government

The Indian government, being fundamentally administrative, has different highlights of federalism. In addition to being reflected in a variety of practices and established systems, the Constitution contains numerous references to the characteristics of federalism. By examining the essential characteristics of a federal system of government in relation to the extent to which they are incorporated into the Indian Constitution and Government, this section will discuss the extent and nature of the federalism that India has adopted.

1.1. Written Constitution

There are a lot of federal elements in the Constitution, which make up a lot of the system. First and foremost, India's Constitution is the longest written constitution in the world. The Constitution is given priority by the government, as previously stated. However, despite the fact that the Indian Constitution is written, it is neither rigid nor inflexible.¹¹ This is one of the fundamental characteristics of federalism.

1.2. Constitutional Supremacy

In India, the Constitution reigns supreme and is revered more than any other government or institution. It will be determined that a piece of legislation or a provision in a piece of legislation is ultra-vires the Constitution. In addition, it ensures that no administrative body goes beyond its authority or violates the Constitution. It establishes the framework within which the three branches of government are required to operate.

1.3. Rigid Distribution of Powers between Central and State Governments

Second, there is a dual government system in place, with the Central Government and the State Governments operating independently. This arrangement of government involves the division of abilities between them. The seventh schedule of the Constitution defines and divides these powers.

The Union List, the State List, and the Concurrent List properly classify the realm of powers' implementation. The Central and State Legislatures are able to exercise the items and powers

¹¹ Abdul Ghafoor, *The Nature of the Indian Federalism*, 2 J.L. & Soc'y 9 (1983).

on the Concurrent list. However, the legislation of the Central Government will prevail if there is a conflict between the legislation of the State Government and that of the Central Government regarding the same topic. The State and Union lists list subjects that fall under the exclusive jurisdiction of each state and union.

1.4. Independence of Judiciary

One of the most crucial aspects of the federal system is the judiciary's independence.

This is made clear by the fact that the three branches of government have different powers. It ensures that the judiciary is free from political, executive, and legislative influence and operates independently. In situations where there is a dispute between two or more states, it grants the judiciary complete authority to rule. Additionally, the original jurisdiction to settle disputes between the Union and the States lies with higher courts and the Supreme Court.¹²

2. Unitary Features of the Government

Due to the existence of a quasi-federal system, various unitary features of government are present, similar to the analysis of the federal features of the Indian government structure. Similar comparisons will be made between these characteristics and those of a unitary government. The author will attempt to determine the extent to which the Indian Constitution and government incorporate the fundamental characteristics of a unitary government, which have been established for a considerable amount of time.

2.1. One Constitution for all States

The country's only supreme constitution is the Indian Constitution. States and unions do not have their own Constitutions. In addition, the Constitution need not be written; it can be written or unwritten, and its nature may or may not be rigid. For instance, the United Kingdom does not have a written constitution; instead, they rely heavily on a collection of documents and the decisions made by courts.

¹² RAJU, K. H. C. (1991). Dr. B. R. AMBEDKAR AND MAKING OF THE CONSTITUTION: A Case Study of Indian Federalism. *The Indian Journal of Political Science*, 52(2), 153–164.
<http://www.jstor.org/stable/41855548>

2.2. Single Citizenship

In contrast to the dual citizenship system that is in place in the United States, the Indian Constitution only allows for one citizenship. This indicates that there is no distinct citizenship for each state. Instead of having a separate citizenship or identity based on their state, each citizen will only be a citizen of India. The special status accorded to Jammu and Kashmir by Article 370 of the Constitution, which has since been abolished, was the only exception to Single Citizenship. These rights and responsibilities will be in place throughout India as a result of single citizenship, which requires only duty toward the Centre and not the States.

2.3. All powers lie with the Central Government

The Constituent Assembly embodied the idea of federalism while still maintaining a strong central government while drafting the Constitution. This was done to guarantee and establish the Union's supremacy while granting the States a limited amount of discretion.¹³ Additionally, the Central Government holds the residuary powers that were not divided. As a result, the States are weaker and less powerful than the Centre.

Additionally, the emergency powers granted to the Centre were a contentious power. The Constitution gave the government the emergency powers to temporarily adopt a unitary system and suspend the nation's federal nature during times of emergency. As a result, the emergency provisions would be implemented, putting the federal government's structure on hold and temporarily transferring all authority to the Central Government.

2.4. Unified Judiciary

Indian legal executive is engaged to work freely, to stay away from out of line and treacherous activity what's more, utilization of the law. In any case, India likewise utilizes the arrangement of brought together legal executive, where the High Court is at the peak, with the subordinate courts following underneath, laying a normal structure for working and purview of the Courts.

3. Judicial Pronouncements on Balance of Unitary and Federal Structure

India's higher courts, including the Supreme Court and the High Court, are crucial to the growth

¹³ *ibid*

of federalism and its adaptation in the country. The power of judicial review is given to the courts. Through the power of judicial review, the courts have the authority to overturn any legislation, act, or law that infringes on any individual's fundamental rights or violates the provisions of the Constitution.

Kesavananda Bharati v. State of Kerala¹⁴

In this instance, the Court granted the Courts the authority to review constitutional amendments, significantly expanding the scope of judicial review in comparison to other nations.

S.R. Bommai v. Union of India¹⁵

According to the Supreme Court, India's Parliament has the authority to admit, change, create, and abolish states. In addition, only the opinion of the relevant state can be taken into consideration, and approval from all states is not required. This is in contrast to India's federal system, which is a federation of states and does not allow for state territories to be altered. The Court also noted that there was a Concurrent List, which is unusual for a federation where powers are strictly divided and distributed. Even on this list, the central government has more power than the states.

Rameshwar Prasad v. Union of India¹⁶

In this case, the Supreme Court said that the governor of a state is not an agent or puppet of the ruling party at the center. Instead, he is expected to carry out his duties without the Centre's influence or political pressure. As a result, President's rule was imposed when the Governor of Bihar recommended the dissolution of the Bihar Assembly because there was no government formed due to a lack of a majority. The governor ratified the Centre's dissolution of the Assembly, which the Supreme Court found to be unconstitutional, just before the government was formed.

¹⁴ Kesavananda Bharati v. State of Kerala, (1973) 4 SCC 225

¹⁵ S.R. Bommai & Ors. v. Union of India (1994) AIR 1918, 1994 SCC (3) 1.

¹⁶ Rameshwar Prasad v. Union of India (2006) 2 SCC 1

III. CONCLUSION

India's unique and distinctive government structure was developed in response to the country's diversity as well as its multifaceted and intricate problems. As a result, it was believed that the most advantageous structure for the country's effective administration and stability was this modified form of federalism with a powerful central government. As a result, India employs a hybrid of federal and unitary models. In order to provide an administration apparatus that is adaptable and efficient, the Constitution contains a number of provisions and features that demonstrate a balance of the models.