

Chapter Seven

FEDERALISM

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FEDERALISM:

- **Definition:** Federalism is a system of government in which powers and responsibilities are divided between a central government and various constituent units, such as states or provinces.
- **Example:** India, the United States, Canada, and Australia are examples of federal countries.

WHAT IS FEDERALISM?

- **Definition:** Federalism is a form of government in which powers are divided between a central authority and smaller political units, such as states or provinces. It aims to balance the need for a strong central government with regional autonomy.

- **Example:** In India, federalism allows states like Tamil Nadu to have their own language policies while recognizing Hindi as the official language at the national level.

Federalism in West Indies:

- **Explanation:** The West Indies Federation was an attempt to create a federal structure among several Caribbean islands. It aimed to promote economic and political cooperation but faced challenges and eventually disintegrated.
- **Example:** The West Indies Federation included countries like Jamaica, Trinidad and Tobago, and Barbados.

Federalism in Nigeria:

- **Explanation:** Nigeria adopted federalism to accommodate its diverse ethnic, religious, and regional differences. The country is divided into states, each with its own government.
- **Example:** Nigeria's federal system helps manage tensions between its various ethnic groups, such as the Yoruba, Igbo, and Hausa-Fulani.

FEDERALISM IN THE INDIAN CONSTITUTION:

- **Article 1:** Article 1 of the Indian Constitution defines India as a union of states. It emphasizes the federal nature of the country.
- **Division of Powers:** Powers and responsibilities are divided between the Union (central government) and states. The Constitution contains three lists: Union List, State List, and Concurrent List, specifying which powers belong to each.

Union List:

- **Definition:** The Union List contains subjects on which only the central government can make laws.
- **Example:** Defense, foreign affairs, and banking are in the Union List.

State List:

- **Definition:** The State List contains subjects on which only state governments can make laws.
- **Example:** Police, public health, and agriculture are in the State List.

Concurrent List:

- **Definition:** The Concurrent List contains subjects on which both the central and state governments can make laws.
- **Example:** Education, criminal law, and marriage and divorce are in the Concurrent List.

Residuary Powers:

- **Definition:** Residuary powers are those not explicitly mentioned in any list, and they belong to the central government.
- **Example:** If a subject is not listed in any of the three lists, the central government has authority over it.

FEDERALISM WITH A STRONG CENTRAL GOVERNMENT:

- **Article 257 (1):** Article 257(1) of the Indian Constitution mandates states to ensure compliance with laws made by the central government. It reinforces the central government's authority.

CONFLICTS IN INDIA'S FEDERAL SYSTEM:

- **Centre-State Relations in India:** Conflicts often arise between the central and state governments over issues like taxation, allocation of resources, and jurisdiction.
- **Demands for Autonomy:** Some states demand greater autonomy and control over their affairs.
- **Role of Governors and President's Rule:** The appointment and role of governors can lead to tensions. President's Rule may be imposed when states face governance crises.

Demands for New States in India:

- **Explanation:** Various regions in India have demanded separate statehood for reasons such as cultural identity and economic development.
- **Example:** The demand for Telangana resulted in the formation of a new state in 2014.

Interstate Conflicts:

- **Explanation:** States sometimes dispute boundaries, river-sharing agreements, and resource allocation.
- **Example:** The Cauvery water dispute between Karnataka and Tamil Nadu has been a longstanding interstate conflict.

SPECIAL PROVISIONS for Jammu and Kashmir:

- **Explanation:** Article 370 of the Indian Constitution granted special autonomous status to Jammu and Kashmir. However, this provision was revoked in 2019.
- **Example:** Jammu and Kashmir had its own constitution, flag, and autonomy in many matters until the abrogation of Article 370.

Federalism in India is a complex system that divides powers and responsibilities between the central government and states. It seeks to balance the need for a strong central authority with regional autonomy, and it has been a subject of various conflicts and demands for change throughout India's history.

1. From the list of following events which ones would you identify with the functioning of federalism? Why?

Answer

The following events can be identified with the functioning of federalism:

1. **The Centre announced Sixth Schedule status to Darjeeling Gorkha Hill Council:** This event relates to federalism as it involves the Centre, the West Bengal government, and a regional council (Darjeeling Gorkha Hill Council) reaching a tripartite agreement to grant greater autonomy to a governing body in a specific region. It signifies the devolution of powers and autonomy to a regional entity within the federal structure.
2. **CU Status for Manipur University:** This event is federal in nature because it involves the central government's decision to convert Manipur University

into a Central University. It demonstrates the central government's role in higher education institutions within a federal system and its commitment to providing similar institutions in other Northeastern states.

3. **Funds released to Arunachal Pradesh:** The Centre releasing funds to Arunachal Pradesh under its rural water supply scheme is an example of fiscal federalism. It shows the financial cooperation between the central and state governments in addressing development and infrastructure needs.
4. **Demand for dismissal of Government in Nagaland:** The demand by the Congress Legislature Party (CLP) to dismiss the DAN government in Nagaland reflects the state-level political dynamics within the federal structure. It highlights the role of state governments and their interactions with the central government.
5. **NDA government asks naxalites to surrender arms in Bihar:** The Bihar government's appeal to naxalites and its efforts to address development and security issues within the state demonstrate the interplay between state governments and the central government in managing law and order and development issues.

2. Think which of the following statements would be correct. State why.

- Federalism enhances the possibility of people from different regions to interact without the fear of one's culture being imposed upon them by others.
- Federal system will hinder easier economic transaction between two different regions that have distinct types of resources.

- A federal system will ensure that the powers of those at the centre will remain limited.

Answer

1. Federalism enhances the possibility of people from different regions to interact without the fear of one's culture being imposed upon them by others.
 - This statement is correct. Federalism allows for regional autonomy and self-governance to a certain extent. In a federal system, each region or state has the authority to make decisions on matters that are important to its unique culture, identity, and preferences. This promotes cultural diversity and prevents the imposition of one region's culture or values on another. It fosters a sense of cultural and political pluralism, which can enhance interactions and cooperation between regions while respecting their distinctiveness.
2. Federal system will hinder easier economic transaction between two different regions that have distinct types of resources.
 - This statement is not necessarily correct. While federal systems do grant some degree of economic autonomy to states or regions, they also provide mechanisms for cooperation and coordination between regions with distinct types of resources. In fact, federal systems often include provisions for intergovernmental agreements, revenue-sharing, and trade facilitation to promote economic interactions and complementarity between regions. The goal is to ensure that

economic transactions can occur smoothly while respecting the unique economic strengths of different regions.

3. A federal system will ensure that the powers of those at the centre will remain limited.

- This statement is generally correct. Federal systems are designed to distribute powers and responsibilities between the central government and regional or state governments. The central government's powers are limited to those specified in the constitution, while residual powers are often left to the regional governments. The aim is to prevent excessive concentration of power at the center and ensure a division of authority. However, the extent to which powers are limited at the center can vary depending on the specific federal structure and constitutional provisions of a country.

3. Based on the first few articles of Belgian constitution – given below – explain how federalism is visualised in that country. Try and write a similar Article for the Constitution of India.

Answer

In the Belgian Constitution, federalism is visualized by clearly defining the country as a Federal State made up of communities and regions. The Constitution recognizes the existence of multiple communities, regions, and linguistic regions within Belgium, each with its own specific identity and territorial boundaries. This division of powers and responsibilities between communities and regions is fundamental to the federal structure of Belgium.

To draw a parallel with the Indian Constitution, we can create a similar article that reflects India's federal structure:

Article [X]: India as a Federal Union of States and Territories

1. India is a Federal Union of States and Territories.
2. India is composed of multiple States and Union Territories.
3. India is made up of distinct linguistic regions, recognizing the linguistic diversity within the country. The official languages of these regions shall be determined by the respective State or Union Territory legislatures.
4. Each State and Union Territory within the Indian Union shall have its own government and legislative assembly, with powers and responsibilities delegated to them by this Constitution.
5. The Indian Union shall consist of States, Union Territories, and any other administrative divisions as may be created by law. Each State and Union Territory shall have defined territorial boundaries.
6. The States of India are [list of states], and the Union Territories are [list of union territories], each with its own unique identity and governance structure.
7. The linguistic regions within India shall include [list of linguistic regions], each recognized for its linguistic and cultural distinctiveness.
8. The division of powers and responsibilities between the Union and the States shall be in accordance with the provisions of this Constitution, with

specific subjects allocated to the Union List, the State List, and the Concurrent List.

9. Any alteration in the boundaries or status of States or Union Territories shall be carried out in accordance with the provisions of this Constitution and through due legal processes.

This article, similar to the Belgian Constitution's approach, emphasizes India's federal character, recognizing the existence of States, Union Territories, linguistic regions, and the division of powers between the Union and the States. It underscores the importance of linguistic and cultural diversity while maintaining the integrity of the Indian Union.

4. Imagine that you were to rewrite the provisions regarding federalism. Write an essay of not more than 300 words making your suggestions about:

- a. division of powers among the centre and the States,
- b. distribution of financial resources,
- c. methods of resolving inter-State disputes and
- d. appointment of Governors

Answer

Division of Powers: To promote better governance and minimize conflicts, a clear and comprehensive division of powers between the Centre and the States is essential. A revised Indian Constitution should:

- Define exclusive domains for the Centre and States with minimal overlap.

- Establish a mechanism for periodic review and adjustment of these domains based on changing socio-economic needs.
- Strengthen the principle of subsidiarity, emphasizing that powers should be vested at the lowest level of government capable of addressing issues effectively.

Distribution of Financial Resources: A fair and equitable distribution of financial resources is crucial for balanced development. A reimagined federalism could:

- Create a transparent formula for resource allocation that considers population, economic indicators, and special needs.
- Encourage fiscal discipline by both Centre and States.
- Establish a Finance Commission-like mechanism for local bodies to ensure adequate resources at the grassroots level.

Methods of Resolving Inter-State Disputes: Efficient resolution of inter-State disputes is essential to maintain peace and harmony. Suggested reforms include:

- Strengthening the role of the Inter-State Council as a platform for dialogue and dispute resolution.
- Setting up a dedicated tribunal to expedite the resolution of disputes, drawing from international best practices.
- Encouraging States to proactively engage in negotiations and mediation before resorting to legal action.

Appointment of Governors: Governors play a vital role in fostering cooperative federalism. To enhance their effectiveness:

- Governors should be appointed based on merit, with a transparent selection process.
- They should be non-partisan figures committed to upholding constitutional values.
- Their powers and responsibilities should be clearly defined, with mechanisms in place to prevent misuse.

5. Which of the following should be the basis for formation of a State? Why?

- a. Common Language
- b. Common economic interests
- c. Common religion
- d. Administrative convenience

Answer

a. **Common Language:** While a common language can be a unifying factor, it should not be the sole basis for forming a State. India, for instance, is a linguistically diverse country with hundreds of languages spoken. Relying solely on a common language could lead to exclusion and marginalization of linguistic minorities.

b. **Common Economic Interests:** Common economic interests are a crucial factor for State formation. When a group of regions shares similar economic needs, resources, and development goals, it can be beneficial to form a State. This allows for coordinated planning and resource allocation, promoting economic growth and stability.

c. **Common Religion:** Using religion as the basis for forming a State can be problematic in a diverse and secular country like India. It goes against the principles of religious freedom and secularism enshrined in the Constitution. Additionally, it may lead to religious discrimination and conflicts.

d. **Administrative Convenience:** Administrative convenience is a pragmatic and reasonable basis for State formation. It takes into account factors like geographical contiguity, population density, infrastructure, and governance efficiency. Creating States for administrative convenience ensures that government services are delivered effectively and citizens' needs are met efficiently.

6. Majority of people from the States of north India – Rajasthan, Madhya Pradesh, Uttar Pradesh, Bihar—speak Hindi. If all these States are combined to form one State, would it be in tune with the idea of federalism? Give arguments.

Answer

Here are several arguments to support this assertion:

1. **Diverse Interests:** While these States share a common language, they have diverse cultural, social, and economic interests. Rajasthan, for example, has a distinct cultural heritage and geographical features, including a significant desert region. Madhya Pradesh has its unique historical and cultural aspects. Combining them into one State would disregard these unique identities and interests.
2. **Administrative Challenges:** Creating an excessively large State may lead to administrative inefficiencies. It would be challenging to govern such a vast and diverse area effectively. Administrative convenience is an essential

principle in federalism, and creating a mega-State could hinder efficient governance.

3. **Local Governance:** Federalism promotes the idea of decentralized governance, where local issues are addressed at the regional or State level. Combining these States would limit the ability to address local concerns effectively and could lead to neglect of regional development and issues.
4. **Cultural and Social Diversity:** These States have diverse cultural, social, and religious characteristics. Federalism respects and accommodates this diversity by allowing States to have some autonomy in cultural and social matters. Merging them into one State might undermine this diversity.
5. **Representation:** Federalism ensures that regions have their own representation in decision-making processes. Merging these States would dilute regional representation and could lead to a concentration of power in a single State capital.
6. **Historical Context:** Each of these States has its own historical background and political evolution. Their integration would require addressing historical grievances and complexities, which could lead to conflicts and challenges.

7. List four features of the Indian Constitution that give greater power to the central government than the State government.

Answer

The Indian Constitution indeed establishes a federal system of government but with certain features that give greater power to the central government (Union

government) compared to the State governments. Here are four features that reflect this centralization of power:

1. **Unitary Features within Federal System:** The Indian Constitution incorporates several unitary features, which concentrate power at the center. For example, the President can dismiss a State government and impose President's Rule under specific circumstances mentioned in Article 356. This provision allows the central government to assume authority over a State.
2. **Single Citizenship:** India follows the concept of single citizenship as opposed to dual citizenship, which is common in federal systems. Indian citizens have only one citizenship, which is of the Union of India. This means that citizenship-related matters are under the jurisdiction of the central government.
3. **Union List Dominance:** The Constitution divides legislative powers into three lists: Union List, State List, and Concurrent List. The Union List contains subjects on which only the central government can legislate. This list includes crucial subjects like defense, foreign affairs, and atomic energy, which are vital to the nation's security and sovereignty.
4. **Financial Control:** The central government exercises significant control over the finances of the States. It can impose taxes and duties on States through various means, including the imposition of cess and surcharges. The central government also plays a substantial role in the allocation of funds to the States through mechanisms like the Finance Commission.

8. Why are many States unhappy about the role of the Governor?

Answer

Many States in India have expressed unhappiness about the role of the Governor for several reasons:

1. **Partisan Appointments:** Governors are appointed by the President of India on the advice of the Prime Minister, and their appointments are often seen as politically motivated. Governors from the ruling party at the center are sometimes accused of favoring the interests of the central government, leading to a perception of bias.
2. **Interference in State Affairs:** Governors have the power to dismiss State governments under certain circumstances, as mentioned in Article 356. State governments often feel that Governors appointed by the central government misuse this power to dismiss duly elected State governments, which is seen as an infringement on State autonomy.
3. **Role in State Assemblies:** Governors have a role in the functioning of State legislatures, such as summoning and proroguing sessions, addressing the legislature, and giving assent to bills. Their decisions and actions in these matters can sometimes be contentious and lead to disputes between the State government and the Governor.
4. **Center-State Relations:** Governors act as a link between the central government and State governments. When the relationship between the center and the State government is strained, Governors may be perceived as representatives of the central government rather than impartial arbiters.

5. **Appointment of Chief Ministers:** Governors play a crucial role in appointing Chief Ministers in case of a hung assembly or when no single party has a clear majority. Controversies have arisen when Governors' decisions on Chief Minister appointments have been seen as politically biased.
6. **Recommendations and Reports:** Governors submit periodic reports and recommendations to the President on the State's governance. These reports can sometimes be subjective and politically motivated, leading to criticism.
7. **Limited Accountability:** Governors enjoy security of tenure and cannot be easily removed from office. This can lead to a situation where they may act independently of the State government's wishes without facing accountability.

9. President's rule can be imposed in a State if the government is not being run according to the provisions of the Constitution. State whether any of the following conditions are a fit case for imposition of President's rule in the State. Give reasons.

Answer

Imposing President's rule in a State is a significant step, and it should only be done when the situation meets the constitutional criteria specified in Article 356 of the Indian Constitution. Let's analyze each of the given scenarios:

1. **Killing of Opposition Party Members:** While the killing of opposition party members is a serious law and order issue, it may not necessarily be a fit case for imposing President's rule. Law and order problems are typically

addressed by the State government. President's rule is usually imposed when the State government is unable to function and there is a breakdown of constitutional machinery. In this case, it would be more appropriate for the State government to handle the criminal cases and maintain law and order.

2. **Rise in Kidnappings and Crimes Against Women:** An increase in crimes is a law and order issue that the State government should handle. President's rule is not typically imposed for such reasons unless the State government is incapable of addressing these issues.
3. **No Clear Majority in Legislative Assembly:** The absence of a clear majority in the State Legislative Assembly is a situation where President's rule might be considered. However, it depends on whether there is a real breakdown in governance and the State government is unable to function effectively. If there are attempts to buy the support of MLAs or if the government is unable to prove its majority, it may warrant President's rule.
4. **Different Political Parties in State and Centre:** The presence of different political parties in power at the State and central levels is not a sufficient reason for imposing President's rule. It is a common scenario in a federal system, and political differences do not necessarily indicate a breakdown of constitutional machinery.
5. **Communal Riots:** Communal riots are a grave situation, but President's rule is usually imposed when the State government is unable to control the situation, leading to a breakdown of law and order. If the State government is taking effective measures to control the riots, President's rule may not be necessary.

6. **Water Dispute and Non-Compliance with Supreme Court:** Disputes between States, including those related to water, should ideally be resolved through negotiations and legal mechanisms. President's rule is not typically imposed for this reason. The Supreme Court's authority is supreme, and its orders should be respected through legal channels.

10. What are the demands raised by States in their quest for greater autonomy?

Answer

States in India have raised various demands in their quest for greater autonomy.

Some of the common demands include:

1. **Financial Autonomy:** States often seek greater control over their financial resources. They demand a higher share of central taxes and more flexibility in managing their finances. They want the freedom to formulate their budgets and allocate resources based on their specific needs and priorities.
2. **Fiscal Federalism:** States call for a more equitable distribution of financial resources between the Centre and the States. They argue that they should have more say in revenue-sharing arrangements and that the principles of fiscal federalism should be upheld.
3. **Control Over Natural Resources:** Some States, particularly those rich in natural resources like minerals, water, and forests, demand greater control over these resources. They want a larger share of the revenue generated from the exploitation of these resources.
4. **State List Empowerment:** States often seek more exclusive control over subjects listed in the State List of the Seventh Schedule of the Constitution.

They argue that the Centre should not encroach upon matters that fall under their jurisdiction.

5. **Goods and Services Tax (GST) Autonomy:** States have concerns related to the implementation of GST. They seek assurances that their fiscal autonomy will not be compromised under the new tax regime.
6. **Special Category Status:** Some States, particularly those facing geographical and developmental challenges, seek special category status. This status grants them access to additional central funds and policy support to address their unique needs.
7. **Greater Role in Decision-Making:** States demand a greater say in national decision-making processes. They want more participation in the formulation of national policies and programs, especially those that affect their interests.
8. **Interstate Water Disputes Resolution:** States with water-sharing disputes call for fair and timely resolution mechanisms. They want more autonomy in managing their water resources and resolving disputes with neighboring States.
9. **Language and Culture Preservation:** States with distinct languages and cultures seek greater autonomy in preserving and promoting their linguistic and cultural heritage. They want to protect and promote their regional languages and cultures without interference.

10. **Administrative Autonomy:** States often seek more administrative powers to govern their territories efficiently. This includes control over their police forces, public services, and local governance structures.

11. **Should some States be governed by special provisions? Does this create resentment among other States? Does this help in forging greater unity among the regions of the country?**

Answer

The question of whether some States in India should be governed by special provisions is a complex one, and opinions on this matter vary widely. Here are some key points to consider:

Arguments in Favor of Special Provisions:

1. **Addressing Unique Needs:** Special provisions are often introduced to address the unique needs and challenges faced by certain States. India is a diverse country with significant regional variations in terms of geography, culture, development, and historical factors. Special provisions can help tailor policies and resources to address these variations effectively.
2. **Historical and Geographical Factors:** States that have faced historical disadvantages, such as those in hilly or remote regions, may require special provisions to bridge development gaps. These provisions can help promote equitable development and reduce regional disparities.
3. **Promoting Cultural and Linguistic Diversity:** India's strength lies in its cultural and linguistic diversity. Special provisions can protect and promote

the languages, cultures, and traditions of specific regions, contributing to the country's rich tapestry of diversity.

4. **Conflict Resolution:** In some cases, special provisions are introduced to resolve long-standing disputes and conflicts, especially in areas like Jammu and Kashmir and the Northeast. These provisions aim to find political solutions to complex issues.

Arguments Against Special Provisions:

1. **Resentment Among Other States:** Special provisions can sometimes lead to resentment among other States that perceive them as discriminatory. These States may argue that such provisions create inequalities and disrupt the principle of equal treatment.
2. **Challenges to National Unity:** Critics argue that special provisions based on regional or communal lines can undermine the idea of a unified and integrated nation. They contend that unity should be based on common principles and values rather than regional considerations.
3. **Administrative Complexities:** Managing a country with varying special provisions can be administratively challenging. It may lead to complexities in governance and resource allocation.
4. **Inefficiencies:** Critics suggest that special provisions can lead to inefficiencies, corruption, and misuse of resources, as they may not always be subject to the same checks and balances as regular governance structures.

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