



## Indian Federalism and PRINCIPLES OF FEDERALISM : A review

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### Abstract:

There are several challenges inherent in the study of federalism in its widest meaning, and these problems are represented in both theory and practise. The word "federal" has practical and conceptual meanings. In this book I will demonstrate that although federal theory does exist, no completely developed theory of federalism exists. Theory is incomplete even when it is founded on thorough conceptual examination and the quest for terminological accuracy. At its worst, this empiricism is founded in a lack of effort to formulate central ideas and articulate their definitions. This groundwork is necessary for any theoretically-relevant comparison study to be conducted.

**Keywords:** Fundamental, Terminological, Theory and Practice, etc.

### Introduction:

This brings us back to our original comparison of Belgium and Sri Lanka. One of the most notable changes to the Belgian Constitution was the devolution of authority from the federal to the state and municipal levels, as you may remember. Even earlier than then, regional administrations had existed in several parts of Belgium. Each one was responsible for certain tasks and wielded unique abilities. However, the Central Government had the right to revoke all of these delegated powers at any time. A constitutional amendment was passed in 1993 that gave regional administrations autonomy from the federal government. Therefore, Belgium changed its government structure from a unitary to a federal one. Practically speaking, Sri Lanka's government is still a unitary system in which the central government controls everything. The Tamil leadership is pushing for Sri Lanka to adopt a federal structure.

The term "federalism" refers to a form of governance in which the power of the state is shared between a national government and its component parts. Federated states often have a federal and subnational government. The first kind is a national government, which is in charge of a few issues



of broad national significance. Most of a country's day-to-day administration is handled by provincial or state administrations. These two tiers of governance are each supreme in their own right.

To this end, federations are compared to more traditional, unitary forms of administration. Either there is just one level of government or all lower levels are subject to the central authority in a unitary system. The federal government may issue directives to the state or municipal level. However, under a federal system, Washington can't dictate policy to the states. The federal government does not have to approve everything the state government does. The citizens of each of these countries have a right to hold each of their respective administrations accountable.

## **PRINCIPLES OF FEDERALISM**

*Nwabueze argues that:*

One definition of federalism is "a system of government in which the powers of government are divided between a central, national government and a number of regionalized (i.e. territorially local) governments in such a way that each exists as a government separate and independently from the other operating directly on persons and property of its own and with its own apparatus for the conduct of its affairs, and with an authority in some matters exclusive of all the others" (Nwabueze, 2008:27)

Upon the definition above, Nwabueze identified principles of federalism as follows:

(a) Governments rather than geographical entities or peoples as the basis of the federal arrangement: This principle stresses that federalism concern itself with power sharing between two tiers of government, federal and states, not the relationship between the central government and each rational governments and how geographical, political entities and ethnic nationalities share governmental power.

(b) Separateness and independence of each government: The central and regional governments are autonomous in their rights and domains. This autonomy presupposes that they are equally separate in existence and independent from the control of each other. Autonomy in this regard, also means



legal (e.g. the existence of a legislative assembly, the judiciary, state bureaucracy, executive arm of government, etc) and physical existence”.

(c) Equality between the regional governments: Equality means that the regional governments should have equal powers; no regional government should have more or less power than the other or be accorded a special position or attention in the national government. This is because the possession of preponderance of power by any of the regional government may create some sense of superiority and arrogance, thereby creating a situation of disequilibrium, rather than equilibrium, which the federal system seeks to achieve.

(d) Number of constituent units: Federalism thrives and flourishes upon a multiplicity of interest groups and constituent units in order to ensure the desired equilibrium. A federal state comprising two or three states is likely to generate constant conflict, rivalry and struggle for supremacy. In the case of a federal structure involving three states, where two states gang up against the third state or even the central government, the union is likely to be futile. Thus, multiplicity of states guarantees understanding, cooperation; independence, tolerance and stability of the union. For example, the federal union of the United States of America comprising 5 states.

(e) Techniques for division of powers: The techniques for division of powers between the central government and the regional governments should be predicted on exclusive legislative list which defines the powers of the central government and the Residual Legislative list which defines the powers of the state regional governments. There may yet be a third instrument the concurrent list, “which defines areas where both the central and regional governments may legislate.

(f) Underlying objectives of the federal arrangement: the federal arrangement is principally provoked in a society by factors such as fundamental differences in race, religion language, culture and economics. The essence of the union, therefore, is to unify these differences or simply put, to ensure peace, stability, unity in diversity or diversity in unity. Thus, the two principal objectives of federalism are to ensure national unity and regional autonomy.

(g) Constitutional forms: The constitutional form which modern federal governments take presupposes that where as there is a federal constitution; the state should also have their own constitutions, in order to assert their original authority. In any case, the states could also surrender



their original “constitution” and also acceptanewone. America constitutes an example of the former, while Nigeria approximates the latter case (Nwabueze, 2008).

The exact balance of power between the central and the state government varies from one federation to another. This balance depends mainly on the historical context in which the federation was formed. There are two kinds of routes through which federations have been formed. The first route involves independent States coming together on their own to form a bigger unit, so that by pooling sovereignty and retaining identity they can increase their security. These types of ‘coming together’ federations include the USA, Switzerland and Australia. In this first category of federations, all the constituent States usually have equal power and are strong vis-à-vis the federal government.

The second route is where a large country decides to divide its power between the constituent States and the national government. India, Spain and Belgium are examples of this kind of ‘holding together’ federations. In this second category, the central government tends to be more powerful vis-à-vis the States. Very often different constituent units of the federation have unequal powers. Some units are granted special powers.

### **India a federal country:**

As we've seen, even relatively tiny nations, like Belgium and Sri Lanka, have a hard time juggling all of their cultural and racial differences. What about a nation as large as India, where there are so many different peoples, cultures, and languages to consider? In what ways are political authority and responsibility divided in our country?

In accordance with the Constitution, we will begin. After a brutal and traumatic split, India was now a sovereign country. It didn't take long for numerous independent princedoms to merge into the new nation. India is a Union of States, as established by the Constitution. The Indian Union is a federalist organisation that did not really use the term "federation" in any of its official documents.

Let's review the seven defining characteristics of federalism we discussed before. All of these characteristics match those of the Indian Constitution, as we can see. The Union Government, or Central Government as it is now known, represents the Union of India, whereas the State



governments are responsible for the individual states that make up India. At a later date, Panchayats and Municipalities were introduced as a third layer of federalism. Each of these levels has independent authority, just as they would in any federation. Three levels of government were established by the Constitution, with the Union Government sharing legislative authority with the State Governments. Thus, it contains three lists:

**Union List** includes subjects of national importance such as defence of the country, foreign affairs, banking, communications and currency. They are included in this list because we need a uniform policy on these matters throughout the country. The Union Government alone can make laws relating to the subjects mentioned in the Union List.

**State List** contains subjects of State and local importance such as police, trade, commerce, agriculture and irrigation. The State Governments alone can make laws relating to the subjects mentioned in the State List.

**Concurrent List** education, forests, labour unions, marriage, adoption, and succession are all areas of concern to both the federal and state governments. The Union and the State governments each have the authority to pass legislation pertaining to the topics on this list. If there is a dispute between their laws, the legislation established by the Union Government will take precedence.

And what about topics that don't fit neatly into any of those three categories? Or things like software for computers that weren't even thought of when the Constitution was written? Our constitution specifically gives the Union Government authority to pass laws governing these "residuary" issues.

As we saw above, most federations are founded by "holding together," but this does not mean that each individual member in the federation has equal authority. As a result, not all Indian Union states enjoy the same level of autonomy. There is a unique position accorded to some states. Kashmir and Jammu have their own written constitution. Without the permission of the State Assembly, certain parts of the Indian Constitution do not apply in this State. It is illegal for Native Americans who are not legal citizens of this state to purchase property here. Other Indian states have similar unique protections.



Some of the Indian Union's constituent states have relatively limited autonomy. These are territories that don't have enough people to form their own state, but are also too tiny to be absorbed by an existing nation. Chandigarh, Lakshadweep, and even the nation's capital of Delhi are all examples of what are known as Union Territories. A State's authority does not extend to these areas. The federal government is given more authority over certain regions.

This sharing of power between the Union Government and the State governments is basic to the structure of the Constitution. It is not easy to make changes to this power sharing arrangement. The Parliament cannot on its own change this arrangement. Any change to it has to be first passed by both the Houses of Parliament with at least two-thirds majority. Then it has to be ratified by the legislatures of at least half of the total States.

The judiciary plays an important role in overseeing the implementation of constitutional provisions and procedures. In case of any dispute about the division of powers, the High Courts and the Supreme Court make a decision. The Union and State governments have the power to raise resources by levying taxes in order to carry on the government and the responsibilities assigned to each of them.

### **Conclusion:**

Intellectual dispute about the meaning and relevance of contemporary federalism may be traced back to the last decades of the eighteenth century. Understanding one of the most significant historical breakthroughs in contemporary government and politics is complicated by the unusual conditions surrounding the transition from confederation to federation in the United States of America between 1781 and 1789. The American federal model, formed in 1789, was built on a set of basic concepts that were actively replicated by others, and thus contributed to ignite an ongoing intellectual discussion over what it meant to be 'federal.' Thus, the federal American example was consistent with both theory and practise.

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