



Indian Institute of Governance - Segment D1- Knowledge

Segment I -Training is all about acquiring Knowledge which will help in gaining decision making capabilities by analysis and wisdom by learning through experience. This Segment is to connect the past & present and analyse events & people to create knowledge and skill sets, values & ethics to make a leader out of every aspirants.



Understanding Federalism

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Understanding Federalism

Federalism

A typical power structure exercised by a government in a country varies from Empire to many others viz., Confederation, Federation, Hegemony, and Unitary State. The Power source associated with this structure also differs from Authoritarian to many others viz., Democracy, Monarchy, Oligarchy, Anarchy, Anocracy, Kritarchy, Particracy, Republic, and Theocracy.

Federalism is a political concept in which a *group* of members are bound together by covenant with a governing representative head. The term "federalism" is also used to describe a system of government in which sovereignty is constitutionally divided between a central governing authority and constituent political units (such as states or provinces). Federalism is a system based upon democratic rules and institutions in which the power to govern is shared between national and provincial/state governments, creating what is often called a federation. The term federalist describes several political beliefs around the world. Also, it may refer to the concept of parties; its members or supporters called themselves *Federalists*.

In a federal system where sovereignty is divided between a central governing authority and constituent political units, power is also divided. The central governing authority has certain exclusive federal powers, the constituent political units have certain states' rights, and those two levels of government share certain concurrent powers.

Basic forms of Govt.

Power structure

Confederation, Empire, Federation
Hegemony, Unitary state

Power source

Authoritarian state

Autocracy, Despotism, Illiberal
democracy, Semi-authoritarian,
Dictatorship, Totalitarianism

Democracy

Direct, Representative
Semi, others

Monarchy

Absolute, Constitutional

Oligarchy

Aristocracy, Military junta, Plutocracy,
Stratocracy, Timocracy

Others

Anarchy, Anocracy, Kritarchy
Particracy, Republic, Theocracy

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Federal Structure

Division of powers

In a federation, the division of power between federal and regional governments is usually outlined in the constitution. Almost every country allows some degree of regional self-government; in federations the right to self-government of the component states is constitutionally entrenched. Component states often also possess their own constitutions which they may amend as they see fit, although in the event of conflict the federal constitution usually takes precedence.

In almost all federations the central government enjoys the powers of foreign policy and national defense. Were this not the case a federation would not be a single sovereign state, per the UN definition. Notably, the states of Germany retain the right to act on their own behalf at an international level, a condition originally granted in exchange for the Kingdom of Bavaria's agreement to join the German Empire in 1871. Beyond this the precise division of power varies from one nation to another. The constitutions of Germany and the United States provide that all powers not specifically granted to the federal government are retained by the states. The Constitution of some countries like Canada and India, on the other hand, state that powers not explicitly granted to the provincial governments are retained by the federal government. Much like the US system, the Australian Constitution allocates to the Federal government (the Commonwealth of Australia) the power to make laws about certain specified matters which were considered too difficult for the States to manage, so that the States retain all other areas of responsibility. Under the division of powers of the European Union in the Lisbon Treaty, powers which are not either exclusively of European competence or shared between EU and state are retained by the constituent states.

European Federalism

- In Europe, "Federalist" is sometimes used to describe those who favor a common federal government, with distributed power at regional, national and supranational levels. Most European federalists want this development to continue within the European Union
- Europe has a greater history of unitary states than North America thus European "federalism" argues for a weaker central government, relative to a unitary state.
- The modern American usage of the word is much closer to the European sense.
- Several federal systems exist in Europe, such as in Switzerland, Austria, Germany, Belgium, Bosnia and Herzegovina and the European Union.



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Where every component state of a federation possesses the same powers, we are said to find 'symmetric federalism'. Asymmetric federalism exists where states are granted different powers, or some possess greater autonomy than others do. This is often done in recognition of the existence of a distinct culture in a particular region or regions. In Spain, the Basques and Catalans, as well as the Galicians, spearheaded a historic movement to have their national specificity recognized, crystallizing in the "historical communities" such as Navarre, Galicia, Catalonia, and the Basque Country. They have more powers than the later expanded arrangement for other Spanish regions, or the Spain of the autonomous communities (called also the "coffee for everyone" arrangement), partly to deal with their separate identity and to appease peripheral nationalist leanings, partly out of respect to specific rights they had held earlier in history. However, strictly speaking Spain is not federalism, but a decentralized administrative organization of the state.

It is common that during the historical evolution of a federation there is a gradual movement of power from the component states to the centre, as the federal government acquires additional powers, sometimes to deal with unforeseen circumstances. The acquisition of new powers by a federal government may occur through formal constitutional amendment or simply through a broadening of the interpretation of a government's existing constitutional powers given by the courts.

Usually, a federation is formed at two levels: the central government and the regions (states, provinces, territories), and little to nothing is said about second or third level administrative political entities. Brazil is an exception, because the 1988 Constitution included the municipalities as autonomous political entities making the federation tripartite, encompassing the Union, the States, and the municipalities. Each state is divided into municipalities (*municípios*) with their own legislative council (*câmara de vereadores*) and a

American Federalism

- The U.S. Constitution was written as a reaction to the Articles of Confederation, under which the United States was a loose confederation with a weak central government.
- Most people politically advocating "federalism" in the United States argue in favor of limiting the powers of the federal government, especially the judiciary.
- Federalism in the United States is the evolving relationship between state governments and the federal government of the United States.
- American government has evolved from a system of dual federalism to one of associative federalism.

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mayor (*prefeito*), which is partly autonomous from both Federal and State Government. Each municipality has a "little constitution", called "organic law" (*lei orgânica*). Mexico is an intermediate case, in that municipalities are granted full-autonomy by the federal constitution and their existence as autonomous entities (*municipio libre*, "free municipality") is established by the federal government and cannot be revoked by the states' constitutions. Moreover, the federal constitution determines which powers and competencies belong exclusively to the municipalities and not to the constituent states. However, municipalities do not have an elected legislative assembly.

Federations often employ the paradox of being a union of states, while still being states (or having aspects of statehood) in themselves. For example, James Madison (author of the US Constitution) wrote in Federalist Paper No. 39 that the US Constitution "is in strictness neither a national nor a federal constitution; but a composition of both. In its foundation, it is federal, not national; in the sources from which the ordinary powers of the Government are drawn, it is partly federal and partly national..." This stems from the fact that states in the US maintain all sovereignty that they do not yield to the federation by their own consent. This was reaffirmed by the Tenth Amendment to the United States Constitution, which reserves all powers and rights that are not delegated to the Federal Government as left to the States and to the people.

Organs of government

The structures of most federal governments incorporate mechanisms to protect the rights of component states. One method, known as 'intrastate federalism', is to directly represent the governments of component states in federal political institutions. Where a federation has a [bicameral](#) legislature the [upper house](#) is often used to represent the component states while the [lower house](#) represents the people of the nation as a whole. A federal

Special Notes

- The distinction stems from the fact that "federalism" is situated in the middle of the political spectrum between a confederacy and a unitary state
- As the power of the Federal government has increased, some people have perceived a much more unitary state than they believe the Founding Fathers intended.
- In general, two extremes of federalism can be distinguished: at one extreme, the strong federal state is almost completely unitary, with few powers reserved for local governments; while at the other extreme, the national government may be a federal state in name only, being a confederation in actuality.



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upper house may be based on a special scheme of [apportionment](#), as is the case in the [senates](#) of the United States and Australia, where each state is represented by an equal number of senators irrespective of the size of its population.

Alternatively, or in addition to this practice, the members of an upper house may be indirectly elected by the government or legislature of the component states, as occurred in the United States prior to 1913, or be actual members or delegates of the state governments, as, for example, is the case in the German Bundesrat and in the Council of the European Union. The lower house of a federal legislature is usually directly elected, with apportionment in proportion to population, although states may sometimes still be guaranteed a certain minimum number of seats.

In Canada, the provincial governments represent regional interests and negotiate directly with the central government. A First Ministers conference of the prime minister and the provincial premiers is the de facto highest political forum in the land, although it is not mentioned in the constitution.

Federations often have special procedures for amendment of the federal constitution. As well as reflecting the federal structure of the state this may guarantee that the self-governing status of the component states cannot be abolished without their consent. An amendment to the constitution of the United States must be ratified by three-quarters of either the state legislatures, or of constitutional conventions specially elected in each of the states, before it can come into effect. In referendums to amend the constitutions of Australia and Switzerland it is required that a proposal be endorsed not just by an overall majority of the electorate in the nation as a whole, but also by separate majorities in each of a majority of the states or cantons. In Australia, this latter requirement is known as a *double majority*.

Federalism as a political philosophy

- Movements associated with the establishment or development of federations can exhibit either centralising or decentralising trends.
- For example, at the time those nations were being established, factions known as "federalists" in the United States and Australia advocated the formation of strong central government.
- Similarly, in European Union politics, federalists mostly seek greater EU integration. In contrast, in Spain and in post-war Germany, federal movements have sought decentralization: the transfer of power from central authorities to local units.

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Some federal constitutions also provide that certain constitutional amendments cannot occur without the unanimous consent of all states or of a particular state. The US constitution provides that no state may be deprived of equal representation in the senate without its consent. In Australia, if a proposed amendment will specifically impact one or more states, then it must be endorsed in the referendum held in each of those states. Any amendment to the Canadian constitution that would modify the role of the monarchy would require unanimous consent of the provinces. The German Basic Law provides that no amendment is admissible at all that would abolish the federal system.

How Federalism viewed in the history

European federalism originated in post-war Europe; one of the more important initiatives was Winston Churchill's speech in Zurich in 1946.

In the United States, federalism originally referred to belief in a stronger central government.

In Canada, federalism typically implies opposition to sovereigntist movement.

Federalism may encompass as few as two or three internal divisions, as is the case in Belgium or Bosnia and Herzegovina.

In 1999, the Government of Canada established the Forum of Federations as an international network for exchange of best practices among federal and federalizing countries. Headquartered in Ottawa, the Forum of Federations partner governments include Australia, Brazil, Canada, Ethiopia, Germany, India, Mexico, Nigeria, and Switzerland.

During the French Revolution, especially in 1793, "federalism" had an

Federalism Data

- There are roughly 25 federal countries in the world today, which together represent 40 per cent of the world's population.
- They include some of the largest and most complex democracies - India, the US, Brazil, Germany and Mexico.
- Previously unitary countries - such as Spain, Belgium and South Africa - have adopted federal structures as a way to maintain common central government for some purposes while empowering regional governments for other purposes.
- In many very diverse societies, a federal system of government permits recognition both of this diversity and of common interests and identity at the same time.



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entirely different meaning. It was a political movement to weaken the central government in Paris by devolving power to the provinces

Nevertheless, for the purposes of the analysis here, the EU has the necessary attributes of a federal system. It is striking that while many scholars of the EU continue to resist analyzing it as a federation, most contemporary students of federalism view the EU as a federal system (See for instance, Bednar, Filippov et al., McKay, Kelemen, Defigueido and Weingast). (R. Daniel Kelemen)

Federalism in the World

United States America

The American Revolution began as a rejection only of the authority of the British Parliament over the colonies, not of the monarchy. With the United States Declaration of Independence the leaders of the revolt firmly rejected the monarchy and embraced republicanism.

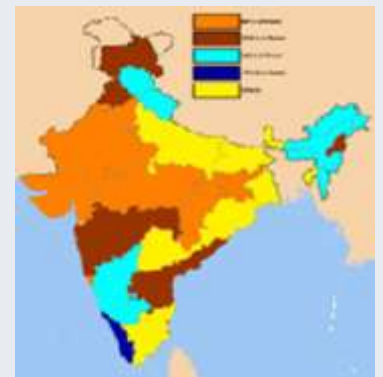
However, since the Civil War Era, the national courts often interpret the federal government as the final judge of its own powers under dual federalism. The establishment of Native American governments (which are separate and distinct from state and federal government) exercising limited powers of sovereignty, has given rise to the concept of "bi-federalism."

The Constitution of the United States, ratified in 1789, created a relatively strong federal republic to replace the relatively weak confederation under the first attempt at a national government with the Articles of Confederation and Perpetual Union ratified in 1783. The first ten amendments to the Constitution, called the United States Bill of Rights, guaranteed certain natural rights fundamental to republican ideals that

Nations at a glance



The United States is composed of fifty self-governing states and several territories



India is a federal union of 29 states and 7 union territories



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justified the Revolution.

The Federal Government of the United States is the central government entity established by the United States Constitution, which shares sovereignty over the United States with the governments of the individual U.S. states. The federal government has three branches: the legislative, executive, and judicial. Through a system of separation of powers and the system of "checks and balances," each of these branches has some authority to act on its own, some authority to regulate the other two branches, and has some of its own authority, in turn, regulated by the other branches. The policies of the federal government have a broad impact on both the domestic and foreign affairs of the United States. In addition, the powers of the federal government as a whole are limited by the Constitution, which, per the Tenth Amendment, states that all powers not expressly assigned to the federal government are reserved to the states or to the people.

Russian Federation

The post-Imperial nature of Russian subdivision of government changed towards a generally autonomous model which began with the establishment of the USSR (of which Russia was governed as part). It was liberalized in the aftermath of the Soviet Union, with the reforms under Boris Yeltsin preserving much of the Soviet structure while applying increasingly liberal reforms to the governance of the constituent republics and subjects (while also coming into conflict with Chechen secessionist rebels during the Chechen War). Some of the reforms under Yeltsin were scaled back by Vladimir Putin.

All of Russia's sub divisional entities are known as subjects, with some smaller entities, such as the republics enjoying more autonomy than other

Nations at a glance



In Canada, the provincial governments derive all their powers directly from the constitution. In contrast, the territories are subordinate to the federal government and are delegated powers by it.



Brazil is a union of 26 states and one federal district, which is the site of the federal capital, Brasília.



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subjects on account of having an extant presence of a culturally non-Russian ethnic minority or, in some cases, majority.

Australian nation

In the 1890s the governments of these colonies all held referendums on becoming a unified, self-governing "Commonwealth" within the British Empire. On January 1, 1901 Australia emerged as a federation.

Brazil

Fonseca established federalism in Brazil by decree, but this system of government would be confirmed by every Brazilian constitution since 1891, although some of them would distort some of the federalist principles. The 1937 Constitution, for example, granted the federal government the authority to appoint State Governors (called interventors) at will, thus centralizing power in the hands of President Getúlio Vargas. Brazil also uses the Fonseca system to regulate interstate trade. Brazil is one of the biggest federal governments.

Republic of India

The Government of India, officially known as the Union Government and also known as the Central Government, was established by the Constitution of India, and is the governing authority of the union of 29 states and seven union territories, collectively called the Republic of India. The government of India is based on a tiered system, in which the Constitution of India delineates the subjects on which each tier of government has executive powers. The Seventh Schedule of the Indian Constitution delimits the subjects of each level of governmental jurisdiction, dividing them into three lists:

- Union List includes subjects of national importance such as defence of the country, foreign affairs, banking, communications and currency.

Nations at a glance



The States and Territories of Australia, consisting of The Australian Capital Territory (red), New South Wales (pink), Northern Territory (yellow, top), Queensland (blue), South Australia (purple), Tasmania (yellow, bottom), Victoria (green), and Western Australia (orange)

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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.

Asymmetric federalism

A distinguishing aspect of Indian federalism is that unlike many other forms of federalism, it is asymmetric. Article 370 makes special provisions for the state of Jammu and Kashmir as per its Instrument of Accession. Article 371 makes special provisions for the states of Andhra Pradesh, Arunachal Pradesh, Assam, Goa, Mizoram, Manipur, Nagaland and Sikkim as per their accession or state-hood deals. Also one more aspect of Indian federalism is system of President's Rule in which the central government (through its appointed Governor) takes control of state's administration for certain months when no party can form a government in the state or there is violent disturbance in the state.

Coalition politics

Although the Constitution does not say so, India is now a multilingual federation.[3] India has a multi-party system, with political allegiances frequently based on linguistic, regional and caste identities,[4] necessitating coalition politics, especially at the Union level.

Federalism by Countries

Forum Partner Federal Countries

- Australia
- Brazil
- Canada
- Ethiopia
- Germany
- India
- Mexico
- Nigeria
- Pakistan
- Switzerland

Other Federal Countries

- Argentina
- Austria
- Belgium
- Bosnia and Herzegovina
- Comoros [PDF]
- Malaysia
- Micronesia [PDF]
- Nepal
- Russia
- St. Kitts and Nevis [PDF]
- South Africa
- Spain
- United Arab Emirates
- United States of America
- Venezuela

Countries in Transition to Federalism

- Iraq
- Sudan

Understanding Federalism

Laws

The basic civil and criminal laws governing the citizens of India are set down in major parliamentary legislation, such as the Civil Procedure Code, the Indian Penal Code, and the Criminal Procedure Code. The union and individual state governments all each consist of executive, legislative and judicial branches. The legal system as applicable to the federal and individual state governments is based on the English Common and Statutory Law.

Legislative power in India is exercised by the Parliament, a bicameral legislature consisting of the President of India, the Rajya Sabha, and the Lok Sabha. Of the two houses of Parliament, the former is considered to be the upper house or the Council of States and consists of members appointed by the President and elected by the state and territorial legislatures. The latter is considered the lower house or the House of the people.

The Parliament does not enjoy complete sovereignty, as its laws are subject to judicial review by the Supreme Court of India. However, it does exercise some control over the executive branch. The members of the cabinet, including the prime minister and the Council of Ministers, are either chosen from parliament or elected thereto within six months of assuming office. The cabinet as a whole is responsible to the Lok Sabha. The Lok Sabha is a temporary house and can be dissolved at any time. But the Rajya Sabha is a permanent house which can never be dissolved.

The executive branch of government is the one that has sole authority and responsibility for the daily administration of the state bureaucracy. The division of power into separate branches of government is central to the republican idea of the separation of powers

The executive power is vested mainly in the President of India, as per Article

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53 (1) of the constitution. The President enjoys all constitutional powers and exercises them directly or through officers subordinate to him as per the aforesaid Article 53. The President is to act in accordance with aid and advice tendered by the Prime Minister, who leads the Council of Ministers as described in Article 74 of the Constitution of India.

The Council of Ministers remains in power during the 'pleasure' of the President. However in practice, the Council of Ministers cannot be dismissed as long as it holds the support of a majority in the Lok Sabha

Other nations

The Icelandic Commonwealth was established in 930 AD by refugees from Norway who had fled the unification of that country under King Harald Fairhair. The Christianisation of Iceland in 1000, where the Althing decreed, in order to prevent an invasion that all Icelanders must be baptized, and forbade celebration of pagan rituals. Contrary to most states, the Icelandic Commonwealth had no official leader.

Rousseau admired the republican experiment in Corsica (1755-1769) and described his ideal political structure of small self-governing communes. Montesquieu felt that a city-state should ideally be a republic, but maintained that a limited monarchy was better suited to a large nation.

The Middle East is the only part of the world where several large states are ruled by monarchs with almost complete political control.

In the wake of the First World War, the Russian monarchy fell during the Russian Revolution. The Russian Provisional Government was established in its place on the lines of a liberal republic, but this was overthrown by the Bolsheviks who went on to establish the Union of Soviet Socialist Republics.

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Understanding Federalism

In the aftermath of the Second World War the communists gradually gained control of Romania, Bulgaria, Yugoslavia, Hungary and Albania, ensuring that the states were reestablished as socialist republics rather than monarchies.

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