

What is federalism?

Federalism is a system of government in which the power is divided between a central authority and various constituent units of the country. Usually, a federation has two levels of government. One is the government for the entire country that is usually responsible for a few subjects of common national interest. The others are governments at the level of provinces or states that look after much of the day-to-day administering of their state. Both these levels of governments enjoy their power independent of the other.

In this sense, federations are contrasted with unitary governments. Under the unitary system, either there is only one level of government or the sub-units are subordinate to the central government. The central government can pass on orders to the provincial or the local government. But in a federal system, the central government cannot order the state government to do something. State government has powers of its own for which it is not answerable to the central government. Both these governments are separately answerable to the people.

Some key features of federalism:

- 1 There are two or more levels (or tiers) of government.
- 2 Different tiers of government govern the same citizens, but each tier has its own JURISDICTION in specific matters of legislation, taxation and administration.
- 3 The jurisdictions of the respective levels or tiers of government are specified in the constitution. So the existence and authority of each tier of government is constitutionally guaranteed.
- 4 The fundamental provisions of the constitution cannot be unilaterally changed by one level of government. Such changes require the consent of both the levels of government.
- 5 Courts have the power to interpret the constitution and the powers of different levels of government. The highest court acts as an umpire if disputes arise between different levels of government in the exercise of their respective powers.
- 6 Sources of revenue for each level of government are clearly specified to ensure its financial autonomy
- 7 The federal system thus has dual objectives: to safeguard and promote unity of the country, while at the same time accommodate regional diversity. Therefore, two aspects are crucial for the institutions and practice of federalism. Governments at different levels should agree to some rules of power sharing. They should also trust that each would abide by its part of the agreement. An ideal federal system has both aspects : mutual trust and agreement to live together.

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. This type 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.

What makes India a federal country?

We have earlier seen how small countries like Belgium and Sri Lanka face so many problems of managing diversity. What about a vast country like India, with so many languages, religions and regions? What are the power sharing arrangements in our country? Let us begin with the Constitution. India had emerged as an independent nation after a painful and bloody partition. Soon after Independence, several princely states became a part of the country. The Constitution declared India as a Union of States. Although it did not use the word federation, the Indian Union is based on the principles of federalism. Let us go back to the seven features of federalism mentioned above. We can see that all these features apply to the provisions of the Indian Constitution. The Constitution originally provided for a two-tier system of government, the Union Government or what we call the Central Government, representing the Union of India and the State governments. Later, a third tier of federalism was added in the form of Panchayats and Municipalities. As in any federation, these different tiers enjoy separate jurisdiction. The Constitution clearly provided a threefold distribution of legislative powers between the Union Government and 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 includes subjects of common interest to both the Union Government as well as the State Governments, such as education, forest, trade unions, marriage, adoption and succession. Both the Union as well as the State Governments can make laws on the subjects mentioned in this list. If their laws conflict with each other, the law made by the Union Government will prevail. What about subjects that do not fall in any of the three lists? Or subjects like computer software that came up after the constitution was made? According to our constitution, the Union Government has the power to legislate on these 'residuary' subjects. We noted above that most federations that are formed by 'holding together' do not give equal power to its constituent units. Thus, all States in the Indian Union do not have identical powers. Some States enjoy a special status. Jammu and Kashmir has its own Constitution. Many provisions of the Indian Constitution are not applicable to this State without the approval of the State Assembly. Indians who are not permanent residents of this State cannot buy land or house here. Similar special provisions exist for some other States of India as well.

There are some units of the Indian Union which enjoy very little power. These are areas which are too small to become an independent State but which could not be merged with any of the existing States. These areas, like Chandigarh, or Lakshadweep or the capital city of Delhi, are called Union Territories. These territories do not have the powers of a State. The Central Government has special powers in running these areas. 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.