



RESEARCH ARTICLE

OPEN ACCESS

## INDIAN FEDERATION AND STATE AUTONOMY-A BRIEF ANALYSIS

**\*Dr. Gangadhara. P.S.**

Assistant Professor, Department of Political Science, Government Arts College,  
(Autonomous), Chitradurga, Karnataka State

### ARTICLE INFO

#### Article History:

Received 02<sup>nd</sup> May, 2019  
Received in revised form  
04<sup>th</sup> June, 2019  
Accepted 09<sup>th</sup> July, 2019  
Published online 30<sup>th</sup> August, 2019

#### Key Words:

Indian Federation, British Provinces,  
Reorganization, Administrative and Economic  
Federation, Financial powers.

### ABSTRACT

The Indian Federation is a federation of its own type. It does not fall into either of the two conventional categories. The British provinces though largely autonomous after the attainment of independence in 1947 did not possess the attributes of sovereignty. The independent states voluntarily form a federation. In case of India, some of the states were persuaded whereas some were coaxed and then coerced to join the Indian Union. Thus 27 states and the territory of Andaman and Nicobar Island constituted the territory of Indian Union before the reorganization of the States on November 1, 1956. The first UF Prime Minister Deve Gowda resolved to advance the principles of political, administrative and economic federation. There emerged a broad consensus among the political parties on the need for healthy federation. administrative and financial powers between the partners of federation and India are no exception to this. The Indian Constitution has clearly demarcated the line between the legislative, administrative and financial areas of the union and the states.

*Copyright* © 2019, Gangadhara. This is an open access article distributed under the Creative Commons Attribution License, which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.

**Citation:** Dr. Gangadhara. P.S. 2019. "Indian federation and state autonomy-a brief analysis", *International Journal of Development Research*, 09, (08), 29483-29490.

## INTRODUCTION

The Sovereign Democratic Republic of India is a "Union of States." The term 'Union instead' of a 'Federation' was intended to connote a higher degree of integration. Various federal constitutions were ransacked. Federation as contemplated under the Government of India Act, 1935, was also in view. After great deliberations, the foundations of the Indian Federation were laid, as envisaged under the Constitution Act of 1935 and its structure was erected after the Canadian pattern. It was deemed to be the best suited to the genius of the Indian masses. The functioning of the American and Australian federations was also kept in view Indian Federation was the embodiment of the best part of these constitutions. Dr. Ambedkar, the Chairman of the Drafting Committee, eulogized the term "Union of the States" on the plea that it indicated two important facts:

- Federalism in India had not been the result of an agreement among the units and

- The constituent units of the Indian Federation had no right to secede from it.
- He emphasized that such an arrangement made the federation a permanent and unbreakable union.

**Nature of Indian Federation:** The Indian Federation is a federation of its own type. It does not fall into either of the two conventional categories. The British provinces though largely autonomous after the attainment of independence in 1947 did not possess the attributes of sovereignty. Their position was just like Canadian provinces. They could not therefore form a compact of their own for common purposes of supra-provincial importance. Moreover, the Union was not brought into existence by the British before they relinquished power. The representatives of the Indian people assembled in a Constituent Assembly and decided on the structure of the Union. Hence, they provided for the distribution of authority and functions between the national and regional governments. On the other hand, the Indian States (Indian India) were fully autonomous according to the Independence Act, 1947. The native rulers were no longer under the suzerainty of the British. Paramount had lapsed. The States had the option to join India or newly carved out country Pakistan, or remain independent. Thus their position was just like the states which

**\*Corresponding author: Dr. Gangadhara. P.S.,**  
Assistant Professor, Department of Political Science, Government  
Arts College, (Autonomous), Chitradurga, Karnataka State.

constitute American federation. Hence our Federation cannot be categorized in a traditional way as a Canadian type or American type.

**The independent states voluntarily form a federation:** In case of India, some of the states were persuaded whereas some were coaxed and then coerced to join the Indian Union. Hyderabad may be cited as an example. The position of the provinces vis-a-vis the Centre, however, was on the Canadian pattern. Thus two different types of units were to be brought in the Union fold. Besides, the former Chief Commissioner provinces and far-flung situated once penal islands like Andaman and Nicobar were also brought in the Union. Evidently, the nature of Indian federation was to be of a peculiar type, as it was to be constituted of different types of units. In the initial stages, the Indian Union comprised of four types of states, viz.,

#### **Part -A, Part -B, Part -C and Part -D.**

Nine British provinces were put under Part A, Nine integrated native states under part B, The Chief Commissioner Provinces and since 1950 Vindhya Pradesh states under Part C Andaman Nicobar under Part D. Thus 27 states and the territory of Andaman and Nicobar Island constituted the territory of Indian Union before the reorganization of the States on November 1, 1956. In order to achieve viability among the states and rationalize the base of the Indian Union, the States Reorganization Act, was passed which abolished old classification of states and established two types of units only i.e., States and Union Territories. Hence, different opinions have been expressed by different critics regarding the nature of Indian Federation.

Dr. Where, the Indian Constitution establishes a “system of government which is at most quasi-federal, almost revolutionary in character; a unitary state with subsidiary federal features rather than federal state with unitary features.”

Dr. Krishna P. Mukerjee remarks “I have come to take the view that whatever might have been the position at the drafting stage or previous to that stage the Constitution that emerged out of the august deliberations of the Constituent Assembly of India in January, 1950 is definitely un-federal or unitary Constitution.” Dr. Ambedkar, is of the view. “The Constitution has been set in a tight mould of federalism.” Sir Ivor Jennings opines “India has a federation with a strong centralizing tendency.” Dr. Gajendragadkar, former Chief Justice of India, observed, “though it partakes of some of the characteristics of federal structure it cannot be said to be federal in the true sense of the term.” Dr. K.M. Munshi, a distinguished jurist, portrayed Indian Federation as “a quasi-federal union invested with several important features of a unitary government.” In fact the Indian Constitution can be unitary or federal according to requirements of time and circumstances. D.D. Basu “The constitution of India is neither purely federal nor unitary, but is a combination of both. It is a union or a composite of novel type.” Pandit Nehru who had used the word “federation” a number of times in the Assembly once described the states as “mere administrative units” in one of his off-hand speeches. Dr. Deshmukh summed up the nature of Indian federation as “neither federal nor unitary.” Sardar Patel “...Our new Constitution is not an alliance between democracies and dynasties but a real union of the Indian people based on the basic concept of the sovereignty of the people.” The Indian Constitution, no doubt, fulfills some conditions of a federation,

but it leans towards a strong Centre, it is a stable union of states and provinces (now termed as states) which have neither lost their entities nor claim complete autonomy. Evidently it does not violate the essentials of a federal polity. However, our federal system has been adjusted to the needs of our country, which has been falling prey to the foreign invaders on account of it being a house divided against it. Hence it has been correctly portrayed “our Constitution is neither truly federal nor unitary in character but is really a cross-section or a mixture of the two structures though it leans more in favor of the federal rather than the unitary structure.” An analytical appraisal of the working of our Constitution during over five decades reveals that the unitary bonds have been further strengthened but not at the cost of its federal character. Considering the dominance of regional parties in the United Front (U.F.) which formed the Government after the 11th Lok Sabha polls and emergence of hung Parliament, The first U.F. Prime Minister Deve Gowda resolved to advance the principles of political, administrative and economic federation. There emerged a broad consensus among the political parties on the need for healthy federation.

An Editorial commented, “No attempt should be made to make the states stronger at the cost of the Centre. Any idea of weakening the Centre should be nipped in the bud and it goes to the credit of the United Front that in its concept of federation a strong Centre and the strong states are complementary.” In fact the Centre and the units draw strength from each other. Keeping in view the functioning of Central Government after XIIth and XIIIth Lok Sabha polls, emergence of hung parliaments and coalition governments and pivotal role of regional parties in running this government, the necessity of cooperative federalism has become imperative. The formation of UPA after XIVth and XVth Lok Sabha elections held in April-May, 2004 and May, 2009 portray other examples of coalition’s governments which are functioning smoothly despite occasional irritants on vital issues by the coalitional allies.

**Characteristics of a Federation:** A federation is traditionally constituted when two or more independent neighboring states forge a Union for defined purposes of common interest by divesting themselves of a measure of sovereignty which is vested with the federal government. “The urge for union comes from the need for collective security against aggression and economic co-ordination for protection and expansion of trade and commerce. The federation is given only enumerated powers, the sovereignty of the states in the Union remains otherwise unimpaired”.

“A Federation in USA is of this type. Alternatively, a federation is formed when a sovereign authority creates autonomous units and combines them in a Union.” Once constituted, the national and state governments possess co-ordinate authority derived from the several constitutions and enjoy supremacy in their respective spheres of authority and jurisdiction. Canadian federation belongs to this category. However, the differences between the two lie in the degree and extent of emphasis on unitary features.

#### **The characteristic of a federal Constitution according to Prof. Dicey**

- Supremacy of Constitution;
- The distribution among bodies with limited and co-ordinate authority, of different powers of government;

- The authority of the courts as interpreters of the Constitution;
- Double citizenship is another characteristic of some of the Federation.

No federal Constitution can completely fulfill all these characteristics. Even the Constitution of U.S.A. may not be completely federal in character. If, however, the Constitution predominantly fulfills the federal characteristics, overshadowing the unitary features, it may be categorized as Federal Constitution.

### **The Indian federal system of today has many such characteristics which are essential for a federal polity**

**Written Constitution:** The Indian Constitution is a written document containing 395 Articles and 12 schedules, and therefore, fulfills this basic requirement of a federal government. In fact, the Indian Constitution is the most elaborate Constitution of the world.

**Supremacy of the Constitution:** India's Constitution is also supreme and not the hand-made of either the Centre or of the States. If for any reason any organ of the State dares to violate any provision of the Constitution, the courts of laws are there to ensure that dignity of the Constitution is upheld at all costs.

**Rigid Constitution:** The Indian Constitution is largely a rigid Constitution. All the provisions of the Constitution concerning Union-State relations can be amended only by the joint actions of the State Legislatures and the Union Parliament. Such provisions can be amended only if the amendment is passed by a two-thirds majority of the members present and voting in the Parliament (which must also constitute the absolute majority of the total membership) and ratified by at least one-half of the States.

**Division of Powers:** In a federation, there should be clear division of powers so that the units and the centre are required to enact and legislate within their sphere of activity and none violates its limits and tries to encroach upon the functions of others. This requisite is evident in the Indian Constitution.

**The Seventh Schedule** contains three Legislative Lists which enumerate subjects of administration, viz., Union, State and Concurrent Legislative Lists. The Union List consisted of 97 subjects, the more important of which are defense, foreign affairs, railways, posts and telegraphs, currency, etc. The State List consisted of 66 subjects, including, inter-alia public order, police, administration of justice, public health, education, agriculture etc. The Concurrent List embraced 47 subjects including criminal law, marriage, divorce, bankruptcy, trade unions, electricity, economic and social planning, etc. The Union Government enjoys exclusive power to legislate on the subjects mentioned in the Union List. The State Governments have full authority to legislate on the subjects of the State List under normal circumstances. And both the Centre and the State can't legislate on the subjects mentioned in the Concurrent List, The residuary powers have been vested in the Central Government.

**Independent Judiciary:** In India, the Constitution has provided for a Supreme Court and every effort has been made to see that the judiciary in India is independent and supreme. The Supreme Court of India can declare a law as unconstitutional or ultra Vires, if it contravenes any provisions

of the Constitution. In order to ensure the impartiality of the judiciary, our judges are not removable by the Executive and their salaries cannot be curtailed by Parliament.

**Bicameral Legislature:** A bicameral system is considered essential in a federation because it is in the Upper House alone that the units can be given equal representation. The Constitution of India also provides for a bicameral Legislature at the Centre consisting of Lok Sabha and Rajya Sabha. While the Lok Sabha consists of the elected representatives of people, the Rajya Sabha mainly consists of representatives elected by the State Legislative Assemblies. However, all the States have not been given equal representation in the Rajya Sabha.

**Dual Government Polity:** In a federal State, there are two governments the national or federal government and the government of each component unit. But in a unitary State there is only one government, namely the national government. So, India, as a federal system, has a Central and State Government.

### **Some of the salient features of Indian constitution are as follows**

The Constitution of India is remarkable for many outstanding features. Even though so many provisions have been borrowed from others, a number of variations have been made to remove the faults in the light of experiences gained by other countries. It has served us well considering that in a number of countries in our neighborhood, constitutions have sprung up only to wither away a little later.

- Many of the original features of the 1949 Constitution have been substantially modified by amendments. These amendments have virtually recast the Constitution in some vital respects.
- Indian Constitution is the longest known with the original having 395 Articles and 8 Schedules. Subsequent amendments have made additions to these numbers.
- The Constitution seeks to impart flexibility to a written federal Constitution. Some provisions of the Constitution require ratification by State legislatures but ratification by only half of them is sufficient. The rest of the Constitution can be amended by a special majority of the Union Parliament – a majority of not less than two third of the members of each House present and voting which again must be a majority of the total House.
- The Constitution has enough room for the growth of conventions to supplement the Constitution in matters where it is silent. Thus for example a certain Ministry faces an adverse vote against it in the House of People on an issue under consideration.
- It is up to the Ministry to consider whether it is a vital issue or not. It may regard it as an accidental defeat and continue. In what circumstances would the Ministry advise the President to dissolve the Parliament is to be established by convention.
- The Constitution has a list of Directive Principles that are in the nature of Agenda for future governments. In addition the constitution guarantees all citizens certain Fundamental Rights which are justifiable. The Supreme Court and the High Court have powers to

declare as void any law or executive order that is volatile of Fundamental Rights. The Constitution has made specific provisions for enforcement of these rights.

- Judicial review is however subordinate to the supremacy of the Parliament. If on any issue the judiciary proves too obtrusive, the Union Parliament has powers to amend the Constitution.
- The Constitution also guarantees social equality. Practicing un-touchability is a criminal offence. No citizen can be deprived of access to any public place only on the ground of race, religion, sex or caste.
- Fundamental Rights have been checkmated by Fundamental Duties. The duties however cannot be judicially enforced.
- The Election Commission functions as an independent constitutional authority outside the administrative jurisdiction of the executive.
- Ours is a Parliamentary democracy. Under the various Government of India Acts, the people of India had gained some experience of the system and it was felt that the British model would be more appropriate for the Indian masses.
- The Head of the State is elected and the position is not hereditary as in case of a monarchy. He has a fixed term. He is bound by the advice of the Council of Ministers. He has no discretionary powers. The process for his impeachment is long and no such occasion has arisen so far.
- The Federal system of government has a unitary bias. In cases of emergencies, the federation can be transformed into a unitary State.
- The Union and the States function within the limits set in the Constitution. There is the Union List, the States List and the Concurrent List of subjects on which each organ has the rights to legislate. The Union Government has the right to reorganize the States and even carve new ones from out of those existing.
- The power to amend is limited in as much as the basic features of the Constitution cannot be amended.
- While Indian citizens are free to reside in any part of the country or even outside, they can have only single citizenship. Any Indian seeking citizenship in a foreign country must surrender his Indian citizenship. People like the Nobel Laureate Amritya Sen spend most of their time living abroad but continue to be Indian citizens as they have not acquired citizenship in any foreign land.
- The Constitution lays down that Hindi shall be the official language of the Union. English however has been allowed to be used as an alternate official language. While Hindi and English are made official languages of the Union Government, the States can adopt the language spoken by majority of the people as its official language. There are at present 22 recognized languages in the country.

**Structure of Indian Federalism:** The federal character of the Indian Constitution involves a distribution of sovereignty between the national government and the constituent member states. The distribution of powers in general follows the Government of India Act of 1935 both in form and substance.

The Indian Constitution provides for a threefold distribution of legislative powers between the Union and the States. The Central Government is given exclusive powers to make laws concerning 97 items including defense, national security, foreign affairs, banking, currency and coinage, transportation and communication, commerce, atomic energy, the general framework of criminal and civil law, revenue collection, the ability to dissolve state governments during crisis, citizenship, immigration, fiscal and monetary policies. The State List comprises 36 subjects including agricultural development, water, forests, fisheries, wildlife, internal trade, public order and police, local government, public health and sanitation and state taxes and duties. The third list, called Concurrent, includes 52 items including criminal law and procedure, civil procedure, marriage, contracts, torts, trusts, welfare of labor, insurance, economic and social planning and education.

In the case of overlapping of any matter between the three lists, the central Government has been given the paramount power. Likewise all residuary powers are given to the Centre. Because of the residuary powers vested in the Centre, it became powerful, and the structure can be characterized as unitary or quasi-federal, rather than federal, the balance heavily tilted in favor of the centre. Besides, Parliament may legislate upon a subject listed in the State List in the event of a proclamation of emergency provisions of the Constitution. The provision permits the President to undertake the rule of the State for 6 months when he is satisfied that the government of a state cannot be carried out in accordance with the provisions of the Constitution (Articles 356 and 357), and in the case of financial emergencies (Articles 352, 353 and 354). The proclamation of President Rule must be approved by both Houses of the Parliament and its duration may be extended to a maximum period of 12 months. The Governors of the states are appointed by the President on the advice of the Prime Minister. They have powers to reserve bills of their respective states for the President's assent. The states are required to give effect to the laws of the Centre, and not to impede central administration in their respective territories. The legislative power to make law for imposing tax is divided between the Union and the States by means of specific entries in the Union and State legislative lists in Schedule VII. While the states are competent to levy tax on agricultural income, the power to levy income tax on all other income (other than agricultural) lies with the Parliament. The residuary power in respect of taxation (as in the case of general legislation) belongs to the Parliament. The bulk of public revenue is collected and distributed by the Central Government and fiscal dependency has been accepted as the permanent destiny of the states. There is provision in the Constitution for the appointment of a Finance Commission (with a fixed term of 5 years) to recommend to the President measures relating to the distribution of financial resources between the Union and the states and to provide additional grants-in-aid to the states according to their needs. The Constitution of India is basically federal but incorporates certain unitary features arising out of the special conditions under which it was born. The Constitution satisfies all the essential conditions of a federal form of polity such as (i) dual government, (ii) distribution of powers between the Centre and states, (iii) supremacy of the Constitution, and (iv) authority of the courts as the final interpreter of the Constitution. Indian federalism is unique in the sense that here federation has been created by granting guaranteed constitutional autonomy to the previously subordinate regional

**The relationship between Union and States of India:** In the context of Indian Federalism, centre-state relations are significant for a harmonious relationship between the two constituents of the Indian Federation viz. the Union and the States. Every federation works on the principle of clear-cut division of legislative, administrative and financial powers between the partners of federation and India are no exception to this. The Indian Constitution has clearly demarcated the line between the legislative, administrative and financial areas of the union and the states. This division ensures that both the partners to the federation should within their well-defined jurisdiction enjoy their respective spheres of autonomy. However, centre-state relations in India are not to be treated only in terms of separation between the centre and states. On the other hand, in line with the concept of cooperative federalism, there are many areas of cooperation and coordination between the union and the states both within the constitution as well as outside it viz, the Inter State Council, NDC, National Integration Council, Zonal Councils etc., Despite a fair constitutional distribution of legislative, administrative and financial distribution of powers, the fact remains that there is a bias in favor of the Centre in the sense that it enjoys preponderance of powers vis-a-vis the States. Since the framers of the constitution wanted to make the centre strong in order to protect India's unity and integrity, a strong centre in the distribution of legislative, administrative and financial powers is justified to some extent. However the certain distortions do remain in the existing centre-state relations especially in the sphere of financial distribution of powers between them, which need to be rectified. In this backdrop, we can analyse the centre-state relations under the legislative, administrative and financial heads.

The relationship between the Union and the States is a relationship between the whole body and its parts. Though there is a strong mixture of unitary bias and the exceptions from the traditional federal scheme are many, the Constitution introduces a federal system as the basic structure of government of the country. And a federal system postulates distribution of powers and functions between the federation and the units. Though the nature of distribution varies according to the local and political background in each country, the division, obviously, proceeds on two lines.

- The territory over which the Federation and Units shall, respectively, have their jurisdiction.
- The subjects to which their respective jurisdiction shall extend.

Part XI of the Constitution of India lays down provisions about relations between the Union and States in Article 245 to 263.

### Issues and Challenges faced by Indian Federalism

#### Regionalism

- It is considered one of the significant challenges to federalism in India.
- Federalism best thrives as a democratic system when it mitigates the centralization of power sharing between the centre and the states.
- The pluralist character of India gives rise to many factors including regionalism. People from far northeast sometimes feel themselves at a formidable distance from New Delhi and people in southern part of the country with bigger states feel neglected having been within larger states.

- Regionalism or love for one's area, despite India's tradition of successful federal rule over the years since independence, still raises its head in different parts of the country.
- The voice for the demand of more states has become more prominent in recent times, especially after the formation of Telangana in 2014. Recent demands like four-fold division of Uttar Pradesh and the creation of Gorkhaland from West Bengal are instances of aggressive regionalism that pose a threat to the federal structure of India.
- The agitations for Gorkhaland, Bodoland, and KarbiAnglong have been revived. This is apart from the new demands for a separate Vidarbha State in Maharashtra, and Harit Pradesh and Poorvanchal in Uttar Pradesh. The more the number of states the more the centre will be held hostage to state parties on matters of national importance.
- For instance, West Bengal threatened India's Teesta river waters treaty with Bangladesh because of its possible potential costs for West Bengal. Even growing regional powers may affect effective foreign policy as the federal government may bow to the will of an individual state. India had to vote in favor of UNHRC resolution for Sri Lanka in 2012 for a backlash from Tamil Nadu.

#### Division of Powers

- Unlike the USA and Australia, in India distribution of power is made under Three Lists found in the Seventh Schedule of the Constitution. The powers of both the Central and State Governments are specifically enumerated in the Union list and State list respectively while powers mentioned in the Concurrent list are enjoyed by the two sets of governments. The residuary powers are vested in the Central government.
- The general principle underlying the division of powers is that all matters of national importance, e.g. defense, foreign affairs, railways, currency are allotted to the Central government while matters that are primarily of local or regional importance e.g., education, public health, police, local administration are assigned to regional governments. Some matters which require the involvement of both the centre and states like criminal law, forest, economic and social planning are assigned in the Concurrent List. However, in the case of conflict over the legislation on any of the subjects mentioned in the Concurrent List, the Centre supersedes the States.
- Article 200 (reservation of State Bills by the Governor for consideration of the President), emergency provisions under Article 352, 356 and 360 and compulsory compliance by the States with the executive power of the Centre under Article 256 and 257 amount to centralization of power which has been the major concern among the states. Centralization is as such a threat to Indian federalism.

#### Absence of Fiscal Federalism

- The Indian Constitution, while expressly vesting the Centre with greater powers of taxation, also provides

for an institutional mechanism — the Finance Commission to determine the share of the States in the Central tax revenues by way of correcting this imbalance.

- While deciding the devolution of taxes and the provisions of grants the Finance Commission is required to address both the vertical imbalance between the Centre and the States and the horizontal imbalance between states.
- At present, about 40 percent of Central revenues (tax and non-tax) is transferred to the States, and this includes the grants they get from the Planning Commission and the Central Ministries.
- Despite the enlargement of the shareable pool under the 80th Amendment which includes all central taxes, the revenue accruals of the Centre and the States have not seen any major changes.
- Asymmetrical sharing of revenue and resource crunch at the periphery results in uneven development across the country. The current Goods and Services Tax measure is feared by many states to be against fiscal federalism in India. It has amalgamated the various taxes into a single tax, procurement of which will then be divided among states in a prescribed ratio. Many states in India demand for more financial autonomy in India.

#### Unequal Representation of Units

- With a view to preventing the evil of predominant influence of larger units over smaller units in a federation, most federations in the world have resorted to some constitutional mechanism like an equal representation of units or states in the Second Chamber and ratification of all amendments to the Constitution by states.
- In India, there is no such provision of an equal representation of states in the Rajya Sabha, the Second Chamber and nor the states have any substantial say over the amendments done to the Constitution from time to time.

**Centralized Amendment Power:** In a typical federation, the power of amendment to the Federal Constitution lies on a shared basis between the federation and its units. In India, the power of constitutional amendment lies with the Centre under Article 368 and other provisions. Although ratification of half of the states is sought for in some limited areas, the states in the Indian Union have virtually no power in this critical area of governance.

#### The Indestructible Union with Destructible Units

- Unlike successful federations, India Constitution doesn't have the provision for the secession of states from the Union of India. The Union has been made indestructible with a view to protecting unity and integrity in a country like India.
- However, this typical Indian arrangement checks the growing demand for secession from the Indian Union. The simmering demand for 'Dravida Nadu' comprising southern States and voice of separation in the eastern and western part of India pose a great threat to the unity and sovereignty of India.

- Even if it appears anti-federal in content, it has proved a blessing in disguise for if states would have given plenary power in deciding their geographical territory, there would have been much chaos and impasses leading to serious law and order problems in the country.
- All major federal democracies have in their Constitutions the provision that a state cannot be divided or merged with another state without its prior consent. This is the essence of federalism. However, the power of making, remaking states lies with the Union Parliament.
- Our nation-builders were wise in drafting the Constitution to suit our requirements. While prior consent of the state was not necessary under the Constitution, in practice every state has been formed with prior consent, in most cases after a detailed, impartial examination by an independent commission.
- However, in certain cases, states concerned are often being ignored by the Union Government in a matter of division of their geographical territory. The recent formation of the State of Telangana is a case in point.
- The resolute efforts of the Union government and its frequent declarations that Andhra Pradesh would be divided irrespective of the legislature's views pose a grave danger to Indian federalism and unity.
- In the sensitive matters like redrawing the territory of a state in India the views of concerned states should be given due weight age by the Centre. Any arbitrary decision of the Centre without the consent of the State and a negotiated settlement in this regard will effectively convert states into municipalities, and India into a unitary state. Neither the Constitution-makers nor nation-builders intended such an outcome. India's future will be in danger if such an effort is made to make the nation effectively unitary at this stage.

#### Office of the governor

- The office of the Governor for each state in India has been a sensitive issue as it sometimes poses a threat to the federal character of Indian Union. Centre's visible arbitrariness in misusing such constitutional office has been the subject of acrimonious debates and divergent opinions in the country.
- The imposition of President's Rule in Arunachal Pradesh in January 2016, while there was an elected government in the State, created a bizarre incidence in the constitutional history of India. The Supreme Court on July 13 termed Governor's decision unconstitutional ordered restoration of Congress government in Arunachal Pradesh.
- The overt support of the Central Government to the Governor in this critical matter speaks volume of the inbuilt weakness in India's quasi-federal structure. The abuse of the power under Article 356 by the Central Government is replete in the political history of the country. This has resulted in cementing of centralized forces and disaffection of constituent states towards the federal character of the Indian Polity.

#### Single Constitution and Citizenship

- Unlike the Constitution of the USA, the Constitution of India lays down the constitution for the States as well

and no state except Jammu and Kashmir has right to decide its own constitution.

- The Indian Constitution, unlike the other federal constitutions of the world, introduces single citizenship. It is based upon the idea of 'one nation one citizenship'. All are citizens of India irrespective of whichever state he/she lives in. The States don't confer any separate status as a citizen of the State.

**Integrated Services:** The integrated judiciary is a typical feature of Indian federation. Unlike typical federations, in India Supreme Court is the apex court and all other courts are subordinate to it. The States don't have separate independent courts dealing specially with state matters. Also, the machinery for election, accounts, and audit in India is integrated. The All India Services and central services are also considered by many states and critics as anti-federal. However, considering the nature and scope of administration in India, such services are essential as they impart all India character to governance. These services are meant for the administration of the affairs of the Union Government.

**Centralized Planning:** Although economic and social planning is found in the Concurrent List of the Seventh Schedule to the Constitution, the Union Government enjoys unbridled authority over national and regional planning in India. Centralized planning, through the Planning Commission, now NITI Aayog appointed by the Centre, considerable preponderance in legislative power for the Union, the financial dependence of the states on the Centre's mercy, the administrative inferiority of the states make the states meek and weak. The States only fill the blank spaces meant for in the text for planning. There is no special planning commission for the states in India. It also adds to the misery of states and poses smooth functioning of federal spirit across the country.

**Language Conflicts:** Diversity in languages in India sometimes causes a blow the federal spirit of the Constitution. There are 22 languages constitutionally approved in India. Besides, hundreds of dialects are spoken across the country. Trouble arises when the strongest unit of the federation attempts to force a particular language on others. The tussle for official language in India is still a burning issue. The southern states' opposition to Hindi as the official language of India has led to deep-seated language crisis in India.

**Issue of Religion:** India is a fine example of religious heterogeneity that sometimes gives rise to turmoil to weaken the federation. But the religious process need not be always divisive. So long as there is a reasonable tolerance on the part of the people and a genuine secular policy on the part of the government, religion may not cause imbalances in a federation.

**Economic Incompatibilities of the units:** Differences economic standards and relative economic and fiscal incompatibilities among the constituent states also pose a threat to a federation. The forces of imbalances in the field are demands for economic planning and development and for regional economic equality and financial autonomy of states. Demand for a financial equality of a region creates problems in a federation. In India, some states are declared as poor and on the principle of equalization, are getting grants-in-aid. But the dilemma in a federation emerges that if the principle of

equalization is adhered to, the national income and the total income growth will suffer. Again, if much attention is paid to economic development, equalization of all units cannot be attained.

**Physical Environment:** Physical environment may also create hurdles for a federation by affecting communication. A federation in which the lines of communication are long and difficult has to face the difficulty of keeping in touch with all the units. It is easy for creating misunderstanding and conflict and perhaps this was one of the important causes for the separation of the east wing from Pakistan. Moreover, in the absence of good communication, the poorer units tend to develop a complex of neglect and feel that they are receiving less than their fair share of resources for development. In India, the North- Eastern states are having similar feelings and creating problems for the federation.

**External forces:** External forces also create hindrances for a federation. The tension in the North Eastern States in India is due to the interference of neighboring countries. China's claim on some portion of the territory of Arunachal Pradesh on LAC threatens the territorial integrity of India. The Tamil issue in Sri Lanka creates disruptive forces in India. The alleged Pak hand in Khalistan movement in the past also has a say in weakening the Indian federation.

## Conclusion

Federalism in a diverse country like India has both merits and its consequences. Division of power helps in the easy governance of the 7<sup>th</sup> largest country but then a country with the second largest population needs a united government to govern people of almost every possible religion that exists. The integrated and independent judiciary is definitely a merit for the nation as it helps in proper remedy for rights. On the other hand, a written constitution with the kind of flexibility and rigidity possessed by the Indian constitution is a boon when it comes to the codification of rights but the same rigidity can stand as a bane if amendments need to be made.

However, amendments to the Indian constitution are not that tough after all. The motto of "*Unity in diversity*" has always been very important to India and a federal government helps to establish a country with mutual tolerance and existence. However, for a country like India which is divided on the linguistic and communal basis, a pure federal structure would lead to disruption and division of states. With too much power given to a state, it will want to shift away from the union and establish its own government.

I believe that is the reason why Jammu & Kashmir's special powers are in question in the public time and again. To overcome all this and the aforementioned demerits we need to strike a balance between both unitary and federal features of the country. States should be autonomous in their own sphere but they can't be wholly independent to avoid a state of tyranny in the nation. People of India need protection and security from such things and that is what the constitution of India with its special provisions provides. It establishes a state which is both a union and a federation at the same time and thus gives India a structure of a quasi-federal government which has united the diversity of India for past 71 years and will do the same for the centuries to come.

**REFERENCES**

- Dicey, A.V. 1908. Introduction to the Study of the Law of the Constitution, 140(London: Macmillan, 7th ed.
- Prof, Narendra Kumar, 2006. Constitution of India, 115 5<sup>th</sup> Edt
- Sethi, R. R. & Mahajan, V. D. 1956. Constitutional History of India, 136 (S. Chand & Co., Delhi.
- Shukla, V.N. 2007. Constitution of India, 37, 10<sup>Th</sup> Edt
- Wheare, K.C. 1963. Federal Government, 11(London: Oxford University Press, 4th ed.

\*\*\*\*\*