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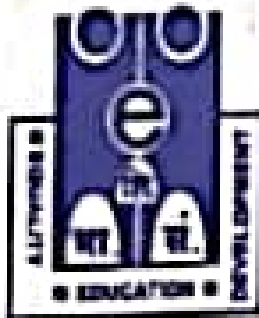
# **Education and Society**

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## Emerging Trends in Indian federalism

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### Abstract:-

According to the Indian constitution which came into force on January 26, 1950, a federal government system has been arranged in India. Although the word federation has not been used in the constitution. In Article 1 of the constitution, India has been called a "Union of States" Dr. B.R Ambedkar had said in the constituent assembly, "Although India is Union-state but this Union state is not in any way the result of mutual agreement of the states, no state has the right to secede from the Union." It is clear that the country and the people have been divided into different states for the convenience of governance but the country is unbroken and a complete union. But it is also worth mentioning that even after the practical federal nature of India, it did not remain the same. Because the changes in the Indian political system from time to time have also affected the nature of Indian federation. In this paper we will try to understand the various trends that have emerged in Indian federation as a result of changes in Indian polity.

### Introduction

Federalism is a system of government in which power is divided between a central authority and constituent political units. Indian Federation is different from the type of federalism practiced in the countries like the United States of America. Indian's federalism is called quasi-federal system as it contains major features of both a federation and union. It can be better phrased as "federation sui generis" or federation of its own kind. Article 1 of the constitution of India states that "India that is Bharat shall be a union of states." Indian federation was not a product of coming together of states to form the federal union of India. It was rather a conversion of a unitary system into a federal system. It is a compromise between two conflicting considerations such as autonomy enjoyed by states within the constitutionally prescribed limit (state list) and the need for a strong centre in view of the unity and integrity of the country (union list).

**Federal features of the Indian Constitution**

1. The constitution of India is a written constitution so that the powers of the centre and the states are described in the clear terms. In the Indian constitution there are 395 articles and 9 schedules.
2. In the federal system, the constitution must be rigid. The Indian constitution is also rigid. It is very difficult to make amendments in some of its provisions.
3. The Indian constitution has divided the powers between the centre and the states. There have been prepared for this purpose the union list, state list and concurrent list. 2
4. The constitution provides for an independent and integrated judiciary. The lower and district courts are at the bottom levels. The high courts are at the state levels and at the topmost position is the supreme court of the India. All courts are subordinate to the Supreme Court.

**Unitary features of the constitution**

1. **Strong Centre:** - The division of powers is in favour of the centre and highly inequitable from the federal angle. Firstly the union list contains more subjects than the state list. Secondly the more important subjects have been included in the union list. Thirdly the centre has overriding authority over the concurrent list. Finally the residuary powers have also been left with the centre while in the USA, they are vested in the states. Thus, the constitution has made the centre very strong.
2. **States not indestructible:** - Unlike in other federations, the states in India have no right to territorial integrity. The parliament can by unilateral action change the area, boundaries or name of any state. Moreover it requires only a simple majority and not a special majority. Hence, the Indian federation is “an indestructible union of destructible states.” The American federation on the other hand, is described as “an indestructible union of indestructible states.”
3. **Single constitution:** - Usually in a federation the states have the right to frame their own constitution separate from that of the centre. In India, on the contrary, no such power is given to the states. The constitution of India embodies not only the constitution of the centre but also those of the states. Both the centre and the states must operate within this single frame.



4. **Flexibility of the Constitution:** -The process of constitutional amendment is less rigid than what is found in other federations. The bulk of the constitution can be amended by the unilateral action of the parliament, either by simple majority or by special majority. The power to initiate an amendment to the constitution lies only with the centre. In US, the states can also propose an amendment to the constitution.

5. **No equality of State Representation:** - The states are given representation in the Rajya Sabha on the basis of population. Hence, the membership varies from 1 to 31. In US, on the other hand the principle of equality of representation of states in the upper house is fully recognized. Thus, the American senate has 100 members two from each state. This principle is regarded as a safeguard for smaller states.

**Importance of federalism in India:** -Federalism is the most relevant factor of modern constitutionalism. The core objectives of Indian federalism are unity in diversity, devolution in authority and decentralization in administration. Through federalism the state pursues the goal of common welfare in the midst of wide diversity in socio-cultural, economic spheres.

### **Challenges faced by Indian federalism**

1. **Regionalism:** -It is considered one of the significant challenges to federalism in India. The pluralist character of India gives rise to many factors including regionalism. Regionalism or love for one's area, despite India's tradition of successful federal rule over the years since independence, still raises its demands 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 Karbi Anglong have been revived. This is a part from the new demands for a separate vidarbhav state in Maharashtra and Harit Pradesh and Poorvanchal in Uttar Pradesh.

2. **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 the matters of national importance e.g. defence, 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.

Moreover 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. Centralisation is as such a threat to Indian federation. 5

3. **Centralised Planning:**-Centralised planning, through the Planning Commission, now NITI Aayog appointed by the centre considerable preponderance in legislative power for the Union, the financial dependency of the states on 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 not special Planning Commission for the states in India. It also adds to misery of states and pose smooth functioning of federal spirit across the country. 6

4. **Role of Regional Parties :-**Till 1984 , the role of regional political parties was limited to few states and it was confined to local politics of the states but the steep rise of regionalism Indian politics can be seen from early 90's to present time. Now these regional political parties have not dominant role in state politics but have big say in national politics also . From 1991 to 2014 no national party could think of the formation of government at centre without the help of these regional parties and these parties have started to demand increase their share from national resources. 7

5. **Emergence of multi-party system:** -There are three types of political parties: one party or mono- party systems two party or bi-party systems and multiparty systems. Although India has a multiparty system, it has been dominated by one party since independence in 1947. In Indian the congress party dominates all other parties. The one party dominance system was phased out in favour of a multiparty system. Many regional parties arose and began competing at the national level altering the federal relationship between the centre and states.

6. **Demands for smaller state:** -India is a federal country, but the word 'federal' does not appear anywhere in the Indian coconstitution. The Indian constitution states in Article I that "India, that is Bharat, shall be union of states in order to maintain unity in diversity, the Indian constitution uses the word "union" rather than "federation" there is a religious diversity in India, and politics in India is based on religion, region and language. The demand for small and new states arose as a result of these factors. At the moment, each oversize state necessitates its own state borders. New bifurcated states include Chhattisgarh, Uttaranchal and Jharkhand to name a few. The number of states has increased to 28 and the number of union territories has increased to 8 but the process is far from over, with various states still demanding bifurcation.

7. **Demand of Jammu and Kashmir for greater state autonomy:** -Jammu and Kashmir is

a state in India located in the north western part of the Indian sub-continent. It is the part of the larger region of Kashmir, which has been a source of contention between India and Pakistan since 1947. The Jammu and Kashmir National Conference Government approved a resolution of state autonomy on July 26, 2000 but the BJP government opposed it.

The BJP government wants the country to be united, peaceful and prosperous, so on August 5,

2019, Home Minister Amit Shah introduced a bill in Rajya Sabha to convert Jammu and Kashmir 's

"Autonomous Status (Art.370) into two separate union territories, Jammu and Kashmir and Ladakh. Some states, such as West-Bengal, Tamilnadu, Kerala and Punjab want more administrative financial and legislative powers, while others want more financial. Some political



parties, such as the DMK government in Tamilnadu, demand greater state autonomy. According to the DMK government, the centre can only intervene and pass laws in areas such as defense, foreign policy, communication, currency and coinage. 8

**8. The indestructible union and destructible units:** -In India, union is made indestructible to protect the unity and integrity of the Nation. But it is not applicable to states, as states can be separated or merged. It is only possible with the consent of the states. But in India, Parliament have the power to make law relating to the formation of new states and alteration of existing states. In practice most states has been formed with prior consent of the states. But in case of formation of Telangana ,this practice was ignored. The decision to divide Andhra Pradesh raises important questions about federalism and the nation's future. This was the first time in India that a state was sought to be divided without the consent of the state legislature. 9

Even after 1987, in every case of state formation, the consent of the state legislature. The Broader principal of federalism and the willing consent of constituent and their people has been deemed to be necessary before a state is formed or a territory merged. The procedure was observed in creating Jharkhand, Uttaranchal, Chhattisgarh in 2000. 10

Recently, the union government issued the Jammu and Kashmir presidential order, 2019 on ending Jammu and Kashmir special status. The debate is going on whether government can issue such an order or not, when the state is under Governor's rule one hand the government is justifying it on the ground that during Governor rule, the Governor assume any and all functions of the state government ,so the action of the government is continuously valid But the other hand, the question is that if there is President's rule how does it work? Because there is no elected government in Jammu and Kashmir ,so the concurrence of legislative assembly is not possible unless new government is formed after election 11.

**9. Row central bureau of investigation (CBI):**-The term 'Investigation' appearing in entry

8 of list (Union list) of the Seventh schedule which read, "Center Bureau of Intelligence and Investigation ." But the police is a state subject and under code of criminal procedure. The police has power to conduct Investigation .12

But CBI has become one of the prime central agency to conduct Investigation .When CBI raids Delhi Chief Minister office on December 15, 2015 and sealed it. Chief Minister blames Prime minister and Lieutenant Governor for it. Opposition alleging it as “Serious” attack on Federal policy” 13

In other case, CBI raided Delhi Deputy CM Manish Sisodia in Delhi secretariat on 19<sup>th</sup> August 2022 in connection with the excise policy case. Delhi CM Arvind Kejriwal said that last 75 years, Delhi Govt, tried good works, but central govt. always interrupted. When whole world was appreciating educate model of Delhi Govt, then CBI was raiding against the Education Minister. 14

The state-centre crisis related to the chit-fund scam investigation by the CBI took a sharp turn on February 03, 2019 when CBI officials reached the residence of the police commissioner in South Kolkata. The West Bengal Government claimed that the CBI had no warrant to conduct the investigation and was part of a “Secret Operation” CBI tried to enter the residence to question him. But the state police stopped the CBI officials from entering it.

West Bengal Chief Minister Went on an indefinite sit- in-strike in front of the metro channel at esplanade same night. She said her agitation was to “Save Democracy, the Constitution and the Federal Structure of the country. These incidents reflect the conflict between centre and state government over the CBI , this incidents arose when two different parties are in power at centre and state.15

#### 10. Financial dependence of states on central Government: -Another challenge of Indian

Federation is Financial Dependence of states on central Government. The Political liberty is Meaningless without economy dependence and federation in India is at its lowest regarding financial relations between centre and states. The State Governments have not enough financial resources for the smooth conduct of the functioning of the states. They have total dependence on centre government for financial resources. The arbitrary disbursement of funds by the central government is a matter of grievance for state governments. A non-constitutional and non-statutory body like ‘NitiAyog’ has an important role in deciding the grants in aid provided to the



state governments. From very beginning the states are demanding to increase their financial resources by giving more shares in taxes and on other hand they are demanding that the disbursement of financial resources should be carried out by finance commission, a constitutional body. The

central government use the financial resources as a tool of blackmail for states specifically the governments with regional parties and sometimes regional political parties in state government also Blackmail control government to grab more financial resources in case of coalitional government at centre.

So this tool is misused by both ways and create discontentment among the states against the central government. 16

11. **Challenges from Globalization:** -After joining the process of Globalization in Indian federalism, not only the center but also the states have started efforts at their own level for their development. Due to such efforts, Indian federation is evening a new era of market economy.17 But only development states enhance their pace of economic development through FDIs, on the other the backward states remain underdeveloped due lack of feasible socio-political economic environment. So they need assistance and cooperation by the union government. It will promote cooperative federalism in India. Also at the grassroots level the relationship between the state and panchayats is passing through changes due to all penetrating effect of globalization. There is a need for more decentralization at each level for federation to thrive. Globalization has resulted in emergence of new concepts like, New localism, People's empowerment etc. Globalization has made both the centre and states active partners in establishing political stability and peace the harmony. The use of Article 356 has been drastically reduced since the onset of liberalization in 1990. 18

12. **Governor's office:** -The most important power of the Governor which sometimes comes in conflict with the federal structure of the country is power vested upon him by the Article 154 of the Indian constitution which states that all the executive powers of the state are held by the Governor. Under this provision, Governor can appoint the Chief Minister and the Advocate General of the state and state election commissioners. 19

Under Article 163, the Governor as the constitutional head exercises all powers under the constitution on the aid and the advice of the council of ministers. Governor send report to the President under Article 356 if the state's rule is not working according to the constitution, but many times central government misuse the Article

356. In January 2016, President declare President's rule in Arunachal Pradesh, 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 over support of the central government to the

Governor in this critical matter speak 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.

### **Conclusion**

Federation is the distribution of power from the central government to the state government and the local government. The main objection of this is to prevent autocracy. India is a quasi-federalism country which means it has the features of federalism but the main authority lies with the central government. It is the need of the hour to rethink and review the Indian federation in this charged scenario. Now the centre will have to understand and cooperate the states in this new situation and should not ignore the regional sentiments and states should also behave with maturity because now they have important and larger roles and should not pressurise and blackmail the central government for the sake of their states only .The regional politics parties should come out from their petty state interest and should think of the whole nation because now they have to pay a relevant role in national politics also. If both Centre and States will behave in this direction then Indian

Federation will lead to a cooperation federation and will serve the interest of both centre and States.

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