

# Emerging Trends in Federalism

## Abstract

Federalism is a form of government in which the sovereign authority of political power is divided between the various units. This form of government is also called a "federation" or a "federal state" in the common parlance. The basic principle of federalism is that the legislative, executive and financial authority is divided between the centre and the states not by law passed by the center but the constitution itself. This paper describes the term federalism, features of federalism and emerging trends of federalism. This paper deals with the conceptual analysis of Federalism.

**Keywords:** Federalism, Features of Federalism, New Federalism, Dual Federalism.

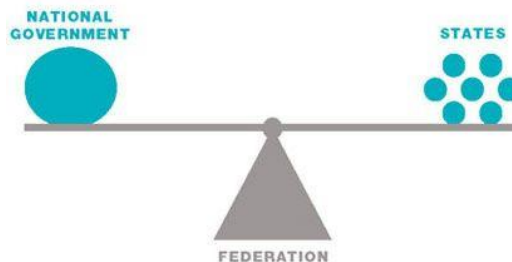
## Introduction

Federalism has evoked surprisingly differing responses from different scholars. Writing 1863 Proudhon observed in his last great work of the Federal Principle. "Either the twentieth century will begin the age of federations or mankind will step back into purgatory for 1,000 years". 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 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.



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The term 'federal' is derived from the Latin word 'foedus' which means 'covenant'. The word was first coined in 1665 to describe the system of holy enduring covenants between God and man. It was thus first used by theologians of the seventeenth century. The term later became related to the theories of social contract and was associated with a definite desire to build the political society on principles of collaboration and co-ordination rather than on subordination. Indeed, the essence of the federal system lies in its rigorous acceptance of the spirit of collaboration and co-ordination rather than of coercion and subordination. The nation's public decision-making thus gets shared and only then is a federal system created. It is sustained by a negotiating or consultative culture. Daniel J. Elazar regards 'the primacy of bargaining and negotiated co-ordination among several power centres as a key feature of a federal system.

Carl J. Friedrich defines federalism as a union of groups that may be union states or communities such as political parties, trade unions, etc. Friedrich uses the term in an inclusive sense and according to him, when various students' union constitute an apex level body, these are forming a federation of students' unions. Other political scientists limit a federation to a territorial community— a community living within a defined territory. A federation is, thus, 'an indestructible union of indestructible units'. The concept is a political and territorial one. A system of governance in which distribution of power of constituent units is ensured by a written constitution, having independent Judiciary to resolve, state of Local-levels. Under the principal of government, power and authority is allocated between the national and local government units, such that each unit is delegated a sphere of power and authority only it can exercise while other powers must be shared.

Though federal systems were in existence in ancient Greece it was given to the United States of America to become the first federal state in modern times. The American system has been so old and at the same time so successful that it is generally regarded as a prototype of a federal system.

#### **Review of Literature**

Nirmal Mukarji, Balveer Arora in his book *Federalism in India Origins and Development* analyse and interpret the dynamics of federal processes in different spheres. Dr. A.P. Awasthi in his book *Indian Government and Politics* discuss the historical background Indian Federalism. He also describes the features of Federalism. S.R. Maheshwari in his book *comparative Government and Politics* highlights the team federalism and new trends of federalism. He also comments on the Dual Federalism and Co-operative federalism. Verinder Grover in his book *Federal System State Autonomy and Centre-State Relations in India*, devoted to Federal System in India. Its structure Nature and Determinants, State Autonomy and Centre-State Relations and the questions related to them. K.R. Bombwall, in his study *the Foundations of Indian Federalism*, attempts an enquiry into the historical background of the growth of federalism in India as an essential basis for a proper understanding of the peculiar form federal polity established in a country.

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

#### **Emerging Trends in Federalism**

Though more nation-states in the world today are unitary than federal, the federal form of government has been accepted by a large number of countries located in all the continents. What is more, many countries are considering a federal form as an efficient device to resolve their internal ethnic problems. The question of Tamil speaking people in Sri Lanka may be solved, many argue, only by adoption of a federation in the country. In other words, a federal system is being favoured for many ends in mind.

A major recent trend in federalism has been a steady strengthening of the central government, and there does not seem to be any escape from such a situation. Indeed, one feature characterising all federations old and new alike, is the growing strength of the central government in a federal system. This is happening regardless of the constitutionally made allocation of functions and resources between the two levels of government. Many factors account for this phenomenon. Today, all sovereign states are all the time interacting among themselves in various fields of activities, and the consequent pressures of international involvements compel the central government to take up newer functions and expand those already in hand to cope with the new responsibilities. Geo-political factors including war or threat of war also make for an activist central government. Today, all states are seen to carry enlarged burdens of defence and foreign policies, which inevitably strengthen the central powers. The Indian Constitution, for instance, states very clearly in Article 253 that the Parliament "has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement, or convention with any other country or countries or any decision made at any international conference, association or other body." In Malaysia also, the federal Parliament can make a law on a subject if necessary for implementation of an international treaty. This indicates that foreign relations and increasing international co-operation have been directly strengthening the powers of the central government. Besides, industrialisation to which all societies are firmly committed and its handmaid, urbanisation, necessitate central intervention and action in an increasing number of cases, resulting in its expansion. Earlier, welfare functions and functions of regulation were not very important and such as

these were, remained mostly with the state and local governments. There is a definite shift, of late, and such functions have got increasingly transferred into the hands of the centre. Expansion of trade, commerce and industry necessarily invite central intervention and regulation. Moreover, the existence of minorities also makes central intervention inescapable. The blacks in U.S.A., look to the federal government for protection and promotion of their welfare. In India also, the minorities want the intervention of the central government for they have more confidence in it than in the lower level government. Finally, the adoption of economic planning, so characteristic of the Third World federations, has considerably stepped up the role and functions of the central government as the regulator and controller of the national economy. In brief, all federations find themselves carrying a highly powerful central government equipped with an unprecedented range of functions and resources. This expansion is characterised by three features. The central government has developed more intensively the area under its direct jurisdiction. Secondly, it must have under its own command at least two functions- defence and foreign relations. These functions, in their turn, produce their own logic, and lead to assumption of responsibilities in a vastly expanded area. Thirdly, the centre's powers have increased, most impressively in the area of finance.

Does the foregoing analysis permanently eclipse the future of federalism, making it almost a stage towards unitary government? This would be an unreasonably pessimistic view. Nor does this mean that the central government is growing in power and functions at the expense of the state governments. Indeed, the functions of the state governments too have expanded impressively, and at least in some federations have expanded much more and much faster than the central government. Because both the levels of government started from a scratch, so to say, the scope for expansion of governmental activities has been large. Nor should one forget that while the centre is extending the sphere of its concerns and what is more, digging deeper and deeper, there is a simultaneous emergence of lobby in favour of the constituent units. The state governments are becoming increasingly self-assertive and self-conscious, which, too, sets a limit to the powers of the Centre.

In the earlier phase of its history, the concept of federalism was dominated by legalism. This was because the first to study this concept were the students of law. Today, however, the questions asked of federalism are more political and economic than legal, thereby indicating an undoubted shift in emphasis and an ascendancy of political determinants of federalism. Political determinants include a number of dimensions, the more important being ideological, structural and procedural. Viewed from this angle, non-legal factors become much more effective in the sustenance of a federal system. Indeed, a prerequisite of a viable federation is the existence of a set of mutually reinforcing social attitudes respectful of geographic pluralism and, equally, of rule of law.

Functioning federations have within them a capacity to forge appropriate instrumentalities and a resilience to accommodate tensions which are inherent in it.

Another very significant trend noticeable in federalism is a definite extension of its meaning and coverage. A new term 'New Federalism' has been coined to cover this dimension which seeks to introduce a qualitative change, so to speak, in the concept of the term. Historically, federalism refers to only two levels of government, and local government has remained completely excluded. 'New Federalism' co-opts the local government and views itself as a three-tiered political arrangement involving, that is, the central, state and local governments. A demand is thus made to accord a recognition to the local government in the constitution of the land itself; and resources should be distributed between the three, not two, levels of government.

A certain glorification of the local government, a modern trend in federalism, is part of the larger concern for enlisting citizen participation in the management of public affairs. This demands, among others, that the neighbourhood governments are desirable and, moreover, necessary for individual growth and development.

The theory of 'dual federalism' which was the dominant one in the beginning stands abandoned now. This theory is based on the concept that dual sovereignties - general and regional-must exist side by side, each separate and autonomous of the other in its own sphere. Today, we are talking, instead, of 'co-operative federalism' which emphasizes the inter-dependence and co-operation between the various levels of government. A further shift in meaning of federalism is noticeable of late, and an expression like 'marble cake federalism' emphasizing the fluidity of the governmental process has become popular. Another term which is increasingly coming into vogue is 'New Federalism', which seeks to make local government an integral part of the governmental process. Even at the level of local government, the concept of federalism is being increasingly advocated. Cities like New York, Tokyo, London, Delhi, Calcutta, Bombay, Madras etc. have become sprawling metropolises, and a concept of 'federated city' in which the ward of neighbourhood government is to function autonomously of the city government has become popular. Panchayati Raj in India may, for instance, be viewed as a unique elaboration of federalism at the local governmental level.

#### **Conclusion**

Dr. B.R. Ambedkar, one of the Chief architects of the Indian constitution said: "Our constitution would be both unitary as well as Federal according to the requirements of time and circumstances. In historical as well as present context, the above statement is fully correct because: Federalism is not static but a dynamic concept". It is always in the process of evolution and constant adjustments from time to time in the light of the contemporary needs the demands being made on it. Constant discussions and negotiations between the centre and the states in various forms can help in removing frictions and difficulties in the area of inter

government cooperation. For making Federalism more robust and viable system the differences between the centre and the state must be sort out so that country may successfully meet the great challenges of difference, external and internal security and socio economic development. At lost, it is very necessary that neither the federal set-up becomes unitary not that it becomes too lose and weak affecting the unitary and integrity of the nation.

Federal systems of systems strongly influenced by federal principles have been among the most table and long-lasting of polities. But the successful operation of federal systems requires a particular kind of political environment, one that is conducive to popular government and has the requisite traditions of political cooperation and self-restraint. Beyond this, federal systems operate best in societies with sufficient homogeneity of fundamental interests to allow a great deal of latitude to local government and to permit reliance upon voluntary collaboration. the use of force to maintain domestic order is even more inimical to the successful maintenance of federal patterns of government than to other forms of popular government. Federal systems are most successful in societies that have the human resources to fill many public offices competently and the material resources to afford a measure of economic waste as part of the price of liberty.

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