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The Features of Indian Federal Structure

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ABSTRACT

The Constitution of India it lies down and gives all the detail about the Fundamental political code, structure, procedures, powers, and duties of government institutions. Indian Constitution is neither purely federal in nature or nor it is unitary in nature. The Constitution of India cannot copyright and imposed the features of the constitution that are taken from other countries because some countries are already being a developed nation as compare to our nation that is on phase of development. The Constitution of India has a constituent assembly also and the Constitution of India was created by a Constituent Assembly and not by the Parliament of India. It was adopted by the people of India with a special deceleration in the Preamble. The Constitution of India is written and supreme on its own. The Constitution also establishes a Supreme Court to decide the disputes between the Union and States. India has however chosen its own brand of Socialism that means a mixed economy. The term Secularism means a State which has no religion of its own as recognized religion of State.

I. THE FEATURES OF INDIAN FEDERAL STRUCTURE

On 26th January 1950 The Constitution of India became effective. The chairman of the drafting committee was B. R. Ambedkar. Under The Constitution of India it lies down and gives all the detail about the Fundamental political code, structure, procedures, powers, and duties of government institutions. It also gives detail and sets out the fundamental rights, directive principles, and the duties of citizens.²

II. FORM OF CONSTITUTION

Indian Constitution is neither purely federal in nature or nor it is unitary in nature as compare to the US Constitution which everybody regards as truly federal establishes dual polity or dual form of government which are as follows:-

1. The Federal Government and;

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²Saumya Saxena, *Nature of Indian Constitution: Federal or Unitary?*, (May 21, 2019) <https://blog.ipleaders.in/nature-indian-constitution/>

2. The State Government.

The field of the government is divided between the Federal and State Government neither of which is subordinate to the other but they are coordinate and independent within the sphere allotted to each of them. According to Professor K.C. Federal Principle “the method or a way of distributing the powers so that the common and relating governments are each within a sphere coordinate and shall independent”. Existence of coordinate authorities independent of each other is the gist of federal principle.³

The Constitution of India cannot copy and imposed the features of the constitution that are taken from other countries because some countries are already being a developed nation as compare to our nation that is on phase of development and it will take a long time to make the nation as a developed country on that time when the constitution of India embodies a federal structure. So there is need to make changes or modify them according to need of the country. The Constitution of India has a constituent assembly also and the Constitution of India was created by a Constituent Assembly and not by the Parliament of India. It was adopted by the people of India with a special deceleration in the Preamble.

III. CHARACTERISTICS OF A FEDERAL SYSTEM

A Constitution which can embody a federal system or character has normally the following five characteristics:

1. DISTRIBUTION OF POWER- This is the first feature for being a federal constitution and it was essential feature. The term distribution of powers means the power is divided between the two forms of governments that are:

- a. The Central Government and
- b. The Governments of several units forming the federation.

The term Federation means the power of the state among a number of coordinate bodies, in which each was originating in and controlled by the Constitution.⁴

2. SUPREMACY OF THE CONSTITUTION- This is the second feature of federal system. The Constitution is not binding on both of the governments such as the federal and the State and both the government should not have been a position to override the provisions of the constitution relating to the power and the status which is to enjoy.

³Hemant Singh, *Unitary Features of the Indian Constitution*, Jagran Josh, <https://www.jagranjosh.com/general-knowledge/unitary-features-of-the-indian-constitution-1474958541-1>

⁴Negi Mohita, *7 Main Federal Features of the Indian Constitution*, Your Article Library, <http://www.yourarticlelibrary.com/indian-constitution/7-main-federal-features-of-the-indian-constitution/24924>

The Supreme Constitution and the Written Constitution are essential if government is to federal. The written Constitution is essential if government wants to work well. Every power executive, legislative, or judicial whether it belongs to nation or an individual State is controlled by the constitution.

3. A WRITTEN CONSTITUTION – This is the third feature of a federal constitution. The Constitution is almost necessary to be in a written form. It was very difficult to maintain the supremacy of the Constitution unless the terms are clearly not mention with a clear detail about all the things in a written form.

4. RIGIDITY- A constitution must be rigid also. But this does not mean that the Constitution should be legally unable to change. It simply means that the power of amending the Constitution should not exclusively with either with the Central or the State Government. There is proper rule for both the government if they want to make amendments.

5. AUTHORITY OF COURTS- As we all know that there should be a division of power between the two forms of government's i.e.

a. The Central Government

b. The State Government

On each level or form of government it is supreme in its own sphere. The Constitution of India is written and supreme on its own. The Constitution also establishes a Supreme Court to decide the disputes between the Union and States. And there is always a chance of dispute between the two because both have the law making power but the Union government is Supreme during emergency and the state law shall not be prevail over state all the functions are carried out by the Central Government.

The essential characteristics that have enumerated here are present in the Indian Constitution. Hence when we concluding all this we get that;

The Constitution establishes a dual polity. The dual polity consists of Union at the Centre and the States in different parts of the country each endowed with powers to be exercised in the field assigned to them respectively by the Constitution.⁵ The powers of the Union and therefore the States are clearly demarcated. The Constitution is written and supreme in its own. The Laws and executive acts in excess of the powers of the Union or the States are invalid. No amendment which makes any changes in the status or powers of the centre or the units is possible without the

⁵Features of the Indian Constitution, Toppr, <https://www.toppr.com/guides/legal-aptitude/indian-constitution/features-of-the-indian-constitution/>

concurrence of the Union and the majority of the States.

The constitution establishes a Supreme Court also to decide the disputes between the Union and the States or the States inter se and to interpret finally the provisions of the Constitution. But it is argued that the Constitution does not embody the federal principle because the Centre can in certain contingencies encroach upon the field reserved for the States. The power of intervention by the Centre, it is argued, is inconsistent with the federal system, for it places the States in a subordinate position.

IV. FEDERAL PRINCIPLE

1. Appointment of governors- The governors of the states are appointed by the President and answerable to him. Governor is only the constitutional head of the state. Normally Act on the advice of his Ministers.⁶

2. Parliament's power to legislate the national interest Article 249- Parliament is empowered to make laws respect to every matters enumerated in State List if the Rajya Sabha passes the resolution by 2/3 majority that is necessary in the national interest.

3. Parliament's have a power to form new States and it cans alter the boundaries of existing States.

4. Emergency Provisions- As we all know that during emergency the Central law must be prevail and it gives suggestions to the State government that have to followed .There are three types of emergency such as:

1. War Emergency

2. Constitutional machinery failure in States

3. Financial Emergency Power

V. THE SALIENT FEATURES OF THE INDIAN CONSTITUTION

1. The Lengthiest Constitution in the World – The Indian Constitution is the one of the lengthiest Constitution in the world and it was also most detailed of all the written Constitution.⁷ First on previous time in 19th Century there are 395 Articles and 25 parts and 12 schedules in the Constitution. After 1951 Articles have been added to and several Articles have been omitted from the Constitution. The extraordinary bulk of the Constitution is due to several reasons-

1. The framers of the Indian Constitution have gained experience the working of all the known Constitution of the world.

2. The Indian Constitution lays down the structure not only of the Central government but also of the States.
3. The penicular problems relating to language have added to bulk of the Constitution.
4. The Constitution contains long list of Fundamental Rights and also a number of Directive Principles.

VI. ESTABLISHMENT OF A SOVEREIGN, SOCIALIST, SECULAR, DEMOCRATIC, REPUBLIC

1. The term Socialist was inserted in the preamble by the Constitution 42nd Amendment Act 1976. The word Socialism is used in democratic as well as Socialist Constitution. It has no definite meaning. The degree of State control will determine whether it is a Democratic State or Socialist State? India has however chosen its own brand of Socialism that means a mixed economy. The term Secularism means a State which has no religion of its own as recognized religion of State.
2. Parliamentary Form of Government- There is a parliamentary form of government such as –
 - a. Centre
 - b. States
3. Unique blend of rigidity and flexibility.
4. Fundamental Rights.
5. Directive principle of State policy- Main objective is to taken up by the States in the governance of the country.
6. Federation with strong centralizing tendency.
7. Adult Suffrage
8. An Independent Judiciary
9. A Secular State
10. Single Citizenship
11. Fundamental duties
12. Judicial Review

VII. CONCLUSION

Hence, we can conclude that Constitution of India is Supreme in its own features and also known as the Guardian of the Constitution. And it has all the power and rights to protect against any kind

of possible problems within the country. It can be also known as an embodiment of democracy. The Indian Constitution is a combination of a unique blend of flexibility and rigidity. No amendment which makes any changes in the status or powers of the centre or the units is possible without the concurrence of the Union and the majority of the States.

India therefore is also known as “Secularism” country which means a State which has no religion of its own as recognized religion of State.
