

Centre State Relations : Legislative Perspectives

E-content for Political Science, MA Sem - 11

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INTRODUCTION

Indian constitution establishes a quasi – federal system. It means the outward structure of the government is federal but spirit is unitary. In case of national or economic crisis it is transformed into a unitary system. Federal government is stronger than the regional governments. In this unit we will learn about nature of Indian federal system.

Indian federation is the product of an evolutionary process. The Government of India Act, 1935, introduced the element of federalism in view of the fact that India was a country of sub continental size. It is multi – religious multi – racial and multilingual nation. In view of this reality the Indian constitution adopted federal system.

The word ‘Federal’ is nowhere used in the constitution of India. Article 1 merely states that “India, that is Bharat, shall be a union of states.” About the nature of Indian Federal system Dr. B.R. Ambedkar clarified that ‘it established a dual polity with the union at the centre and the state in the periphery, each endowed with sovereign powers to be exercised in the field, assigned to them by the constitution. The union is not a league of states, united in a loose relationship; nor are the states the agencies of the Union, deriving powers from it. Both the Union and the states are created by the constitution. The one is not subordinate to the other in its own field; the authority of one is not subordinate to the other in its own field; the authority of one is co –ordinate with that of the other.’ There are different parties in power in the center and state. There is no co- operation between two. The reality of Indian federalism is conflict as well as co- operation between two sets of government. There is no denying of the fact that the Indian constitution makers intended to establish a strong center to preserve the unity and integrity of the Indian state. Their intention has been made clear by centralizing tendencies imbibed in the constitution itself. Till 1967 inspite of a strong centre, the state did

not feel that their autonomy was jeopardized. In 1967, in eight state the non-congress governments came in power and after that the issue of preservation of autonomy of the state was raised. In this unit we will study about the working of the Indian federal system during the 20th and 21st century.

Center-state Relation:

Indian federal system is quasi-federal. It is federal in its form and Unitary in its spirit. Even the pattern of the Union state relation defined in the constitution accounts for greater centralization. Hence, it is a cause for the grievance on the part of the states.

Centre-state Relation are as follows:

- 1] Legislative Relation
- 2] Executive and administrative Relationship
- 3] Financial Relationship.

LEGISLATIVE RELATIONSHIP BETWEEN CENTER AND STATES

There are three List of Legislative Items:-

- 1) Union List
- 2) State list
- 3) Concurrent list.

Union List consists of 97 subjects of all India importance. The most important subjects in the union list are – Defence of India, Naval, Military and Air forces, Atomic energy, foreign affairs, Railways etc. The subjects of the Union List are placed under the exclusive jurisdiction of the Union government. State list consists of 66 subject, which are primarily of regional interest .The state governments have full authority to make laws on any of the subjects mentioned in the state list, e.g. public order, police ,prisons, local government ,public health etc

Concurrent list consist of 47 subjects. The subjects included in the concurrent list have varying degrees of local and national interest. Hence both the union and states have powers to make laws on any of the subject included in the concurrent list. In case of a conflict between the union law and the state law over the same subject, the union law would prevail over the state law .

(B) Residuary power with the union:

All the subject and power are divided into three lists. But there may be some subjects who might not have been included in any of the above three list. Such subjects are known as residuary powers .In U.S.A. and AUSTRILA the residuary powers are left to the states and not to the Union. Hence, there the state are stronger than the center. But in India the residuary powers are left to the union. It made the union stronger than the states.

(C) Power of parliament to legislate on state list in the National Interest : The union can pass a law on any of the subjects of the state list, if Rajya Sabha passes a resolution, supported by a majority of 2/3 rd members present and voting, to the effect that, in the national interest, the Parliament should make a law on a subject included in the state list.

(D) National Emergency:

When proclamation of a national emergency is issued by the President, the scheme of division of powers is set aside. Union Parliament has authority to pass a law even on those subjects, which are included in the state list. Thus in case of emergency the Indian constitution becomes unitary.

(E) On request from state:

The union can pass law on the state list, if two or more state legislatures so desire and pass a resolution to that effect. Such a law passed by the parliament, will be applicable only to those states, which have asked for it. Such a law is valid for a period of one year.

(F) International Treaties and Agreements:

The parliament has power to make laws on any of the subjects included in the state list to implement any international treaty. It should be noted that no other federal constitution has such a provision.

(G) During president's rule:

When the president issues a proclamation of the failure of constitutional machinery in the state, he may declare that the power of the legislature of the state shall be exercisable under the authority of the parliament.

(H) Power of parliament to legislate for union Territories:

The distribution of legislative and executive power does not apply to the union Territories, for which, the parliament is empowered to legislate on any subject included in all the three list.

Conclusion:

Legislative relationship between the union and the states shows that the Indian constitution has created a federation with a strong union and weak states.