UNIT 11: CENTRE-STATE RELATIONS

UNIT STRUCTURE

11.1 Learning Objectives

11.2 Introduction

11.3 Nature of Indian Federalism

11.3.1 Federal Features

11.3.2 Non-Federal Features

11.4 Division of Powers between the Centre and the States

11.4.1 Relations between Centre and States

11.5 An Estimate of Indian Federalism

11.6 Let Us Sum Up

11.7 Further Reading

11.8 Answers to Check Your Progress

11.9 Model Questions

11.1 LEARNING OBJECTIVES

After going through this unit, you will be able to:

- discuss the federal structure of the Indian Constitution,
- explain the distribution of powers between the Centre and the States, and
- make an estimate of Indian federalism.

11.2 INTRODUCTION

The Constitution of India has described India as a “Union of States”, in the very first Article of it. Nowhere in the Constitution, has India been ever described as a federation. The Constitution of India has certain federal features but it has more non-federal features. So, India cannot be said to be a true federal State. It has been described as a “Union of States” because the Indian federation is not the result of an agreement among the constituting units and these units do not have the right to break away from the Union

unlike to that of a true federal State. In this unit, we will discuss the nature of Indian federalism in detail.

11.3 NATURE OF INDIAN FEDERALISM

When we discuss the nature of Indian federalism, then we must say that it is unique in itself. The framers of the Indian Constitution envisaged a federal form of government with a strong unitary basis. There is a Centralizing tendency in the Indian federation. The Central government has been made more resourceful and strong. The Constitution makers have provided for such type of a federal structure for various reasons. For example, India is a vast country with a diverse population. So, to maintain unity and integrity in the country, a strong Centre was deemed necessary. Again, to perform the vast responsibilities of a modern welfare State and for the economic development of a newly independent State, a strong Centre equipped with sufficient resources and power was important. At the same time, to establish India at the international forums, the Central government should be powerful enough to exercise a domineering voice.

The Constitution has made the Central government more powerful than the States. The Central government exercises more power than the States in legislative, administrative as well as in financial matters. Though we have two sets of government and power is divided between them constitutionally, yet that division is not equitable. The Indian Constitution has certain federal features. At the same time, it has certain non-federal features. They can be discussed in the following way.

11.3.1 Federal Features

One of the important federal features of the Indian Constitution is that it has provided for two sets of government in the country. The Central government works at the national level and the State governments work at the regional level. They have their own spheres of activity specified by the Constitution itself.

The powers of the two sets of government have clearly been

divided in the Constitution. The powers between the two governments have been divided in legislative, administrative and financial grounds. The Seventh Schedule contains three lists of subjects which specify the powers of the two governments.

The Indian Constitution is a written Constitution. It has been drafted by the Constituent Assembly and adopted by it on 26 November 1949 and came into force on 26 January 1950. The provisions of the Constitution have been discussed clearly and in detail. It is one of the longest Constitutions of the world.

Another federal feature of the Indian Constitution is the existence of a Supreme Judiciary for the country. The Supreme Court of India stands at the apex of the Indian judicial system. It is the highest court of justice. All other Courts lie below the Supreme Court. It is regarded as the custodian of the Constitution and the protector of the Fundamental Rights of the citizens.

In India, there is the supremacy of the Constitution. The Constitution is above all. It is the supreme law of the land. There cannot be any law or executive action which goes against the provisions of the Constitution.

Bi-cameral Legislature is another federal feature of the Indian Constitution. The Indian Parliament consists of two Houses – the Lok Sabha and the Rajya Sabha. The Lok Sabha which is also known as the House of People represents the people in general. It is the Lower House of the Indian Parliament. The Rajya Sabha which represents the States of the Indian Union is also called the Council of the States. It is the Upper House.

Besides the above mentioned features, the amendment procedure for amending the federal provisions of the Constitution is rigid. This is a feature of a federal government and it is found in India.

After discussing the federal features, now we are proceeding to discuss the non-federal or unitary features of the Indian Constitution.

11.3.2 Non-Federal Features

As India has adopted a federal form of government, so, it has two sets of government. The Constitution has divided the powers between them. But that division is not equitable. The Central government has been given more power than that of the State governments. This is a non-federal feature of the Indian Constitution.

The States, which are the constituting parts of the Indian federation, do not have their permanent existence. Some new States can be created out of the existing States at any time by the Central government and the names can also be changed.

Though there are certain rigid procedures for the amendment of the Constitution, yet, in essence the Constitution is not rigid. Most of the provisions can be amended by simple methods. The Parliament of India can amend many parts of the Constitution unilaterally without the participation of the State Legislatures.

In a true federal State, there exists two Constitutions - one for the federation as a whole and the other for the individual States. But in India, we have only one Constitution and that Constitution is for the States also. The States, in India, have no Constitution of their own. Though the State of Jammu and Kashmir has a separate Constitution, yet it works as per the provisions of the Indian Constitution.

Another non-federal feature of the Indian Constitution is the existence of a unified and integrated judicial system for the whole country. The Supreme Court stands at the apex of this judicial system and it is followed by High Courts and other subordinate courts in the States. There is no separate judicial system for the States in India.

In India, we have only one type of citizenship. That is the citizenship of India. We do not have the citizenship for our respective States. However, in a true federal State, the citizens have two types of citizenship – one for the whole country and the other for their States.

The Central government can give directions to the State governments regarding the administration of the States. The State

governments must follow these directives and carry out administration accordingly. Article 365 of the Constitution mentions that if any State fail to follow the directives of the Centre, then it will amount to the failure of the Constitutional machinery in the State. Then the President of India is empowered to impose President's rule in the State under Article 356. This is another non-federal feature of the Indian Constitution.

The Governors who are the Constitutional heads of the States in India are appointed by the President of India. The Governors can be said to be the agent of the Centre in the States because they send reports to the President from time to time regarding the administration of the States. In a true federation, the head of the States are not appointed by the Central government.

Further, the Rajya Sabha, the Upper House of the Indian Parliament, which represents the States, does not represent the States on the basis of equality. The States get representation on the basis of their population. The States with big population send more representatives to the House than the States with less population.

Thus, we may say that India is not a true federation. There are some federal features in the Indian Constitution. But, there are many non-federal or unitary features. So, India can be described as a federation with unitary spirit. The Constitution makers wanted a unique federal system for India which Dr. K.C. Wheare described as "quasi-federal". That means India is a semi federal State.



LET US KNOW

The term 'federation' has come from the Latin word 'foedus' which means a treaty or agreement. So, a federation comes into existence when some States arrive at an agreement to form a new bigger State either to protect themselves from common enemy or to ensure development by working together. It is very important that the States

which form the federation must have geographical contiguity and some amount of commonalities between them in matters of race, religion, language, culture, etc. and equality. Dicey says, "A federal State is a political contrivance intended to reconcile national unity and power with the maintenance of State rights".



ACTIVITY 11.1

Try to find out the differences between federation and confederation.



CHECK YOUR PROGRESS

Q. 1: Write two federal features of the Indian Constitution.

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Q. 2: Explain two non-federal features of the Indian Constitution.

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Q. 3: Why India is not regarded as a true federal State? Write in brief.

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11.4 DIVISION OF POWER BETWEEN THE CENTRE AND THE STATES

The Constitution of India has divided the powers between the Centre and the States. Though the Central government is stronger than that of the State government yet, the State governments have their own sphere of activities. In India, powers of both the governments are well-defined. The residuary powers are left for the Central government. The division of power in matters of legislative, administrative and financial can be discussed in

the following way.

- **Division of Legislative Powers**

Article 246 of the Constitution has discussed the division of legislative power between the Centre and the States. The Seventh Schedule includes three lists containing different subjects meant for the two governments to make legislation. These lists are – the Union List, the State List and the Concurrent List.

The subjects which are included in the Union list, such as, defense, foreign affairs, currency and coinage, citizenship and census, the Parliament of India have been given the power to make laws. There are 98 subjects in this list. The State Legislatures have no right to make laws in these subjects. The subjects included in the Union List are mainly of great importance for the country and uniform in character.

The State Legislatures can make laws in the subjects which are included in the State list. There are 61 subjects in the State List and they are subjects of local importance. They include – law and order, public health, forests, revenue, sanitation, etc. It is provided in the Constitution that on some occasions, the Central Legislature can also make laws on the subjects of the State list. Article 249 empowers the Parliament to make a law on the subjects of the State List for national interest if a resolution is passed by the Rajya Sabha by 2/3 majority to that effect. Again Article 250 mentions that during emergency the Parliament gains the power to make laws on the subjects of the State list.

Both the Parliament and the State Legislatures can make laws on the subjects which are included in the Concurrent List . There are 52 subjects in the Concurrent List. The subjects of this list are of great importance and uniform in character. However, they may need local attention. Some subjects of this list are – education, economic planning, social security, electricity and newspaper. In case of this list, one point is to be noted that if there is a conflict between the Central law and the State law on a subject of this list, then the Central law will prevail over the State law.

The subjects which are not included in these three lists of subjects

are termed as Residuary Powers. The Parliament has been given exclusive power to make laws on those subjects.

Thus, we may say that the Central Legislature, i.e., the Parliament is more powerful than the State Legislatures in matters of division of legislative power. The Parliament has exclusive power to make laws on the subjects of the Union List and in case of the Residuary Powers. It has also been given power to make law in the State List and it has its dominance in matters of the Concurrent List.

- **Division of Administrative Power**

In case of division of administrative powers also, the Central government has a greater share. Article 73 of the Indian Constitution mentions that the executive power of the Central government extends to all those matters with respect to which the Central Legislature can make laws. Again Article 162 lays down that the State government has its executive power in all those matters in which the State Legislature exercises power to make laws.

The Constitution of India has clearly mentioned that the executive power of the State must be exercised in such a way that it complies with the laws of the Parliament. The State government cannot impede or prejudice the exercise of the executive power of the Union.

Article 258 mentions that the President may entrust either conditionally or unconditionally, with the consent of a State government, any function which falls under the authority of the Central government. Again, according to Article 356, the Central government may take necessary steps to protect the interest of any State of India. The President can exercise emergency power under this Article to take over the administration of a State if it fails to comply with the constitution of India.

The Central government can also exercise its control over the State governments by the officials who are appointed by it but they work in the States. The Constitutional head of the State, the Governor, also works as a Central agent in the States. Besides, the officials of the All-India services are also there.

➢ **Division of Financial Power**

Like that of the legislative and administrative powers, in case of the financial powers also the Central government has been made more powerful than that of the State government. The sources of income which are mainly constituted from various taxes imposed and collected by the government are divided between the Centre and the States. This division can be discussed in the following way.

The Constitution has discussed the distribution of taxes and duties between the Centre and the States from Articles 264 to 300.

There are certain taxes which are levied and collected by the States and they form the sources of income for them. Taxes like land revenues, tax on agricultural income, estate duty etc. are levied and collected by the States. There are other taxes like stamp duty, excise on medicine, toilet preparations etc. which are levied by the Union but collected and appropriated by the States. The taxes collected from railways, posts and telegraphs, wireless, broadcasting, etc. constitute the sources of income for the Centre. There are also taxes which are levied and collected by the Centre but assigned to the States.

The Centre exercises control over the States in financial matters in various ways. The President can make alterations in the distribution of revenues earned from income tax between the Centre and the States. The Centre can also grant loans and provide grant-in-aid to States with special subsidy to some States. Further, the Centre can exercise financial control over the States through Central agencies like Comptroller and Auditor General of India and the Finance Commission which is appointed by the President after every five years to make recommendations on distribution of net proceeds of taxes between the Centre and the States.



LET US KNOW

Pandit Jawaharlal Nehru was the Chairman of the Union Powers Committee of the Constituent Assembly. In one of his speeches in

the Assembly he said, "We are unanimously of the view that it would be injurious to the interest of the country to provide for weak Central authority which would be incapable of ensuring peace, of coordinating vital matters of common concern and of speaking effectively for the whole country in the international spheres".

11.4.1 Relation between the Centre and the States

When we discuss Centre-State relation, it should be remembered that India is federal in structure and unitary in spirit. In India, we have two sets of government and there is division of powers between them. However, this division of powers are not in true nature of a federal government. So far as the division of powers in India is concerned, the States have very limited areas of authority and autonomy. Therefore, a demand is always there for greater autonomy on the part of the States. The States demand that they should be given more power for self-sufficiency and development. Because of this, sometimes the relation between the two governments becomes strained.

Professor Morris Jones has described Indian federalism as 'bargaining federalism'. It is because the Central government has developed a tendency to prevail over the States and the States have also been demanding their autonomy. The concept of bargaining federalism has got strengthened in recent years with the growth of regionalism and regional political parties in the country. Regional political parties have been formed in different regions of the country in order to enhance and protect the specific interests of the regions. They have been formed because the national parties have failed to satisfy the various needs of the regions. So, whenever they come to power in the States, they demand for more power and adequate resources so as to deal with specific needs and problems of their region.

The framers of the Constitution made the Central government

more resourceful and stronger than that of the States not with the intention to curb the powers of the States. Rather, they visualized the establishment of co-operative federalism in India. The Constitution of India stands on the foundation of co-operative federalism presuming interdependence of national and regional governments of a federal Union instead of granting them absolute independence in the allotted spheres. Therefore, the Constitution has made institutional arrangements, such as, National Development Council, Finance Commission, Comptroller and Auditor General, Inter-State Councils and Zonal Councils where both the governments would sit together and work for solving various national and regional problems. Besides, a number of statutory bodies have also been instituted for adjudication of disputes regarding the use, distribution and control of inter-State rivers. The Constitution makers intended that both the Central government and the State government co-operate with one another and work harmoniously. None should encroach upon the sphere of the other. Both should respect the authority of one another.

However, the real working of the Indian federation reveals that as the Central government has been made strong by the Constitution itself for which it has always been dominating the State governments by its activities. The provision for appointment of the Governor by the President, the provision of imposition of President's rule under Article 356, the provision for complying with the directives of the Central government and such other non-federal features have been strengthening the position of the Central government as ever.



ACTIVITY 11.2

Try to know how the Governor of a State is appointed in a true federal State.



CHECK YOUR PROGRESS

Q. 4: Why the Constitution makers have provided for a federal government with a strong Centre?

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11.5 AN ESTIMATE OF INDIAN FEDERALISM

India continues to be a federal polity with a unitary spirit and the Central government being dominating. There has always been resentment on the part of the States against the stronger position of the Central government. They are demanding for autonomy in their own spheres and adequate power to work independently for their welfare. The Raja manner Committee, the West Bengal Government Memorandum on Union-State Relations, the Anandpur Sahib Resolution, the Jammu and Kashmir Assembly Autonomy Resolution, and the Sarkaria Commission all have favoured for granting more power to the States in comparison to the present position. The Sarkaria Commission was established by the Central government in 1983 to study the question of Centre-State relation and to make recommendation if necessary. The Commission accepted the need for a strong Central government in India but recommended for devolution of more power to the States so that a co-operative federation can be established in the country.

In the recent years, we have seen the growth and development of coalition politics in India. This has happened mainly because of the emergence of various regional and local political parties and their strong position in the share of seats in both assembly and Parliamentary elections. No single national political party has been able to secure absolute majority in the Lok Sabha in recent Parliamentary elections to form a government by its own. They have been compelled to form coalitions with like-minded parties – national, regional and local to form government at the Centre. This has changed the working of the federal system in India to an extent.

Some indications of change in the working of the Indian federal polity

can also be seen with the replacement of the Planning Commission with that of the National Institute for Transforming India or the Niti Aayog. The Planning Commission worked as a Centralized mechanism. The whole planning process was carried out under the control and supervision of the Central government. The new institution which came into existence on 1st January 2015 has been designed on the basis of the principle of co-operative-competitive federation where both the Centre and the States will actively participate for all round and rapid development of the country.



11.6 LET US SUM UP

- The Constitution of India has described India as a "Union of States", in the very first Article of it.
- India is not a true federal State though it has some important federal features. The Indian Constitution has included many non-federal or unitary features as well.
- The Central government has been provided with more power than that of the States and it can exercise control over the States in many ways.
- The powers which are not included in the Central, State and Concurrent Lists are termed as Residuary Power which are exercised by the Central government only.
- The framers of the Constitution of India had envisaged a co-operative federation for the country and provisions have also been made in the Constitution for establishing such a system. Therefore, it is important that both the governments respect each other's sphere of activity and work together for the interest of the whole country.



11.7 FURTHER READING

1. Kapur, Anup Chand and Misra, K.K. (2006). *Select Constitutions.* New Delhi: S. Chand and Company.

2. Ghai K. K. (2017). *Indian Government and Politics*. New Delhi, Kalyani Publishers.

3. Chander, Prakash. (2000). *Indian Government and Politics*. New Delhi: Cosmos Bookhive Pvt. Ltd.

4. Pylee, M, V. (2006). *Constitutional Government in India.* New Delhi: S. Chand and Company.



11.8 ANSWERS TO CHECK YOUR PROGRESS

Ans to Q No 1: Two federal features of the Indian Constitution are:

a) It has provided for two sets of government in the country. The Central government works at the national level and the State governments works at the regional level.

b) The Indian Constitution is a written Constitution. The provisions of the Constitution have been discussed clearly and in detail. It is one of the longest Constitutions of the world.

Ans. to Q. No. 2:

Two non-federal features of the Indian Constitution are:

a) The procedures for the amendment of the Constitution is not rigid. Most of the provisions can be amended by simple methods. The Parliament of India can amend many parts of the Constitution unilaterally without the participation of the State Legislatures.

b) In a true federal State, there exist two Constitutions - one for the federation as a whole and the other for the individual States. But, in India, we have only one Constitution and that Constitution is for the States also. The States, in India, have no Constitution of their own. Though the State of Jammu and Kashmir has a separate Constitution, yet it works as per the provisions of the Indian Constitution.

Ans to Q No 3: India has never been described in the Constitution as a federation. The Article 1 of the Constitution has defined India as a "Union of States".

Though there are some important federal features yet many non-federal features are also there in the Indian Constitution. In India, there is division of power between the Centre and the States but the Central government has been made more powerful than the State governments. The very existence of the States is dependent on the wishes of the Centre. There is only one Constitution for the whole country and one citizenship unlike a true federal State.

Because of all these reasons India cannot be called a true federal State.

Ans to Q No 4: The Constitution makers in India had provided for a federation with a strong Centre mainly for the following reasons.

India is a vast country with a diverse population. So, to maintain unity and integrity in the country, a strong Centre was deemed necessary. Again, to perform the vast responsibilities of a modern welfare State and for the economic development of a newly independent State, a strong Centre equipped with sufficient resources and power was important. At the same time, to establish India at the international forums, the Central government should be powerful enough to exercise a domineering voice.



11.9 MODEL QUESTIONS

A) Very Short Questions

Q. 1: Mention the Article of the Indian Constitution which describes that "India is a Union of States."

Q. 2: What is Residuary Power?

Q. 3: Mention one federal feature of the Indian Constitution.

B) Short Questions (Answer each question in about 150 words)

Q.1: Write a note on the non-federal features of the Indian Constitution.

Q. 2: Explain the Legislative relations between the Centre and the States.

C) Long Questions (Answer each question in about 300-500 words)

Q.1: India is a "Union of States", discuss.

Q.2: Discuss the financial division of power between the Centre and the States.

Q.3: Discuss the relation between the Centre and the States from recent developments in Indian politics.

Q.4: Make an estimate of the Indian federal system.

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