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"FEDERAL FRAMEWORKS: A COMPARATIVE ANALYSIS OF INDIAN AND AMERICAN FEDERALISM"

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ABSTRACT

Federalism, as a political system, manifests differently across nations, shaped by historical, cultural, and institutional factors. This article presents a comparative analysis of federalism in two diverse democracies: India and the United States. Drawing on constitutional provisions, historical evolution, and contemporary practices, this study examines key similarities and differences in the federal frameworks of these nations.

The analysis delves into the distribution of powers between the central and state governments, mechanisms of intergovernmental relations, and the role of federal institutions in maintaining political cohesion and diversity. Through a nuanced examination of federal structures, this article seeks to elucidate the unique challenges and opportunities inherent in Indian and American federalism. Insights from this comparative analysis contribute to a deeper understanding of federal systems globally and offer valuable perspectives for policymakers and scholars alike.

KEYWORDS-

Federalism, Comparative Analysis, India, United States, Constitutional Provisions, Intergovernmental Relations, Power Distribution, Federal Institutions, Political Cohesion, Diversity Management.

INTRODUCTION

When we understand the concept of Federalism is a form of government in which the national government's regional, state, or local counterparts cooperate with the national government on a national level. More broadly, we can say Federalism means a division of power and decision-making control between the central and state governments, with the central and state governments assigned power and authority with respective spheres. A federal government is stated as a system of divided Sovereignty. In order to ensure that excessive power does not come to the hands of one government, the federation should focus on a system where there exists mutual interdependence between the two Governments.¹

In contrast to a unitary system, where a single central government serves as the fundamental and supreme power, a federal system of government has two levels of government (national and state). The United Kingdom is the perfect example of a unitary government with Scotland, Wales, and Northern Ireland each having some authority granted to them by the British Parliament. What has been observed is that majority of the federal states share two similar characteristics. First, the states are comprised of several groups of states or constituent units which existed prior to the formation of the federation as they were in close proximity to one another and shared a political and cultural background. Secondly, the aim behind these units creating a federal structure was to come together as one for accomplishing various other motives including safety and administrative efficiency to language and cultural integration. We can say there are two main ways to understand Federalism.² One way we can say Federalism means to unite people and bring together people already connected together by ties of Nationality through a political authority being divided among the different parts of the nation. Federalism, on the other hand, can be viewed as a way to unite many people without severing their fundamental links to the particular laws that make up the federal system. As a result, as long as there is federalism, this trend of mixing centralization and decentralisation is likely to continue.³

¹ Vidushi Joshi, *Comparative analysis of federalism in India vs USA*, 4 International journal of advanced legal research 1(2023), available on https://ijalr.in/volume-3-issue-3-2023/comparative-analysis-of-federalism-in-india-vs-usa-vidushi-joshi/#google_vignette, last seen on 24/03/2024.

² Ibid at 1.

³ Supra note 1.

A political system called federalism is founded on the division of powers between a national government and local governments. Numerous nations, including India and the United States, have adopted this method. Depending on the political system and constitutional framework of a nation, the relationship between the federal government and subnational governments can be divided in different ways. The constitutional law is made up of both laws in the literal sense and customs, or conventions, that everyone involved in government accepts as binding even though they are not laws. In the sense that their violation may result in legal action being taken, many guidelines and practices are not required by the law. Only because it is claimed that the Indian Constitution clearly delineates the boundaries between the federal and state governments in a manner comparable to the United States and that legislative and executive power is split between the federal government and the states.⁴

What is Federalism?

Federalism is compound mode of two governments. That is, in one system there will be a mixture of two governments – state government with central government. In India, we can describe federalism as a distribution of authority around local, national, and state governments. This is similar to Canadian model of political organization.

Federalism is at its core a system where the dual machinery of government functions. Generally, under federalism, there are two levels of government. One is a central authority which looks after the major affairs of the country. The other is more of a local government which looks after the day to day functioning and activities of their particular region.

For example, our Indian Constitution says that India too is a federal country. As you know we have two levels of parliament, the at center the Union government and at State level, we have the individual State governments.⁵

⁴ Dhruv Goel, *Federalism In India And USA: A Comparative analysis*, 3 Indian Journal of Integrated Research in Law 1, 2 (2023), available on <https://ijirl.com/wp-content/uploads/2023/05/FEDERALISM-IN-INDIA-AND-USA-A-COMPARATIVE-ANALYSIS.pdf>, last seen on 24/03/2024.

⁵ *Introduction to Federalism*, www.topper.com, available at <https://www.toppr.com/guides/political-science/federalism/introduction-to-federalism/>, last seen on 24/03/2024.

Features of Federalism

The best way to comprehensively understand the federal system is to learn about its features. These characteristics combined to reflect the true essence of federalism.⁶Let us study them.

1. The essential feature, which is the definition of federalism is that there are two levels of governance in the country at least. There can even be more. But the entire power is not concentrated with one government.
2. All levels of governance will govern the same citizens, but their jurisdiction will be different. This means that each level of government will have a specific power to form laws, legislate and execute these laws. Both of the governments will have clearly marked jurisdiction. It will not be that one of the government is just a figurehead government.
3. Another important feature is that the constitution must guarantee this federal system of government. Which means the powers and duties of both or all governments must be listed down in the constitution of that country hence guaranteeing a federal system of governance.
4. As stated above the federalism of a country must be prescribed by the constitution. But it is also important that just one level of government cannot make unilateral changes or amendments to the important and essential provisions of the constitution. Such changes must be approved by all the levels of the government to be carried through.
5. Now there are two levels of government with separate jurisdictions and separate duties. Yet there is still a possibility that a conflict may arise between the two. Well in a federal state, it will fall upon the courts or rather the judiciary to resolve this conflict. The courts must have the power to interfere in such a situation and reach a resolution.
6. While there is power sharing between the two levels of government, there should also be a system in place for revenue sharing. Both levels of government should have their own autonomous revenue streams. Because if one such government

⁶ Ibid, at 5.



depends on the other for funds to carry out its functions, it really is not autonomous in its true nature.

Evolution of Indian Federalism

In India, Between 321 and 185 B.C. in Magadha, the Mauryans for the first time assimilated a number of kingdoms and republics which might be the first sub-continental state in Indian history India. The Mughals, beginning with Sher Shah's land revenue system and Akbar's division of his empire into Provinces provide excellent examples of a federal government. The turning point in India's federal scheme came when it was taken over by the British forces. The genesis of the present federal system in India lies in the Simon Report of May 1930 which supported the idea of a federal government in India. The Government of India Act 1935 aimed to establish India as a Federation of States.⁷

Constitutional Framework:

The constitutional framework of India meticulously delineates the distribution of powers between the Union (central government) and the States, establishing a robust federal structure that maintains a delicate balance between centralized authority and regional autonomy.

Distribution of Powers between the Union and States:⁸

- The Indian Constitution delineates the powers of governance between the Union and the States through three distinct lists: the Union List, State List, and Concurrent List.
- Union List: Encompasses subjects of national importance such as defense, foreign affairs, currency, banking, and communication. The Union government has exclusive legislative jurisdiction over matters listed here.
- State List: Includes subjects of regional interest such as public health, police, agriculture, and local government. States have exclusive legislative authority over items enumerated in this list.

⁷ Insights Mindmaps, *Federalism in India*,1, available on <https://www.insightsonindia.com/wp-content/uploads/2018/11/Federalism-in-India.pdf> , last seen on 1/4/2024.

⁸ Neelu Kishnani, *Indian Federalism: In Theory And Practice*,11, International journal of creative research thoughts,3(2023), available on <https://ijcrt.org/papers/IJCRT2312743.pdf>, last seen on 1/4/2024.

- **Concurrent List:** Contains subjects where both the Union and States can legislate concurrently, such as criminal law, marriage, bankruptcy, and education. In case of a conflict between Union and State laws on concurrent subjects, the Union law prevails. Role of Concurrent List and Residuary Powers:

- The Concurrent List is a unique feature of Indian federalism, allowing both the Union and States to legislate on specified subjects. It fosters cooperative federalism and facilitates harmonization of laws on shared subjects.

- **Residuary Powers:** Any matter not explicitly mentioned in the Union List, State List, or Concurrent List falls under the residuary powers. These powers reside with the Union government, ensuring that in matters not covered explicitly, the central authority holds legislative jurisdiction. Amendment Procedures and Federal Balance:

- The Constitution of India outlines procedures for amendments to maintain a balance between federal and unitary aspects of governance.

- Amendments to certain provisions require a special majority in Parliament (two-thirds majority of members present and voting) and ratification by at least half of the state legislatures. This ensures the consent of both the Union and the States in matters impacting federal relations. The Constitutional provisions pertaining to the distribution of powers, the role of lists, concurrent jurisdiction, residuary powers, and the amendment procedures collectively form the backbone of India's federal structure. They provide a framework that balances the authority of the central government with the autonomy of the States, fostering a cooperative and resilient federal system that adapts to the evolving needs of the nation while preserving its unity and diversity.⁹

Features and Challenges of Indian Federalism:

Division of Powers: Legislative, Executive, and Financial:

- **Legislative Powers:** The Constitution delineates the legislative powers between the Union and States through the three lists—Union List, State List, and Concurrent List. This division ensures exclusive, concurrent, or shared legislative authority over specific subjects, fostering a

⁹ Ibid at 8.

balanced distribution of powers.

- **Executive Powers:** Both the Union and States have their executive machinery responsible for implementing laws within their respective jurisdictions. The federal structure allows for the autonomy of states in executing laws pertaining to State List subjects while maintaining national unity through the Union's executive authority over Union List subjects.
- **Financial Powers:** India practices a system of fiscal federalism where financial resources are allocated between the Union and States through mechanisms like tax sharing and grants-in-aid. However, financial disparities and dependence on the Union for resources often pose challenges to the fiscal autonomy of States.

Role of Federal Institutions: President, Parliament:

- **President:** As the ceremonial head of the state, the President's role in federalism includes appointing governors, assenting to bills, and ensuring the smooth functioning of federal institutions.
- **Parliament:** Comprising the Lok Sabha (House of the People) and the Rajya Sabha (Council of States), Parliament legislates on Union List subjects and Concurrent List subjects. The Rajya Sabha represents the interests of States, ensuring their participation in the legislative process.

Centre-State Relations and Conflicts:

- Challenges persist in maintaining a harmonious relationship between the Union and States, often leading to conflicts over jurisdiction, allocation of resources, and implementation of policies.
- Issues like disputes over water resources, distribution of finances, interference in State matters by the Union, and differing political ideologies between ruling parties at the center and in States contribute to these conflicts.

Language and Cultural Diversity:

- India's federalism is deeply influenced by its linguistic and cultural diversity. Recognizing this diversity, the Constitution provides for the use of multiple languages for official purposes and safeguards cultural rights.
- Challenges arise in managing linguistic diversity, ensuring equitable representation, and balancing regional aspirations without compromising national unity. Conflicts over language policies and cultural rights occasionally surface, demanding delicate handling by the federal

structure.

In conclusion, while Indian federalism presents a robust framework with distinct features in division of powers, federal institutions, and recognition of diversity, challenges persist in maintaining a harmonious relationship between the Union and States. Balancing the need for a strong centre with regional autonomy, addressing fiscal disparities, resolving conflicts, and respecting linguistic and cultural diversity remain ongoing tasks in India's federal governance. Achieving a balance between unity and diversity remains a constant endeavour for Indian federalism.¹⁰

Evolution of American Federalism

1. Founding Era:

The debates over federalism began even before the ratification of the Constitution. The Federalists, led by Alexander Hamilton, argued for a strong central government capable of uniting the states and promoting economic development. In contrast, the Anti-Federalists, including Thomas Jefferson and Patrick Henry, feared the concentration of power in a distant authority and advocated for greater state sovereignty. The compromise reached in the Constitutional Convention established a federal system that divided powers between the national government and the states, with specific responsibilities allocated to each.

2. Marshall Court and National Supremacy:

Chief Justice John Marshall played a crucial role in defining the scope of federal power during the early 19th century. Through landmark decisions such as *Marbury v. Madison* and *McCulloch v. Maryland*, Marshall affirmed the supremacy of federal law and the authority of the Supreme Court to interpret the Constitution. These rulings established the principle of implied powers, granting the federal government broad authority to enact legislation necessary and proper for carrying out its enumerated powers.

3. Dual Federalism and States' Rights: The doctrine of dual federalism, prevalent throughout much of the 19th century, emphasized the separate spheres of authority between the national government and the states. Under this framework, states retained

¹⁰ Supra note 8 at 10.

significant autonomy in areas such as commerce, taxation, and law enforcement. The tension between states' rights and federal authority came to a head during the Civil War, as the conflict over slavery highlighted the competing visions of Union and secession.

4. New Deal and Cooperative Federalism:

The Great Depression and the subsequent New Deal era marked a significant shift in American federalism. President Franklin D. Roosevelt's administration expanded the role of the federal government in regulating the economy, providing social welfare programs, and addressing national crises. The New Deal ushered in an era of cooperative federalism, characterized by collaboration between the national government and the states to address shared challenges.

5. Modern Challenges and Unfunded Mandates:

In recent decades, American federalism has faced new challenges, including the proliferation of unfunded mandates and the complexities of intergovernmental relations. As the federal government imposes requirements on states without providing adequate funding, tensions have arisen over issues of fiscal responsibility and state sovereignty. The Supreme Court has grappled with questions of federalism in cases such as *Printz v. United States* and *National Federation of Independent Business v. Sebelius*, shaping the boundaries of federal power and state autonomy in the modern era.¹¹

United States-

1) Enumerated Powers:

Article I, Section 8 of the U.S. Constitution outlines the particular authorities provided to the federal government, which include the ability to control trade, issue currency, and manage national security. The Tenth Amendment designates the extent of federal jurisdiction, reserving all other rights for the states or the people.

2) Supremacy Clause:

¹¹ Sun Hao, *Evolution of American Federalism*, 12, School of politics and public administration China University of Political Science and Law Beijing, 4, 6(2015), available on file:///C:/Users/pourn/Downloads/Evolution_of_American_Federalism.pdf, last seen on 1/4/2024.

3) Article VI of the United States Constitution states that federal law is the "supreme law of the land," as stated in the Supremacy Clause. so establishing the superiority of federal statutes and treaties over state laws that contradict with one another.

3) Separation of Powers:

In order to avoid the consolidation of power, the legislative, executive, and judicial departments of government are each equipped with a check-and balances mechanism established by the United States Constitution. Both the federal and state levels are subject to this division of powers, with each branch having certain duties and roles.

4) Bill of Right:

The first ten amendments to the US Constitution make up the Bill of Right, which lists personal rights and liberties such as freedom of expression, the press, and religion. These amendments, which place restrictions on the power of the federal and state governments, guarantee the protection of fundamental liberties.¹²

Case Laws Related

India is not a federal State in the traditional sense of the word, the Apex Court stated in Pradeep Jain V. Union of India¹³. It is not an agreement between independent States that have joined forces to create a union by reneging on unquestionably federal principles. The Supreme Court reiterated the following in Ganga Ram Moolchandani v. State of Rajasthan¹⁴: The Indian Constitution is fundamentally federal in form and is distinguished by the traditional features of a federal system, namely supremacy of the Constitution, power sharing between the Union and States, and the existence of an independent judiciary. Similar sentiments were voiced by the Supreme Court in ITC LTD v. Agricultural Produce Market Committee¹⁵.

The Supreme Court expanded the doctrine's importance as being superior to any parliamentary law in the 1978 Maneka Gandhi v. Union of India¹⁶ case. The ruling states that if a parliamentary act broke the fundamental principles of the constitution, it cannot be regarded as a law. This important fundamental rights assurance was hailed as a singular illustration of

¹² Shubham Sinha, *Federalism In U.S.A. And India: A Comparative Study*,6, Indian Journal of Law and Legal Research,5,7(2019), available on https://3fdef50c-add3-4615-a675-a91741bcb5c0.usrfiles.com/ugd/3fdef5_efdb291dcbfd4261a794067598d1b5f2.pdf, last seen on 1/4/2024.

¹³ Pradeep Jain V. Union of India,1984 AIR 1420, 1984 SCR (3) 942.

¹⁴Ganga Ram Moolchandani v. State of Rajasthan, AIR 2001 SUPREME COURT 2616.

¹⁵ITC LTD v. Agricultural Produce Market Committee.

¹⁶ Maneka Gandhi v. Union of India, 1978 AIR 597, 1978 SCR (2) 621.

judicial independence in upholding the sanctity of fundamental rights.

Fundamental Rights, which can only be changed by a constitutional amendment, serves as a check on not only the executive department but also the legislatures of the federal and state governments. The rights granted by Article 19 may be temporarily suspended as a result of the declaration of a state of emergency.

The most significant federalism ruling of the 1998–1999 session was *Alden v. Maine*¹⁷. It comes to the conclusion that the fundamental precept of the rule of law, "where there is a right, there is a remedy," is in danger due to the Court's interpretation of the Eleventh Amendment and the sovereign immunity doctrine, which has limited the federal government's ability to authorize private lawsuits against states for breaking federal law.

Conclusion

In conclusion, the contrast of the federal systems in India and the United States has shown that these two nations view federalism in very different ways. The United States uses a dual federalism system that emphasises the autonomy of state governments within their respective spheres of authority, in contrast to India, which has chosen a cooperative federalism model that places an emphasis on cooperation between the federal government and state governments. Although both India and the United States have chosen federal systems of government, there are significant differences between their models of federalism. The American federal system is based on dual federalism, where the federal and state governments operate autonomously within their respective spheres of authority. In contrast, the Indian federal system is characterised by a three-tiered structure of government and cooperative federalism. Policymakers and academics who wish to research and contrast federal systems in various nations must be aware of these variations.

Federal systems in India and the United States have been significantly shaped by the historical background of federalism in those countries. The development of federalism in India has been affected by the legacy of colonialism and the need to balance the demands of various linguistic, ethnic, and religious groups. The need to safeguard state autonomy and strike a balance between the federal government's and state governments' authority led to the development of the federal system in the United States. Another crucial element of federalism that has been examined in this research paper is state autonomy and power. The United States

¹⁷ *Alden v. Maine*, 527 U.S. 706 (1999).

has a more decentralized federal system with higher state autonomy and power, whereas India has faced difficulties in increasing state autonomy and power. In both India and the United States, political groups play a crucial role in managing the relationship between various levels of government. Overall, the contrast of the American and Indian federal systems has shed light on the advantages and disadvantages of various federalism models. Federalism continues to be a crucial part of the political landscape in both India and the US, and while there are areas for improvement in both systems, it is crucial for both policymakers and citizens to comprehend its dynamics.

