

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary
Peer Reviewed

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume II Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

EDITORIALTEAM

EDITORS

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain

Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi. (2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019



Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr.Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8Articles in various reputed Law Journals. Conducted 1Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

FEDERALISM: EMERGING TRENDS IN CENTER AND STATE RELATIONS

AUTHORED BY - SIMRAN KUMAWAT

BA.LLB (Hons.)

Lords University, Alwar (Rajasthan)

• ABSTRACT: -

This research paper, will talk about federalism and the challenges faced by Indian federalism and opportunities for Indian people. Firstly, it will talk about the introduction of federalism. The second one is emerging trends in center and state relations, and lastly, we discuss the Conclusion, which is related to federalism. Federalism is one of the important features of the Indian Constitution. This is an important feature of the constitution that limits governance. In a federal constitution of India, it includes that powers should be divided between the both central as well as state government. The division of powers is clear and both are independent in their fields. The Indian constitution contains so many provisions of a federal constitution like dual central government, separation of powers, written constitution etc. But our constitution has several common features such as emergency powers, appointment of governors etc. Thus, our Constitution is federal and has certain striking uniform features. The concept of federalism is divided into two parts: - Co-operative federalism and Competitive federalism. The main purpose of federalism is to give absolute power to the central and state governments. It is also called a Quasi-federal system. Now, we will discuss each and every topic in detail which are written below.

• INTRODUCTION OF INDIA'S FEDERALISM: -

The Indian constitution is a legal document which has its own legal importance. Our constitution has some features and federalism is one of them. According to federalism, India's constitution is rigid as well as flexible because our constitution having federal features that makes our constitution flexible such as division of powers, dual central government, constitutional rigidity, constitution being supreme, written constitution etc but our constitution also having some unitary features that makes our constitution rigid such as appointment of governors, emergency provisions, independent and integrated judiciary, single citizenship, veto powers over bills etc. So, the Indian constitution has federal features also having some striking

unitary features. Federalism can be divided into two parts; first is cooperative federalism and second is competitive federalism. Our constitution contains so many provisions which make our constitution federal. Some federal features of India's union are: -

1. **Distribution of Powers:** - According to article 246, this article gave the distribution of powers between union and states that is legislative. Seventh schedule of the constitution specifying three lists- union list, state list and concurrent list.
2. **Dual Central Government:** - India has a dual central government which means our country has a separate form of government that is central and state government. The area of central and state government is fixed to use their powers.
3. **Constitutional Rigidity:** - The Indian Constitution seems rigid, that is why it becomes difficult to amend it. Due to this rigidity of the constitution, it is easy to sustain the supremacy of the constitution.
4. **Constitution treated as Supreme:** - Constitution is set to supreme because any law, amendments and even the judiciary is not above in comparison with the constitution. The constitution is the main source to divide the powers in all the three kinds of democracy- the legislative, the executive and the judiciary.
5. **Written Constitution:** - Indian constitution must be written and absolute in nature. Without a written constitution the division of powers between the union and the states would be immensely difficult.
6. **Bicameral Legislature:** - India has the bicameral legislature. The Indian parliament has two houses, the first is the upper house and the second one is the lower house.

Unitary features of the constitution that makes our constitution rigid. Some features are as written given below: -

1. **Appointment of Governor:** -The nomination of the governor by the union and its appointment by the President. Governor is a nominal executive of a state where the governor acts as the chief executive state.
2. **Emergency Provisions:** - In India, only the president can declare the emergency. According to Article 352, 356 and 360, only the president can announce the national, state and financial emergency. Financial emergency has not been imposed at the single once by the President of India till yet.
3. **Integrated Judiciary:** - The Judicial system of India is single integrated because every high court of any state works under the supervision of the Supreme Court. Every Lower Court work of any district works under the guidance of the High Court.

4. **Single Citizenship:** - India is the best example for having only one citizenship. Every citizen of India has followed the system of solitary form of citizenship and it is treated as a national citizenship. In the USA, Switzerland and Australia are the countries to have dual citizenship; first is national citizenship and second is state citizenship.
5. **All India Services:** - The all India services like IPS, IAS, IFS plays a crucial role in the administrative relations between union and states.
 - **Establishment and Recruitment:** - The recruitment and appointment of offices to all India services are done under the purview of all India government. These officers are allotted from different states and work in key positions. They serve both unions and states.
 - **Authority and Jurisdiction:** - All India service officers operate under dual control. State has both accountability in the union and state government. They handle all the administrative matters in their assigned states.
6. **Flexibility of the constitution:** - The Constitution of India is slightly rigid but more flexible. Some of the amendments can be amended by the simple majority such as citizenship laws, change the name and boundaries of the state and some of the amendments can be amended by passing with special majority and ratification by the states such as change in distribution of taxes between center and states.

In a federal constitution, the powers are divided between central and states. There is a clear distribution of powers and both are independent in their areas. So, the Indian constitution is not a complete federal constitution because it also has some striking unitary features.

• **EMERGING TRENDS IN CENTER AND STATE RELATIONS: -**

The constitution of India introduced a dual constitution of authority with a simple separation of powers. Each of which is sovereign in its domain. Centre state relations are separated by the following: -

- a. Legislative Relations
- b. Administrative Relations
- c. Financial Relations

a. **Legislative Relations:** - Legislative relations can be covered under article 245 to 255. The legislative ties between the center and state are governed by article 245 to 255 of part 11 of the constitution. Legislative relations can be divided into two parts, first is territorial jurisdiction and second is subject matter.

i. Territorial Jurisdiction: - Concerning the territory, article 245(1) requires a state legislature to make law for the entire or any part of the state to which it belongs subject to this position of the constitution. Unless the boundaries of the state itself are broadened by the act of the parliament. A state legislature cannot broaden any territorial jurisdiction in any circumstances. On the other hand, parliament has the right to legislate on all or any part of India's territory which does not only include states but also includes Indian union territory. It also has the strength to make extra territorial laws which no state legislature has. This means that laws made by parliament would apply not only the individuals to category but also Indian subjects living anywhere. However, we recognized some distinctive clauses of the constitution are subject to unrestricted territorial competency of the parliament, these clauses are following:

-

- **President:** - The President can make regulations that are equivalent to laws of parliament. Some territories of union such as Andaman and Lakshadweep region and this regulation may revoke and amend law adopted by the parliament said by the territory.
- **Governor:** - Notification can be issued by the governor that prevents or changes the application of the act of the parliament to any program area of government.
- **By Public Notification:** -
- **AH WADIA vs. CIT**
The court held that if there is no appropriate relation or link between the state and objects. The state legislature cannot make extra territorial law. Indian tax revenue authorities were aiming to tax from the company's entire income, the court concluded that derivation for a year of subs tension part of its revenue from British India has given a corporation sufficient relation to justify that it is regarded domestically in India for all purposes of income tax.

ii. Subject Matter: - The extent of laws made by the parliament by the legislature of the state. In so far as the subject of laws as responsibility the constitution that is why they uses the government of India act 1935 as its basis and it divides the authority into three list which is divided between the union and the state, these list are: -

- Union list
- State list

- Concurrent list

There are 97 subjects on the union list, moreover which union has exclusive authority. The topics of the union list are: - security and foreign relations are of national significance.

There are 66 topics in the state list, moreover which states have exclusive jurisdiction.

The concurrent listed on the state such as public order, police and public safety are of local and national importance. The concurrent list contains 47 subjects like criminal and civil cases, marriage and divorce, economic and special planning unions, money, media, employment etc.

b. Administrative Relations: - The administrative relations between the union and states are guided by the provision of the constitution. Some of the key aspects related to this framework includes: -

- **Distribution of Powers (Article 246):** - This article provided the powers being divided in between union and states that are legislative. Seventh schedule specifying three lists- union list, state list and concurrent list.
- **Union Executive Authority:** -
 - **President:** - The President of India is a head of the union executive. He uses all the executive powers on behalf of the central government.
 - **Council of Ministers:** - The President appoints the council of ministers on the advice of the Prime Minister. The council aids and advises on the exercises of executive powers.
- **State Executive Authority:** -
 - **Governor:** - Each state has the governor who represents the President. He acts as a head of state executive authority.
 - **Chief Minister:** - Chief Minister is appointed by the Governor and he is the head of state government. He exercises executive authority.

• CONCLUSION: -

The Indian constitution contains so many provisions of a federal constitution like dual central government, separation of powers, written constitution etc. The Indian constitution contains so many provisions which make our constitution federal as we discussed as well as written above. For better or worse, the original text is a way to maintain a stable existence. When two people come together, conflict arises. The translators of ancient manuscripts hope to confirm the core

meaning of the content required by the slums, including the thoughts of those who built them and the state governments. It also promotes national unity. NITI Aayog also supports federal level initiatives to improve the performance of states. The main aim of the federal government is to boost the central government and also the state government. It also promotes national unity. This is also called quasi-federalism. Federal laws should be written and clear. The law requires free will to interpret it. Indian federalism is similar to the Canadian model of political organization. Centralization is another name for federalism. It is also called semi-federalism. Federal laws should be written and clear. There are two ways to form a government: - Unity and separation. The federal government of India faces many challenges such as centralization of projects and changes in legislation, decentralization and regionalism. It helps in enforcing rules regarding political participation and providing rich government opportunities to the people. It allows people to control politics. It is clear that in the federal substructure of the government there must be the presence of the Centre as well as the States. Just as discussed in the research paper, the federal laws also have a relationship and have emerged as trends on center and state relations.

Book Reference: -

Indian Constitution by J.N. Pandey

Center state financial relation by Reddy G.R

IJLRA