

FEDERAL SYSTEM

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Abstract:

The federal system is the English version. It's translated into Kannada as Sanyukta Vyavasthe. The word 'federation' is derived from the Latin language's word 'foedus'. Foedus means agreement, covenant. The study reveals a treaty between sovereign countries is what gives rise to the federal system. A federal system is a constitutional division of powers between the federal government and state governments.

Key Words: Federal System, legislative Power,

Introduction:

The powers conferred on the states in this system are constitutional and not central government, consequently state governments cannot be abolished, revoked, or limited by the federal government. State Governments have an independent presence in this system. The Central and State Government has independent jurisdiction. Central and State Government should not interfere in their workspace. The devolution of power cannot be altered by either the federal government or the state governments. Such a change can only be made by amending the Constitution, decentralisation of power is the most characteristic feature of this system. For example, the federal system exists in countries such as India, Australia, Switzerland, the United States, and Canada.

Meaning of Federal system

“If there is a constitutional division of power between the Central and State Government, it is called a federal system”.

Definitions of Federal System

Prop. Garner: "The federal system is the system of sharing administrative powers between the central and state governments according to the constitution."

Prop. Daisy: "The federal system is the devolution of the state in constitutionally incorporated and regulated organs."

Nature and Features of Federal System:

The Division of Power.

The most important component of the federal system is the separation of powers. A constitutional distinction of powers between the federal government and the states is present in this system. The authority to enact laws pertaining to national issues is granted to the Central Government. State governments have the authority to enact laws relating to issues of regional

importance. For example, in India, laws pertaining to definitions, foreign affairs, civil aviation, railways, and monetary policy can be passed by the federal government. State governments also have the authority to enact laws pertaining to local issues including public health, commercial taxes, agriculture, law enforcement, and excise.

State Governments are Autonomous.

In this arrangement, states provide authority by the constitution rather than the federal government. As a result, the federal government lacks the authority to eliminate state governments or to limit their authority. State governments do not have to rely on the federal government to ensure their continued existence.

Supremacy of the Constitution.

The Constitution promotes transparency in this system. The Central and State Governments have different powers under the Constitution. The Constitution should not be violated by the actions of the federal or state governments. The Supreme Court ruled that the Central and State Governments' laws, rulings, and orders that contravene the Constitution are invalid. For instance, the Indian Supreme Court possesses this kind of authority.

Independent Judiciary.

Disputes and differences over jurisdiction between the federal government and state governments could arise since the federal system is founded on the idea of separation of powers. To resolve these conflicts and safeguard the federal system, an independent judiciary is required. For this reason, the judiciary is referred to as the "protector of the federal system." For example, the Supreme Court of India carries out this duty impartially and independently.

The Written Constitution.

The first of the major elements of the federal system is the written constitution. By explicitly defining the authorities granted to the Central and State Governments by the Constitution, a written constitution is required to regulate conflicts that arise out of jurisdiction. If a treaty between states creates the federal system, the constitution must be in writing outlining the key provisions of that accord. As a result, every country that uses a federal system needs to have a written constitution.

Tough/ Rigid Constitution.

The constitution is written, strict, and distinct in the federal system. In this system, the central and state governments are treated equally. Because of this, a strict constitution gives both governments the chance for modifications it.

Bi-cameral Legislative.

Another significant component of the federal system is the bicameral legislative system. The legislature's upper chamber will represent the states if the lower house represents the people. For example, the Rajya Sabha, the upper house of Parliament, is made up of representatives from the states, while the Lok Sabha, the lower house, is made up of the people of India. The

higher Senate of the US represents the member states, while the legislative body represents the people.

Single Citizenship.

The Constitution provides single citizenship in order to promote national sympathise among the populace and curb their limited provincial sentiments. A law pertaining to Indian citizenship may be passed by Parliament.

Dual Government System.

One of the most significant aspects of the federal system is the dual government structure. There are two types of governments in nations that use the federal system: the central government and the state governments. The state governments run the states, which are union units, whereas the federal government runs the entire country. Within their respective spheres of influence, the federal and state governments operate independently.

WORKING OF INDIAN FEDERAL SYSTEM:

Throughout India, the relationship between the Union and its member states is referred to as federalism. The Indian Government's structure is established by the Constitution. The division of legislative, executive, and administrative authority between the State and the Central Government is discussed in Parts 11 and 12 of the Indian Constitution. The Central List, State List, and Concurrent List are the categories under which legislative powers are classed. These lists, in turn, reflect the powers granted to the Central Government, State Governments, and themselves, respectively. This is how the Indian federal system functions. Articles 11 and 12 of the Indian Constitution discuss the relationship between the central government and the state. Relationships between the Centre and the State are normal given that India is a federal system. For the sake of the study, central state relations can be divided into three distinct groups. Specifically;

1. Legislative Relations.

The Constitution's Part 11 clauses 245 to 255 outline the Central States' legislative relationships. The scope of the federal and state governments' authority is made clear by the Constitution. The Constitution's Article 246(4) grants Parliament the authority to enact laws that apply across India or to any region of the country. According to Article 245 (1) of the Constitution, state legislatures have the authority to enact laws that apply to the entire state or to specific regions. Legislation passed by state legislatures only applies to the states in question.

The following topics need to be examined in light of the Center-States legislative relations.

A. Separation of legislative power.

Article VII of the Indian Constitution outlines the division of legislative authority between the federal government and the states. This division of authority is comparable to that of Australia and Canada. Similar to the Constitution of Canada, the Indian Constitution assigned powers to the central government and included both central and state lists. The Concurrent List, which is part of the Australian Constitution, is included in ours. The Government of India Act of 1935

closely resembles the arrangement of legislative power division established in the Indian Constitution. Regarding the separation of legislative powers, our Constitution includes three categories.

These are:

i. Central List: The central list contains 100 nationally significant topics. Foreign Trade, Defence, Finance, Interstate Commerce, Railways, Postal & Wire, Income Tax, Election, Civil Aviation, Import-Export, International Trade, Banking, Insurance, Supreme Court and High Courts, Power & Energy, Mining Development, Mines & Oil. There are resources, Central Lok Seva Commission etc. Legislation pertaining to the items on this list can only be passed by the Central Government. Thus, the centre of the list is the name given to this list.

ii. State List: The State List contains 61 topics of local significance. Public health and hygiene, police, public peace keeping, jail room, commercial tax, animal husbandry, irrigation and land reform, local governments, state services, agriculture, fisheries, the state service commission are important. Legislation authority over the items in this list rests with the State Government.

So this list is called the state list. But in some exceptional cases, parliament makes legislation for things on the state list.

iii. Concurrent List: Marriage, Divorce, Press, Criminal Procedure Code, Civil Procedure Code, Duties, Misconduct, Charity, Labour Welfare, Economic and Social Planning, Population Control and Family Planning, Education, Forestry, Measurement and Weight, which are wild animals and 52 issues such as the protection of birds, the creation of courts other than the Supreme Court and the High Court. Legislation authority over these issues rests with the federal and state governments. The Central Government Act is equivalent to the State Government Act in the event that the Central and State Governments disagree on certain issues; only the Central Government Act will be used.

Residuals Powers:

Subjects that do not belong to three lists are called residuals powers. The Constitution of India conferred the remaining powers on the Central Government. (Rule 248). The Supreme Court has the authority to determine whether the issue is within its remit.

B. Power of the Centre to create legislation on matters on the State List.

In general, the State Government only enacts laws pertaining to topics that are specified in the state. Nonetheless, the Parliament passes laws pertaining to items on the State List in the following situations.

In the national interest.

A majority of two-thirds of the State Legislature may enact Article 249 of the Constitution, which grants the Parliament the authority to enact laws on any topic on the State List for the good of the country. In this situation, any item on the state list is subject to legislation by Parliament. The state legislature's resolution will be in force for a full year. With the State Assembly's consent, the resolution may be extended for an additional year if needed.

When an emergency is declared.

Under Article 250, when any type of emergency is in force. Parliament can create legislation for anything on the state list. These laws will only be in effect for six months after the emergency is withdrawn.

At the request of the States.

Two or more States may request the Central Government to enact legislation relating to any matter on the State List by ratification of a memorandum. In this case Parliament makes the law on matters in the state list. Two aspects should be noted here. First, these types of laws only apply to the states concerned. Any state can adopt laws like this by passing a resolution. Second, only the parliament has the power to amend or repeal such laws. Examples of such laws are the Wildlife Protection Act (1972), the Water Pollution Prevention and Control Act (1974), the Urban Land Use Act (1970), and the Human Tissue Transplantation Act (1970).

To implement the international treaty.

Article 253 gives Parliament the authority to enact laws on items on the State List in order to carry out decisions made at international conferences or in accordance with treaties. For example, the Geneva Convention Act of 1960, the United Nations (Facilities and Privileges) Act of 1947, the Aircraft Hijacking Prevention Act of 1982, the Environment Pollution Control Act, and other people.

When the Presidential Administration is in force.

According to Article 356, Parliament has the authority to enact any law on the State List while the President is in office. Only the states where the president is ruled are subject to these laws. Even after the presidential administration ends, these laws remain in effect. These laws can be repealed, modified, or changed by the legislatures of states.

C. Central control over state legislation.

As previously stated, Parliament occasionally creates statutes for items on the State List. Additionally, Parliament controls state legislation in the following situations: Any bill that has been adopted by the State Legislature may be held for the President's approval by the Governor in accordance with Article 200 of the Constitution. Such a law may be approved or rejected by the president, or it may be returned to the relevant state legislatures for further consideration. Within six months, state legislatures are required to review these measures once more and return them to the president for approval. The President may then approve or disapprove, which gives him the authority to veto certain bills that state legislatures have passed. Granville Austin said, "This is a violation of the principle of separation of powers." Additionally, there is no time limit on the President's ability to enact state bills. Thus, without making a judgement, the President is free to retain these bills for as long as they choose. We call this Pocket Veto. Even in normal situations, the federal government controls state legislation in this way.

2. Administrative Relations.

Articles 256 to 263 of Part XI of the Constitution and certain other clauses describe the administrative relationships between the State and the central government.

1. Article 256 states that every state will exercise its functions in accordance with the laws of Parliament. The Centre may direct the State Governments in this regard.
2. Article 257 states that the State Government exercises its powers without any obstruction to the Central Executive. The Central Government may direct the State Governments in this regard. The President's administration may be put into power if a state government deviates from the Center's directives.
3. Under Article 258, the President may delegate the responsibilities of the State Government to the Central Government with the State's approval. In a similar vein, the Governor may assign the Central Government the duties of the State Government with the concurrence of the Central Government under Article 258 - A.
4. Article 257 (2) may direct state governments to construct and maintain a national or military vital communication system. Ex: Direction of the Centre for the Construction and Maintenance of. INS 'Kadamba' (Seabird) Naval Stations at Karwar. and four line Highway Road.
5. Under Article 273 (3), the Central Government may direct the State Governments to provide security to the existing Railways in the State.
6. Under Article 339 (2), the Centre may instruct States to implement and implement plans for the welfare of scheduled tribes.
7. According to Article 350 - A, the Central Government may direct the State Governments to provide the necessary facilities to provide mother tongue education to minority children.
8. In accordance with Article 351, the Centre may direct the State Governments to take necessary steps for the development of the Hindi language. The Centre may direct the State Governments to comply with the provisions of Article 355 of the Constitution.
9. In states which do not violate the directives of the Centre or are not governed by the Constitution, the central government may enforce the administration of the President (Article 356).
10. Article 263 states that presidents may establish an interstate body for coordination between states. The main function of this council is to investigate and resolve disputes between the states.
11. Article 307 provides for the statutory provisions of the Constitution relating to trade and commerce nationwide. The United States may create an authority similar to the Interstate Commerce Commission.

12. Parliament has the power to create legislation to settle interstate water disputes under Article 262. Accordingly, in 1956 Parliament enacted the Interstate Water Resources Act.
13. According to Article 355, the The central government has the authority to defend the states against both internal unrest and external assault. The central government now has the authority to guarantee that states are subject to the Constitution thanks to the same governance.
14. In states that violate with its instructions, the central government can impose its will on the president's administration.
15. State governments that do not govern in conformity with the Constitution are abolished, and the President's control in those states may be enforced by the Central Government (Article 356). In this instance, the state administration is completely within the authority of the federal government.
16. Any directive pertaining to the management of the National Emergency may be issued to the State by the Central Government.
17. The Governor may be appointed, transferred, or removed by the President. In the states, the governor represents the federal government. The President receives quarterly reports from them about the constitution.
18. The Presidents and Members of the State Loka Seva Commissions may be removed by the Central Government.
19. The Joint Lok Service Commission's chairman and members are chosen by the central government.
20. The Centre may fulfil the conditions for the appointment of State Civil Services and other requirements upon the Governor's request.
21. Judges of the State High Courts may be appointed, transferred, or removed by the Central Government. A single High Court for two or more States may be established by the Central Government. For instance, the states of Maharashtra and Goa, Punjab and Haryana, Kerala, and Lakshadweep now have a single High Court established by the Central.
22. The State Government is in charge of upholding law and order in the state. However, in some situations, the central government may dispatch the Border Security Force (B.S.F.) and the Central Reserve Police Force (C.R.PF.) to states that are prone to rioting in order to safeguard civilian and legal property.

3. Financial Relations.

Articles 268 to 293 of Part XII of the Constitution and certain other clauses describe the economic relations between the Centre and the State. The economic relationship between the centre and the state is described below.

i. Distribution of sources of tax revenue.

In the federal system, the centre and the state must act independently in their jurisdiction. So, the Central and the State Government should have their own source of income. In the Constitution, sources of income are shared between the Central and State Governments as follows.

a) Taxes levied and appropriated by the Central Government.

Centre may charge certain taxes under Article 268. But the State charges such taxes and finance themselves. Examples, of stamp duties on promissory notes and taxes on the manufacture of alcoholic beverages.

b) Central Government levies and charges. Taxes allocated to states.

According to Article 269, the Central Government imposes certain taxes. The Central Government provides the tax revenue to the states without utilizing it. Ex: Taxes on Rail Rate and Goods by Rail and Freight, Railway, Sea or Airline, Terminal Tax on property, estate tariffs on property (excluding agricultural land), sales of newspapers and advertising on newspapers etc.

c) Central Government levies, appropriates, and distributes taxes between Centre and State.

According to Article 270, the central government imposes certain taxes and the central government shares these taxes between themselves and the state. E.g. Income tax.

d) Central levies, levies and appropriations.

Some taxes are levied, levied and utilized by the central government. Ex: Rail, Postal and Wire, Telephone, Wireless, Corporate Tax, Foreign Exchange.

ii. Grants to States.

Article 275 of the Constitution provides for the Central Government to fund the States in need. The Centre may also provide the states with necessary financial assistance for the welfare of the tribal's. These grants are awarded in accordance with the recommendations of the Finance Commission.

iii. Emergency grant.

The Centre grants emergency grants to states that have been affected by natural disasters such as drought, flood, and earthquake. This type of grant is made on the recommendation of the Planning Commission.

iv. Funding for special group states.

The Central Government considers certain States to be Special Category States. 90% percent of the grant and offers 10 % loans. Seven North-eastern States, Jammu & Kashmir, Himachal Pradesh, Sikkim, Assam and Uttarakhand are among this special category.

v. Financial Emergency (Article 360).

The Centre may direct states to comply with certain financial regulations when a financial emergency is in effect. In this case, the centre may direct the states to reduce the salaries and allowances of state government staff and high court judges. In the event of a financial emergency, the central government may order all financial bills passed by state legislatures to be approved by the president.

Conclusion:

Federalism in India refers to the relationship between the Union and the Union states of India. The Constitution of India establishes the structure of the Indian Government. Part 11 and 12 of the Constitution of India refers to the distribution of legislative, administrative and executive powers between the Central Government and the State. Legislative powers are categorised under the Central List, State List and Concurrent List, which represent respectively, the powers vested in the Central Government, the powers vested in the State Governments and the powers vested in them. Thus is the functioning of the federal system of India.

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