

ISSN: 2582-6433



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed 6th Edition

VOLUME 2 ISSUE 7

www.ijlra.com

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Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmanagarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to

the fact how they can bring a change to the society

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



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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 8 Articles in various reputed Law Journals. Conducted 1 Moot 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.

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INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

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The Origins and Consequences of Indian Federalism: A Historical Analysis

Authored by - Prerna Kokare

ABSTRACT:

Federalism is a complicated governmental structure for a country's governance. It unites multiple autonomous, distinct, separate, and divergent entities or administrative units into a single political union. It aims to strike a balance between forces that favour concentrating strength in a single location and forces that favour dispersing power among a number of units. Federalism aims to bring together unity and diversity, centralization and decentralization, and nationalism and localism. The uniqueness of the federal system rests in the fact that authority is both centralized and divided at the same time. In some places, government and law are centralized, while in others, they are decentralized. In a federal country, citizens are bound by the decrees of two governments. The Centre and the states share all of the government's authorities and responsibilities. As a result, each level of government operates within its own field. The many governments, on the other hand, do not operate in watertight containers. They interact with one another at various points, resulting in a plethora of inter-governmental relationships in a federal country. The pattern of these ties is dynamic, and it is continuously rebalancing in response to the centripetal and centrifugal forces at work in the country, which is why the subject of inter-governmental relations is so important to any student of a federal constitution.

INTRODUCTION:

Since thousands of years, India has been ruled by foreign kings like as the French, Portuguese, Duchess, Shaka, Hunas, Kushanas, Mughals, and British. As a result, the workings and philosophies of the above-mentioned monarchs shaped the form and legacy of government and administration. Following independence, the Constituent Assembly formed Indian Parliamentary Democracy. The many Acts of the British Government ever passed to control India inspired this assembly, and the Act of 1935 became the most influencing act for the constituent creating assembly of India, according to

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Page | 5

Jhons' varied studies and results. India's war for independence came to a conclusion on August 15, 1947, and the Constituent Assembly was tasked with creating a new constitution, which took effect on January 26, 1950. The allocation of powers between Parliament and the state legislatures was one of the most important characteristics of the Indian Constitution.

The founding fathers of the Indian Constitution were primarily influenced by the federal elements of the American, Canadian, and Australian Federations. The federal principles influenced the framers of the Constitution, with exceptions and adaptations from the US and Canadian constitutions. Indian leaders, on the other hand, such as Jawaharlal Nehru, an ardent advocate of liberal democracy, were dedicated to democratic socialism and agrarian redistribution. They believed that a centralized direction for the construction of a federal system in India was necessary for their programs to succeed.

DEFINING FEDERALISM:

Federalism is a complicated governmental structure for a country's governance. It unites multiple autonomous, distinct, separate, and divergent entities or administrative units into a single political union. It aims to strike a balance between forces that favour concentrating strength in a single location and forces that favour dispersing power among a number of units.

Federalism aims to bring together unity and diversity, centralization and decentralization, and nationalism and localism. The uniqueness of the federal system rests in the fact that authority is both centralized and divided at the same time. In some places, government and law are centralized, while in others, they are decentralized. A federal constitution establishes a dual polity with two tiers of government: a federal government with some power over the entire country and state governments with jurisdiction within specific geographical limits. In a federal country, citizens are bound by the decrees of two governments.

The Centre and the states share all of the government's authorities and responsibilities. As a result, each level of government operates within its own field. The many governments, on the other hand, do not operate in watertight containers. In a federal country, they come into contact with each other at various points, resulting in a plethora of intergovernmental ties. The pattern of these ties is dynamic, and it is continually rebalancing in response to the centripetal

and centrifugal forces at work in the country, which is why the subject of inter-governmental relations is so important to any federal constitution study. The Indian Constitution, which established a dual polity with a central government and twenty-nine state governments, is no exception.

HISTORICAL ROOTS & LEGACY OF FEDERALISM:

It is critical to understand the historical legacies that have shaped any polity. Especially when it comes to India, where Huns, the Delhi Sultanate, the Mughals, and finally the Britishers have wreaked havoc on the country's sociopolitical and economic systems. Also, under MK Gandhi's leadership, the development of mass communication, the spread of the English language, and public mobilisation generated political unity upon which the national leadership could build. As their initial goal, the founding fathers' wisdom in the Constituent Assembly was a tremendous move in pleasing the current system. They go beyond the immediate environment to establish the groundwork for long-term democracy, sacrificing neither principles nor their vision of what the Republic of India should be.

Prior to the formation of the Constituent Assembly, the Cabinet Mission Plan prioritized the creation of a central government with very restricted powers, limited to foreign affairs, defense, and communication. The Muslim League and the Indian National Congress, on the other hand, were not on board. Despite this, the Constituent Assembly's first report predicted a weak center based on the encouragement of Cripps and Cabinet Mission Plans. The adoption of the India Independence Act, followed by India's partition, prompted the Constituent Assembly to adopt a more unitary form of federalism. Decentralization was also promoted by Mahatma Gandhi, who preferred a panchayat/village-based federation. On the other hand, then-Prime Minister Jawaharlal Nehru and Dr. BR Ambedkar supported a unitary system of governance, while Home Minister Sardar Vallabhai Patel supported federalism as well. All's well that ends well, and eventually a healthy compromise was found, resulting in a balance of power between the Centre and the States, and India was dubbed a "Union of States" with an indestructible union. With a single citizenship policy rather than dual citizenship, the structure is established for both the Union and State governments.

The government of India acts of 1919 and 1935 laid the groundwork for India's current federal setup. For the first time in the Act of 1919, the state and central topics were separated for

legislative, financial, and administrative purposes. The Act revealed the first major step in the constitutional shift of a unitary form of government, blazing a new road and laying the foundations of Indian Federalism. The Simon Commission, which was published in May 1930, suggested that the provinces have entire autonomy, including the department of law and order, and that the Governor be given administrative overriding powers in certain areas, such as internal security.

The Commission also suggested a federal government in the center, which would include both British India and princely states. The Nehru report also predicted that India's future Constitution will be federal, with a bicameral legislative structure and the Supreme Court as the ultimate court of appeal.

The Federal State Act of 1935 was a forerunner to the federal state, which was included in India's constitution in 1950. The Indian Federal state will be made up of both British Indian provinces and princely states, according to the 1935 Act. Its goal was to create a centralized federation with a good deal of provincial autonomy. The act of 1935 is also responsible for the constitution's unified legal and financial structure, as well as the apparatus for resolving water disputes, state governors, and Article 356.

The Cabinet Mission of 1946 accepted the concept for a central government with far less power, and the provinces were given significant autonomy as well as residuary rights. Despite proposals for a weak center, the constitution makers ultimately established a federal structure that significantly favours additional powers for the center, owing to the lessons of division and future considerations for sustaining the country's unity and integrity. In agreement with this, Ambedkar stated in the final report of the Constituent Assembly's Union Powers Committee that "it would be detrimental to the country's interests to provide for a weak central authority that could be incapable of ensuring peace and also of coordinating vital matters of common concern."

As a result, now The Union Government and the State Government are the two governments that exist in India. The two governments do not serve as subordinates to one another, but rather collaborate while functioning separately. Though the Indian constitution has certain characteristics of a federal constitution, it is not one in the literal sense. The presence of features

that are required for the existence of a federation is a unique feature of the Indian Constitution, although there are provisions that give the Union Government more power than state governments. As a result, the Indian Constitutional framework is now a quasi-federal structure, as established by the 1935 Act. This Act established the basis of India's federal government. It established a system of legislative power sharing between the Union and the provinces (the structure at that time). These regulations were put in place to promote unity and resolve disagreements among the provinces. The Act also preserved a sense of cooperation among the provinces. When it comes to the specifics of this Act, Sections 131, 132, and 133 established procedures for resolving water-related issues. These laws primarily addressed issues connected to inter-provincial rivers and river valleys.

Section 135 of the 1935 Act, on the other hand, established provisions for the formation of councils to deal with the coordination of British India's several provinces. Even before independence, there was a need to establish a cooperative relationship between the provinces. The concepts that were laid down in the 1935 Act have been incorporated into the Indian Constitution in a thorough form. These are the grounds on which the members of the constituent assembly built the federalist system.

The Indian Constitution that eventually evolved is not federal in the traditional sense, but it does contain all of the key federal qualities. It is unitary in extraordinary situations such as war and other tragedies, and federal in usual conditions, as Dr. B.R. Ambedkar put it. While challenging the motion, Ambedkar wanted to expose the logical weaknesses and practical difficulties of imitating the classical federation like the US by saying that, "A well designed, and more importantly, well-functioning system of federal governance, by virtue of its manifold benefits, plays a key role in promoting the stability and prosperity of nations as the hegemony the world's leading federations — the United States, Canada, Australia, and Switzerland – have demonstrated this.

- Federal systems, on the other hand, do not last unless they are skillfully built, as proven by the breakdown of many of the federal forms that emerged in the last century, including Soviet Russia, Yugoslavia, Czechoslovakia, Rhodesia, and Nyasaland. The Indian constitution, as previously noted, promises to be decentralized and federal, but it is in some ways too centrist. The Centre acts in a way that prevents the State's autonomy from operating freely and

decentralized. The question now is, "Was it meant to be made this way?". This could be one of the reasons behind India's slow growth when compared to China, where provinces have complete control over their economies, resulting in significantly greater growth rates.

SAFEGUARDS OF INDIAN FEDERATION:

1. The Indian Constitution is a written document that is fairly strict.
2. The ability to alter the law with the approval of a majority of state legislatures.
3. The Supreme Court of India has original jurisdiction over disputes between the Union and individual states or groups of states.

From one state to another or a group of states.

A group of states from our group to a group of states from another group of states.

NATURE OF INDIAN FEDERATION IN THE CONTEXT OF ART. 356

There are restrictions in the Indian Constitution that prevent it from being federal in the way that the American Constitution is. Despite the fact that neither the Union nor the states have [absolute] internal sovereignty within India due to the division of powers between the Union and the States, in which both governments have plenary power within their respective spheres, certain provisions in the Constitution are considered to be in violation of the federalist principle. Article 200 of the constitution, for example, states that governors may reserve some laws enacted by state legislatures for consideration by the president of India. Another article that is considered to be a deviation from the principle of federalism is Articles 356, 352, and 360, which give the president the power to declare an emergency, which can transform the federal system into a unitary system; however, the provision is only temporary and can be used only under certain exceptional circumstances under certain restrictions created through judicial intervention; there are many circumstances in which the central government has the power to declare an emergency; however, there are many circumstances in which the central government has the power to declare an emergency.

There has been a shift in the way that Indian federalism is construed. Our constitution's core framework includes democracy and federalism, which are both essential aspects. Dr. Baba

Saheb Ambedkar believed that Article 356 of the Indian Constitution is a dead text, but unfortunately, Article 356 has helped many state governments in India lose their power. It was stated during the constituent assembly debate that Article 356 may be exploited for political purposes. In response, Dr. Ambedkar stated that such articles would never be used and would be considered a dead letter. If they are implemented, I trust that the President, who is endowed with these powers, will take appropriate safeguards before suspending provincial governance. I'm hoping that the first thing he does is issue a simple warning to a province that has gone astray, stating that things were not going as planned under the Constitution. If that warning is ignored, he will call an election to let the people of the province to resolve their differences on their own. He would only turn to this piece if the first two solutions failed.

However, this was never the case, as the President's ability to issue a proclamation under Article 356 was frequently abused. So far, the provision's power has been exercised on more than 90 occasions, almost all of them against administrations led by political opponents. This makes *S. R. Bommai v. Union of India* a watershed decision in which the Supreme Court explored the provision of Article 356 and many issues related to it in depth. *State of Rajasthan V. Union of India* was the next significant case in which the nature of the Indian Constitution was called into question. "Our difficulty is that the language of Article 356 is so wide and loose that to circumscribe and confine it within a strait-jacket will not be just interpreting or construing it but will be Constitution-making legislation, which, again, does not, strictly speaking, lie within our domain," Chief Justice Hon'ble Court observed while interpreting Article 356, "Our difficulty is that the language of Article 356 is so wide and loose that to circumscribe and confine it within a strait-jacket Because of the theoretical title given to the Constitution of India, namely federal, quasi-federal, and unitary, the Apex court in India has been wrestling with the argument whether India has a Federal Constitution and Federal Government. *State of West Bengal V. Union of India* was the first notable case in which the Supreme Court addressed this subject in depth.

CHALLENGES OF INDIAN FEDERATION:

- ***CENTRALISED PLANNING:*** Despite the fact that economic and social planning are listed in the Concurrent List of the Constitution's Seventh Schedule, the Union Government has complete control over national and regional planning in India. Centralised planning through the Planning

Commission, now NITI Aayog, a significant preponderance in legislative power for the Union, the states' financial dependent on the Centre's compassion, and the states' administrative inferiority make them meek and weak. The states are only responsible for filling in the blank places in the text for planning purposes. In India, there is no state-specific planning commission. It also adds to state hardship and jeopardises the efficient operation of the federal government across the country.

- **LANGUAGE CONFLICTS:** In India, linguistic diversity can occasionally jeopardise the federal spirit of the Constitution. In India, the Constitution recognises 22 languages. Aside from that, there are hundreds of dialects spoken throughout the country. When the federation's strongest unit tries to impose a certain language on others, trouble ensues. The battle for India's official language is still raging. The opposition of the southern states to Hindi as India's official language has resulted in a deepening linguistic problem in the country. It casts doubt on the Union of India's federal nature.
- **ISSUE OF RELIGION:** India is a great example of religious diversity, which can lead to strife and weaken the federation. However, the religious process does not have to be controversial all of the time. Religion may not generate federation imbalances as long as there is appropriate tolerance on the part of the people and a genuine secular policy on the part of the government.
- **RELATIVE ECONOMIC & FISCAL INCOMPATIBILITIES AMONG THE UNITS:** A federation is also threatened by differences in economic norms and relative economic and fiscal incompatibility among the constituent nations. In this sphere, the causes of imbalance are demands for economic planning and development, as well as regional economic equality and state financial autonomy. In a federation, the demand for regional financial equality causes challenges. In India, several states have been designated as impoverished and are receiving grants-in-aid based on the principle of equalisation. However, under a federation, the paradox arises because if the equalisation principle is followed, national income and total income growth will suffer. Again, even if significant emphasis is placed on economic development, equalisation of all units is impossible to achieve.
- **PHYSICAL ENVIRONMENT:** The physical environment might sometimes make it difficult

for a federation to communicate. A federation with extensive and challenging communication lines will find it difficult to keep in touch with all of its units. It is simple to produce misunderstanding and conflict, and this may have been one of the major reasons for the east wing's departure from Pakistan. Furthermore, in the absence of effective communication, the poorer units are more likely to develop a sense of neglect and believe that they are receiving less than their fair share of development resources. Similar attitudes exist in India's North-Eastern states, which are causing challenges for the federation.

- **EXTERNAL FORCES:** External pressures can potentially obstruct a federation's progress. Interference from neighbouring countries is causing tension in India's North Eastern states. China's claim to a portion of Arunachal Pradesh's land on the Line of Actual Control jeopardises India's territorial integrity. The Tamil conflict in Sri Lanka is causing havoc in India. In the past, the purported Pak hand in the Khalistan movement has played a role in undermining the Indian federation.

- **CHALLENGES FROM GLOBALIZATION:** Federal systems like India's face both problems and opportunities as a result of globalisation. Federalism has significant challenges in the age of globalisation, because the latter has put pressure on economic and political reforms. As a result of the liberalisation of the economy brought about by globalisation, states seek economic development by allowing foreign direct investment and the creation of special economic zones (SEZs) within their borders. It has resulted in numerous readjustments and structural changes in India's economy. The former center-state connections, particularly in economic realms, have been fundamentally reshaped by the market-driven economy. Gradual liberalisation of the Indian economy has resulted in competition among Indian states for investment, particularly from abroad. It has had the unintended consequence of exacerbating regional imbalances and widening the divide between haves and have-nots. On the one hand, FDIs help forward and developed countries accelerate their economic development; on the other hand, backward countries stay underdeveloped due to a lack of a viable socio-political economic environment. In this sense, the Union Government must help and cooperate with the latter. It will encourage India's cooperative federalism. The relationship between the state and panchayats is also changing at the grassroots level as a result of globalization's pervasive effects. For federalism to survive, increased decentralisation is required at all levels.

CONCLUSION:

Finally, for a huge and pluralistic country like India, federalism, or the federal form of governance, is the best option. Through various structural mechanisms of shared authority, it attempts to foster sociopolitical collaboration between two groups of identities. However, as a result of the aforementioned circumstances, the central-state relationship and state autonomy have emerged as major issues in Indian federalism. The Sarkaria Commission, established by the Indian government in 1983 to evaluate and analyse the functioning of Indian federalism, produced no significant proposals for properly constructing Indian federalism. This demonstrates that, despite the fact that our constitution is a federal one, the overemphasis on the federal government's power renders it incapable of dealing effectively with socioeconomic difficulties and promoting national unity. It is necessary to restructure Indian Federalism in order to make it more viable and resilient in terms of encouraging successful center-state relations and upholding the federal tradition across the country. Despite the fact that India was to be a federation, the federation was not formed as a result of an agreement among the states to join one, and because the federation was not formed as a result of an agreement, no state has the right to secede. Because it is indestructible, the Federation is referred to as a Union. Despite the fact that the land and its inhabitants are divided into different States for administrative convenience, the country and its people are one indivisible whole, living under a single rule emanating from a single source. India's political structures are now commonly regarded as federal in nature. Self-rule and shared rule have been linked in unusual ways, allowing India's union to not only survive, but also thrive and expand in all of its diversity.

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