



The Similarities and Differences Between American Federalism and Indian Federalism : A Review

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Abstract : Federalism, mode of political organization that unites separate states or other polities within an overarching political system in such a way as to allow each to maintain its own fundamental political integrity. Federal systems do this by requiring that basic policies be made and implemented through negotiation in some form, so that all the members can share in making and executing decisions.

The political principles that animate federal systems emphasize the primacy of bargaining and negotiated coordination among several power centres; they stress the virtues of dispersed power centres as a means for safeguarding individual and local liberties.

This article introduces a conceptual similarities and distinction between The Federalism of US and the Federalism of India

Key Words : Federalism, Federalism of US and the Federalism of India

The Similarities and Differences between American Federalism and Indian Federalism

Being the largest democratic countries in the world, both United States and India are based on federalism in their political structure. US became a Federal Republic State by promulgating its constitution in the year 1789; whereas India became a Socialist, Sovereign, Secular, Democratic Republic by formally launching its constitution only in the year 1950. Thereby both countries had attained dominion status in which a number of smaller states had got affiliated forming a union with a strong central government that came to be called as Federal Government in the US and Central Government in India. Thus both states became Federal Republics.

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While framing the Indian constitution, its drafting committee headed by Dr. Ambedkar, had borrowed many salient features from various constitutions in the world including US but adopted them in the Indian context. Hence, both U.S and India, despite being federal in structure have many similarities and differences between them.

Similarities between US and India:

1) Written constitution:

Both US and India have a written constitution based on which the federal political structure has been set up and both federal governments are functioning. Both constitutions have provisions for amending the constitution to meet the growing socio, political and economic needs and demands of their respective countries.

2) Bill of Rights and Fundamental Rights:

The US constitution has ensured the fundamental rights of its citizens like right to equality, freedom, right against exploitation, freedom of religion, cultural and educational rights, right to property, and right to constitutional remedies etc through 'The Bill of Rights',. They became part and parcel of the US constitution through first ten amendments that were carried out and adopted into the US constitution. The Indian constitution has guaranteed the fundamental rights of the people through articles 14 to 34 in Part III.

3) Supremacy of the Federal or Union Government:

Both countries have federal governments at the centre in which various states have acceded to. In the US as many as 50 states have joined the federal government and in the Indian Union as many as 29 states and 8 Union territories have acceded to. Both in US and India, states which have acceded to the Federal set up have no unilateral power to secede from the Federal Government or the Union Government. While Federal Government or the Union Government as well as the states are empowered to enact laws on a particular subject,(known as concurrent powers),the law enacted by the Federal or Union Government will have overriding effect over the law enacted by



the states on the same subject. Thus Federal or Union Government is supreme in the present federal structure.

4) Division of Labor and Separation of Powers:

Adhering to Montesquieu's theory of division of labor and separation of powers, both US and Indian constitutions have three basic divisions with regard to division of labor and power in their federal set up known as executive, legislature and judiciary with clear cut 'Separation of Powers' Each division has been entrusted with a separate power. The executive governs the country, the legislature enacts laws and the judiciary administers justice. President of US is the chief executive head of US, whereas the Union cabinet headed by the Prime Minister is the real chief executive body in India. Both the US and India have a bicameral legislature. US legislature has an upper and lower house known as the House of Senate and the House of Representatives respectively and the Indian Parliament has Lok Sabha and Rajya Sabha as its Lower and Upper house respectively. Both US and India have a well organized judiciary, having the Supreme Court or the Federal Court as the apex court and a number of other courts in various states to administer original and appellate jurisdictions.

5) Powers of Checks and Balances:

Though there exists a clear cut division of labor known as separation of powers into executive, legislature and judiciary in both countries, still there is a threat. to democracy. A strong and dynamic leadership at the helm of powers as the executive and acting with unlimited powers may lead to arbitrariness. After all power corrupts power; absolute power corrupts absolutely; in the result democracy may become a laughing stock and virtually unworkable. Hence, in order to prevent unwieldy growth of any one of these three divisions, a fantastic mechanism known as powers of 'checks and balances' has been maintained in both countries. In other words, each division of power is somehow or other checked and controlled by other divisions of power.

In the US, the President as the chief executive power appoints his members of 'Kitchen Cabinet' and he is the Supreme Commander-in-Chief of Army, Navy and the Air Force. He appoints the Chief Justice of the Supreme Court of the US. He enters into treaties with other countries.



However, his treaties must be approved by the House of Senate. Otherwise, the treaty will not come into force. Though President Woodrow Wilson was the chief architect of the League of Nations that came into being after the first world war, the US could not become a member of it since the House of Senate did not approve it. Thus important policy decisions must be necessarily approved by the House of Senate, which definitely acts as a check on the powers of US President, who is the head of the executive. Similarly laws enacted by both houses may be subjected to the power of Judicial Review and can be declared null and void by the judiciary. The President can be impeached and removed from power on the motion moved by the House of Senate in the presence of the Chief Justice of the Supreme Court of the US.

Similarly in India, the Prime Minister and his cabinet can be removed from power by a successful no confidence motion passed by both houses of parliament. The important policy decisions taken by the cabinet headed by the Prime Minister, if necessary has to be enacted into laws only with the requisite majority of the parliament. The laws enacted by the parliament, are subject to the judicial review of the Supreme Court of India. The Chief Justice and other Judges of the Supreme Court are appointed by the President as recommended by the cabinet and the Prime Minister.

Thus the powers of checks and balances have been the effective mechanism both in the US and in India in safeguarding the democracy in both countries.

Differences between the federalisms of US and India:

The differences that exist between the federalisms of US and India are unique. These differences have been wantonly created by the architects of the Indian constitution. The US federalism is very strong and more rigid as envisaged in their constitution by its leaders. It is more federal than unitary in character. Whereas, India is more unitary than federal and we can even say that it is a quasi-federal state.

1) The Constitution of US is very rigid than the Indian Constitution:



i)The constitution of US is very brief and rigid running into only a few pages, whereas the constitution of India is very voluminous containing as many as XXII parts, 395 articles and ten schedules. Since the US constitution is very rigid, the provisions meant for amending the constitution are also very rigid and more formal. The last amendment carried out in the US constitution was in the year 1992. Between the period 1989 and 1992, the US constitution has been amended only 27 times, in which the 21 st amendment was to reverse the 18 th amendment Whereas, the Indian constitution which came into force in the year 1950, has so far been amended 94 times. Therefore, it is easy to amend the Indian constitution, since it involves four different types of procedures which are comparatively easy than the amending procedure of the US constitution. For example, recently, the salaries and allowances of the Indian MPs have been hiked through a voice vote of the members of the Indian Parliament, whereas in the US, the 27 th amendment originally proposed on 25th September, 1789, was ratified on May 7 th, 1992, regulating the provision for varying the compensation of the members of the House of Senate and Representatives.

ii) In the US, though there is a Federal Constitution, all the states affiliated with the Federal Government, owing their allegiance to the Federal Constitution, have their own constitutions to regulate their own governance. In India, all the states affiliated with the Indian Union owe their allegiance only to the Indian constitution and do not have their own constitution; however, each state is empowered to enact its own laws included in the state as well as in the concurrent list of the constitution.

2) While US has the Presidential form of Government, India has the Parliamentary form of Government:

In the US, the President is the head of the state and so his government is invariably mentioned as the Presidential form of government or democracy; In India, the President is only a nominal head or titular sovereign power, whereas the Prime Minister and his cabinet is the defacto or popular sovereign in whom the real power exists. In the US, the President is popularly elected ,besides chosen through an electoral college. However, nominating a candidate for contesting the Presidential election by a political party in the US is a cumbersome process. This process is



comparatively simpler than the Indian system of forming the cabinet and electing the Prime Minister from a party which enjoys a majority of elected members of the Lok Sabha. While the US follows the bi-party system, India has a multi-party system and a complicated process of election. While the US President holds power for a period of 4 years, while the Indian Prime Minister holds power for five years as long as his political party enjoys majority in the Lok Sabha. However, the US President irrespective of his affiliation with a political party, Republican or Democrat and irrespective of his party's success or failure in the elections for the House of Representatives or the House of Senate, holds power for his full tenure. A person in the US can hold the post of President only for two terms, whereas, in India there is no such restriction to hold the post of a Prime Minister or President. For example, Nehru was the Prime Minister of India between 1947 and 1964 for a period of 17 years.

The Indian cabinet and the Prime Minister are collectively and directly responsible and answerable to the parliament and indirectly to the people, whereas, the US President has constitutional obligations and duties and of course answerable to the people. For the dereliction of duty and blunder committed by a cabinet minister in India, the Prime Minister and his entire cabinet colleagues are liable, responsible and answerable, because they have collective responsibilities.

3) Differences between the legislatures of US and India:

In India, the lower house or the Lok Sabha is more powerful and its members are directly elected by the people and the members of the Upper house or Rajya Sabha are indirectly elected every two years. The Lok Sabha members represent their constituencies on the basis of their population strength; In the US, the House of Representatives are elected on the basis of the population strength of a state, but irrespective of the size of the state or its population, each state in the US has only two senate members, totaling 100 members in all in the US. While the Lok Sabha or the lower house is more powerful in India, the House of Senate or the upper house is more powerful in the US. While a Senate member in the US is directly elected, a Rajya Sabha member in India is indirectly elected by a system of proportional and transferable voting system.



4) Differences in the judicial system between US and India:

While the US has an advanced judicial system, India has a rapidly developing judicial system. An accused or a witness in the US can depose from the place where he is imprisoned, thereby avoiding unnecessary travel all the way from Chicago or Los Angeles to New York using the advanced technology. Such facilities are yet to develop in India. While a Judge in the US can hold his post for life as long as he enjoys his good health, in India it is slightly different. A District judge unless elevated retires at the age of 58, a High Court and a Supreme court Judge retires at the age of 65.

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