

Q.

**Federalism is no longer the fulfillment of Center-State relations, but the definition of a new partnership in India.**

**Federalism is no longer the fulfillment of Center-State relations, but the definition of a new partnership in India.**

What should be the structure of the Essay?

- 1) What is federalism? Understanding and conceptual clarity.
- 2) Nature of Indian federalism
- 3) Evolution of Indian federation with the issues in the different regimes
- 4) Current paradigm of Federalism
- 5) NITI Aayog and Center State Relations
- 6) Special category Status issue
- 7) Role of 14<sup>th</sup> and 15th finance commission in improving centre state relation
- 8) GST as a partnership between centre and state
- 9) Inter States River water dispute and mediation by the centre
- 10) President's rule and All India service
- 11) Emergency provisions etc.
- 12) Use of central agencies like CBI against hostile leaders
- 13) Way out of conflict
- 14) Conclusion

Coined from the Latin word 'foedus', meaning league, pact or covenant, federation refers to federal systems that are based on the idea of a permanent compact between political

---

## Daily Answer Writing

---

bodies that creates a new political entity, while not abolishing the original constituent units. Forsyth Murray describes it as "State of States". A federal system may be regarded as a compromise form of unity which allows a balance between the need for union in some areas and the wish for diversity in others. Federalism, in the words of K.C Wheare is an appropriate form of government to offer to communities or states of distinct, differing nationalities that wish to form a common government and to behave as one people for some purposes, but wish to remain independent and, in particular, to retain their nationality in all other aspects. K.C Wheare, generally regarded as the Father of contemporary federal theories, defined federalism or federal government, in his famous book, Federal Government, as "the method of dividing power so that general and regional governments are each within a sphere co-ordinate and independent". In his another work, he explained federalism further as "the delimited and co-ordinate division of government functions", which according to him implies that to the extent to which any system of government does not conform to this criterion, it has no claim on federalism. This portrays federalism as an effective political and constitutional design useful for managing complex governmental problems associated with ethnic and cultural diversity. Prof. A. V. Dicey, says: Federation is a political contrivance intended to reconcile national unity with the maintenance of State Rights.

### Views of different thinkers on Indian federalism

- K. C. Wheare, a well-known British authority on federalism, says, the Constitution is quasi-federal, and classifies India as "a unitary state with subsidiary federal principles rather than a federal state with subsidiary unitary principles."
- Sir. Ivor. Jennings feels, that India is a federation, with a strong centralizing tendency.
- For Norman D. Palmer, "The Republic of India is a federation, although it has many distinctive features, which seem to modify the essentially federal nature of the state.
- According to K. M. Munshi, the constitution made India a quasi-federal union invested with several important features of a unitary government.
- W. H. Morris Jones, held the view that Indian federalism was a kind of cooperative federalism where bargaining took place between the centre and the states, but ultimately a solution came out and both agreed to co-operate.
- Prof. P. K. Tripathi, formerly member of the Law Commission of India, finds federalism in India a myth and not reality.
- According to Alexandrowicz, India is undoubtedly a federation in which the attributes of sovereignty are shared between the centre and states.

## Daily Answer Writing

---

### Nature of Indian federalism:

Federalism is the process of federalizing a political community, that is to say, the process by which a number of separate political communities enter into arrangements for working out solutions, adopting joint policies, and making joint decisions on joint problems and conversely, is also the process by which a unitary political community becomes differentiated into a federally organized whole. A Federal society is characterized by the continuing existence of both centripetal and centrifugal forces; the former tends towards integration and unity, while the latter tends towards disintegration and disunity.

The essence of a federal government is the distribution of powers between the national government and the constituent units. The constitution provides for the basic division of powers, but the dynamic nature of the federal system is illustrated by the judicial and political interpretations which have made it possible for national problems to be solved by unilateral action on the part of the national government, through the co-operation of the central government and the states, or by co-operation among the states. The distribution of subjects is made by a written constitution

Federalism provides the constitutional device for bringing about unity in diversity by harmonizing these opposing forces for the achievement of common national goals. A Federal government is one which divides powers between the states and the national government. Each level guarantees certain rights, including the right to exist, so that the states cannot conspire to destroy the national government or another state government, and the national government may not dissolve the states. Thus the union is one and inseparable. Considerable care is taken while dividing the subject between the centre and the units so that, as Bryce points out, a proper balance is maintained between the jurisdictions of the two sets of governments.

### Federal Structure in India: Evolution

The federal idea- the plan of government of a number of contiguous territories in association and neither separated nor combined in one- is very old and had been practiced in ancient Greece, but it has been employed on a larger scale only during the last two centuries. In view of the continental size of its population on one hand, and the diverse nature of its society on the other, the constitution makers of India resolved to opt for a federal system instead of a unitary one. But at the same time, with the euphoria of independence, there was also the trauma of partition. Other problems included the problem of integration of princely states and the need for planned economic development for removing backwardness, poverty and food shortage. All these problems prompted them to establish a strong centre. The framers of the Indian Constitution were not as free

---

## Daily Answer Writing

---

as the framers of the United States Constitution who had only declaration of a few principles to guide them. As such, the constitution of India makes the centre stronger than the states and provides a quasi-federal polity to the nation. Federalism, which is a historical product, is not a static or a rigid concept. It is a dynamic concept. Birth and development of federalism is a result of various forces which are also dynamic. On account of the inherent dynamic nature of a modern industrial welfare society and of ever-growing economic and social needs of people, each federation goes through its pangs of development. Indian Federalism is also going through such pangs of socio-economic and political developments.

The seeds of Indian Federalism were there right from the Regulating-Act of 1773 to the Government of India Act of 1935. During this period the form of government was unitary. All powers were concentrated in the hands of viceroy, and through him, in the secretary of state for India and the home government. The Sepoys Mutiny of 1857 was also responsible for the political and administrative centralization of the British government. The process of decentralization of powers appeared on the Indian map during the Montagu-Chelmsford Reforms of 1919. These reforms expressed the federal idea in India. The Government of India Act of 1919, was a new milestone in the political system in India. The Act blazed a new trail and laid the foundation of Indian Federalism. The Gandhi-Irwin pact was signed on 5th March 1931. Here, Gandhiji agreed to a federation. The Government of India Act 1919 gave the terms like, 'dyarchy' and 'provincial autonomy'. It injected a dose of autonomy in Indian political system. In 1929 too, Simon Commission recommended for complete autonomy at provincial level. The Nehru Report also envisaged that the constitution of India should be federal in character. The present constitution is a carbon copy of Government of India Act 1935. In other words, it is called a "blue print" of the Act. It means, the present constitution has taken most of the elements from Government of India Act, 1935.

### Federal Features of the Indian Constitution

**1) Supremacy of the Constitution:** A federal state derives its existence from the constitution. The constitution in a federal state constitutes the supreme law of the land. As Prof. K. C. Wheare rightly says, these two institutions, the supremacy of the constitution and the written constitution are, the essential institutions to a federal government. The Supremacy of the Constitution is essential if the government is to be federal; the written constitution is essential if the federal government is to work well.

**2) Division of Powers :** In a Federation there should be clear division of powers so that the units and the centre are required to enact and legislate within their sphere of activity and none violates its limits and tries to encroach upon the functions of others. The

---

## Daily Answer Writing

---

Seventh schedule contains three legislative lists which enumerate subjects of administration viz., Union, State and Concurrent lists. The Union list consists of 100 subjects, the more important of which are defense, railway, posts and telegraph, currency etc. The State list consists of 61 subjects, including public order, police, administration of justice, public health, education, agriculture etc. The Concurrent list embraced 52 subjects including criminal law, marriage, divorce, trade unions, electricity etc. The residuary powers have been vested in the central government.

**3) Independent Judiciary:** For a federation, it is also essential that the judiciary is impartial and independent. The judiciary has occupied a very important status in federal countries like the United States, Switzerland, Australia, Canada and India. The constitution has provided for a Supreme Court, and every effort has been made to see that the judiciary in India is independent and supreme. The Supreme Court of India can declare a law as unconstitutional if it contravenes any provisions of the constitution.

**4) Bicameral Legislature:** The Constitution of India also provides for a bicameral legislature at the Centre consisting of the Lok Sabha and the Rajya Sabha. While the Lok Sabha consists of the elected representatives of people, the Rajya Sabha mainly consists of representatives elected by State Legislative Assemblies. In fact, most of the modern federations have adopted the principle of bicameralism. America, Canada, Australia, Switzerland, and India have adopted the bicameral system.

**5) A Written Constitution:** Indian constitution is a written document and therefore fulfills this basic requirement of a federal government. In fact, the Indian constitution is the most elaborate constitution of the world. The Indian constitution clearly demarcates the powers between the centre and the state. Dual polity and a clear written constitution are absolutely essential for the functioning of federalism. In a written constitution the central government will not encroach upon the state powers, and both have to work within their jurisdiction.

### Major issues in centre-state relations:

In India, before the formation of the federation, the States were not 'sovereign' entities. As such, there was no need for safeguards to protect 'States'. On account of the exigencies of the situation, the Indian federation has acquired characteristics which are quite different from the American model. The residuary powers under the Indian Constitution are assigned to the Union and not to the States. Though there is a division of powers between the Union and the States, the Indian Constitution provides the Union with power to exercise control over the legislation as well as the administration of the States. Legislation by a State can be disallowed by the President, when reserved by the Governor for his consideration. The Governor is appointed by the President of the Union and holds office "during his pleasure". Again these ideas are found in the Canadian Constitution

---

## Daily Answer Writing

---

though not in the Constitution of the U.S.A. The Constitution of India lays down the Constitution of the Union as well as the States, and no State, except Jammu and Kashmir, has a right to determine its own (State) Constitution. When considering the amendment of the Constitution we find that except in a few specific matters affecting the federal structure, the States need not even be consulted in the matter of amendment of the Constitution. The bulk of the Constitution can be amended by a Bill in the Union Parliament being passed by a special majority. In the case of the Indian Constitution, while the Union is indestructible, the States are not. It is possible for the Union Parliament to reorganize the States or to alter their boundaries by a simple majority in the ordinary process of legislation. The 'consent' of the State Legislature concerned is not required; the President has only to 'ascertain' the views of the Legislatures of the affected States. The ease with which the federal organization may be reshaped by an ordinary legislation by the Union Parliament has been demonstrated by the enactment of the States Reorganization Act, 1956. A large number of new States have, since, been formed. Under the Indian Constitution, there is no equality of representation of the States in the Council of States. Hence, the federal safeguard against the interests of the lesser States being overridden by the interests of the larger or more populated States is absent under our Constitution. Its federal nature is further affected by having a nominated element of twelve members against 238 representatives of the States and Union Territories. The constitution has certain special provisions to ensure the uniformity of the administrative system, and to maintain minimum common administrative standards without impairing the federal principle. These include the creation of All India Services such as Indian Administrative and Police Services and placing the members of these services in key administrative positions in the states. The Comptroller and Auditor General is appointed by the President. He keeps a careful vigilance over the finances not only of the centre but also of the states. He controls the issue of public money. As an auditor, he audits the accounts of both central and state government and reports to Government of India annually. Here also, the states have no voice. In India, we have adopted the unified and single electoral machinery. The periodical elections are the bedrock of democracy. Democracy needs the proper electoral machine. India is the biggest democratic country and she has the largest electorate in the world. The Election Commission has been functioning since the dawn of Independence. The authorities of the Election Commission are appointed by the President. The states have had no say in this field. The states too, have no independent Election Commission of their own.

### **Post independent centre-state relation under Indian federal setup:**

Centre state relation in India under federal setup can be seen under different time periods with each time period having its own distinct characteristics. 1) Centre state relation

---

## Daily Answer Writing

between 1950-67 2) Centre state relation between 1967-77 3) Centre state relation between 1977-89 4) Centre state relation between 1989 onwards After the attainment of independence, the founding fathers of the Indian Constitution realized that the cultural configuration of India—unity in the midst of diversity—lent itself to a federal structure of political organization. The Indian Constitution was, therefore, based on the federal principle. The diverse people of India fitted into this picture. And, therefore, the federal structure of the Constitution was quite appropriate. Rajni Kothari calls initial phase of Indian polity as one party system or congress system. Congress had formed government at the centre as well as in states so, there were hardly any conflict among the central and state leadership. Centre state relations were very cordial, accommodative and consultative. Post 1967 period: After Nehru, particularly after the 1967 general elections when the Congress party lost in as many as nine States to other parties, the ruling party at the Centre, the Congress, tried to bypass, ignore or underestimate the gravity of the problem of Centre-State relations. The Chief Ministers of various States, including the Congress-ruled ones, gave their different views on the various aspects of Centre-State relations. In the year 1969, the Chief Ministers of three States, namely, Andhra Pradesh, Orissa and Kerala, were dissatisfied over the issue of Centre-State relations. The three leaders gave differing analyses of the political trend. Several other Chief Ministers also assailed the manner and method in which the Centre and Planning Commission had made the Plan outlays. They also criticized the Centre for giving special assistance to certain States for meeting their non-Plan commitments. In the year 1970, the Maharashtra Chief Minister had challenged the very competence of the Planning Commission to set the norms for giving such special assistance. Other Chief Ministers had questioned the propriety of giving this assistance to only a few selected States. Janta party era 1977-89 In 1977 Congress lost elections due to repressive emergency rule and Janta party came to power. This era saw altogether new phase centre-state relations. As soon as it came to power it dismissed nine state governments on the pretext that they did not reflect people's faith. 44th constitutional amendment was brought which attempted to change many of the extreme moves institutionalized by Indira government through 42nd amendment; scrapping article 357 (a) was one among them which empowered centre to deploy army and paramilitary forces for dealing law and order situation. However, Janta government could not complete its full term and Congress came back to power in 1980 and it again dismissed governments in those nine states which were earlier dismissed by the Janta government. Huge trust deficit developed between the centre and state during this period. The period saw appointment of Sarkaria commission to look into centre-state relations. Rajiv Gandhi also introduced Panchayati Raj bill during this period to empower local self-government in states. Multi party era 1989 onwards Congress again lost elections in 1989 and an era of coalition government started in India. Except 2014 election wherein BJP got clear mandate to form government, no other party got clear majority after 1989. Regional parties started asserting themselves and enjoyed greater share of power

## Daily Answer Writing

---

and perks in the central governments. Centre- state relation has largely been shaped and changed by regional parties in this era. The era has seen many ups and down in terms of federal relations which had implications on every sphere ranging from domestic to international. The NDA government had to step back when Jayalalitha withdrew support from it. Then PM Mr. Manmohan Singh could not attend CHOGAM meeting in Colombo because of severe protest by Tamil Nadu government on conditions of Tamil people in Srilanka.

### Centre-State relations since 2014

2014 general elections proved to be a milestone in Indian democracy. Almost after three decades, any party other than Congress obtained decisive mandate which had implicit impact on the centre-state relations. One of the most revolutionary changes brought during this era was replacement of Planning Commission with National institution for transforming India (NITI) Ayog. Foundation of NITI ayog is believed to change the mode of centre-state relation in India. Planning commission often accused of acting as the kitchen cabinet of the government had substantial say allocation of grants and determining centre state relations. Most of the states in the era of planning commission often complained of discriminatory roles played by planning commission. Planning commission had also the responsibility to determine five year plans which was more often believed to be top down approach. Thus, states had started losing faith in the capabilities of planning commission and such an institution was required which would adopt bottom up approach.

### Fifteenth Finance commission and decentralization

NITI ayog was relieved of the duty of allocating grants to the state. This function was solely transferred to the 15th Finance Commission in its terms of reference. The 15th FC provided the share of the states in the central divisible pool from the current 42 percent to 41 per cent because of J&K being a UT. The 15th FC also proposed a new horizontal formula for the distribution of the states' share in divisible pool among the states. With increased tax devolution, the states received a larger volume of untied funds relative to tied funds. This enhanced the states' autonomy in deciding their expenditure priorities. Thus it reduced the dependence of states on centre every time. Since body like planning commission was largely biased so there used to be large scale manipulations but with the uniform policy of finance commission backward states like Bihar and Odisha benefitted a lot. Thus Government played a positive role in improving centre state relation.



### NITI Aayog

The NITI Aayog was formed to bring fresh ideas to the government and establish cooperative competitive federalism in India. It can be visualised as a funnel through which new and innovative ideas come from all possible sources industry, academia, civil society or foreign specialists and flow into the government system for implementation. Initiatives like Ayushman Bharat, approach towards artificial intelligence and water conservation measures, and the draft bill to establish the National Medical Commission to replace the Medical Council of India have all been conceptualized in NITI Aayog, and are being taken forward by the respective Ministries and states. It identifies the best practices in different States in various sectors and then tries to replicate them in other States. It also plays an important role of being the States' representative in Delhi, and facilitates direct interactions with the line ministries, which can address issues in a relatively shorter time. The Aayog brought with three documents, 3-year action agenda, 7-year medium-term strategy paper and 15-year vision document. Following the spirit of 'Minimum Government, Maximum Governance', the NITI Aayog became a leaner organization and undertook a restructuring of its divisions/verticals. As part of the Team India initiative, the regular meetings were held where the sub-group of CMs participated. The three sub-groups of chief ministers also submitted their report on Centrally Sponsored Schemes (CSS), Skill Development and Swachh Bharat. The NITI Aayog is based on the cooperative federalism model and emphasizes on the sharing of powers and responsibilities between the three levels of government. Task forces on elimination of poverty and agriculture development, each headed by NITI Aayog vice-chairman were also formed.

The NITI Aayog is also looking to become a repository of best practices and data from across the country. Recently, it released a Good Practices Resource Book which focusses on delivery in the social sectors in India. An expert committee report on "Innovation and Entrepreneurship" was also released.

Even more significant was the passage of the Goods and Services Tax Act. The alignment of indirect taxation by Central and state governments and the removal of inter-state tariff barriers are major steps towards achieving a common market in India. The move has required the Centre and states to pool their sovereignty to pursue shared national economic goals. The states will not have veto rights on the GST Council that governs the operations of the new tax-they will have to form alliances with the Central government to get amendments passed.

### Contemporary Issues:

However, there are signs that in a number of respects Centre-state relations are becoming increasingly politicized in ways that threaten to undermine the promised goal of a more cooperative form of federalism. This also raises questions about how far the Niti Aayog is able to function as a neutral platform for Centre-state dialogue and policy discussion. For instance, in its first meeting, the Niti Aayog's governing council, which includes all CMs and state governors, established groups to explore and report on three priority areas for Centre-state cooperation: skills development, Swachh Bharat and the rationalization of centrally sponsored schemes. Chief ministers of all 29 states, the NCT of Delhi plus the Union territories of Puducherry and the Andaman and Nicobar Islands were represented on one of the three sub-groups. Initially, two of the three sub-groups were due to be convened by CMs belonging to Opposition parties (the Congress's Siddaramaiah from Karnataka and the CPI (M)'s Manik Sarkar from Tripura).

Unceremoniously, two weeks after their formation, news came that these committees were instead to be convened by regional allies of the Central government (Punjab's Parkash Singh Badal and Andhra Pradesh's N. Chandrababu Naidu), along with the third committee chaired by the BJP's own CM Shivraj Singh Chouhan from Madhya Pradesh.

Since the three groups reported in late 2015, there have been no other comprehensive consultative platforms. Those which were established, such as the small committee on digital payments launched in the wake of demonetisation and convened by Naidu, looked even more partisan. The CMs of Bihar and Tripura pulled out of the committee soon after it was established.

Andhra Pradesh is fast becoming the poster-child of competitive federalism. The state came first-with Telangana-in the government's 2016 index of implementation of 'business reforms action' plans (the index mirrors the World Bank's 'ease of doing business' index). Of the top 12 reforming states-the 'leaders'-all but Uttarakhand and Telangana are ruled by the BJP or its allies. A growing number of states-especially those ruled by non-NDA parties-are becoming less willing to play along. Some of the more vocal ones, like West Bengal, have long proved a thorn in the side of Central governments. But it is becoming apparent that partisan divides between the NDA and non-NDA ruled states are starting to overshadow the vision of cooperative federalism promoted in the first half of Modi's term in office.

The current difficulties in holding GST Council meetings and reaching agreement on the architecture of the GST regime are indications of the challenges ahead in realising a vision of cooperative federalism. These challenges have become much greater following demonetisation.

---

## Daily Answer Writing

---

The growing lines of partisan tension between the Central government and the states look rather different to the recent past when Opposition-ruled states were frequently some of the strongest in implementing flagship central programmes. This was because state governments were able to claim credit for them in a period during which there was not such a centralizing momentum and during which state politics maintained a good degree of autonomy from the national level. The current drift towards political centralization provides Opposition-ruled states stronger incentives-along with greater fiscal autonomy-to undermine, or drag their heels over the implementation of central policy priorities.

### Way Forward

Sarkaria commission had said that too much centralization leads to blood pressure at the centre and anemia at the periphery. So, the government should work upon decentralizing its powers and responsibilities. Though the government has tried to forge new partnerships with the states but there are still many hurdles in sound centre state relations. AGMUT cadre IAS officers in New Delhi stopped coming to their office after alleged beating of Mr. Anshu Prakash who was then chief secretary of Delhi. Similarly, IAS officers of Bihar had threatened to go on strike. Thus ALL INDIA Service has been a major contentious issue in the centre state relation. However, Sarkaria commission had advocated for further strengthening all India services but free them from political interplay.

Both Sarkaria commission and Puncchi commission have recommended regulate appointment of governor. Persons with active political profile should not be appointed as governors of states and chief ministers of states should be consulted before appointment of governors. Article 356 and 365 should be used sparingly.

Stationing of army and paramilitary forces is also a strenuous issue between centre and states. Recently West Bengal Chief Minister Mrs. Mamta Banerjee raised severe concern upon stationing of paramilitary forces in Kolkata. Puncchi commission had recommended station such forces only in the disturbed part of the sates rather than stationing them all over the state.

Bodies like Interstate Council and Zonal Councils should convene their meeting regularly so that adequate deliberations could be held under their banners. Empowered group of chief ministers as forged during GST should be replicated for other issues to resolve contentious issues.

Use of central agencies like CBI should be reasonable, legal and rational. Recently Andhra chief minister Mr. Chandra Babu Naidu denied automatic entry of CBI officers in

---

## Daily Answer Writing

---

their state. West Bengal had already denied permission earlier. Even the Supreme Court has commented on CBI to be caged parrot. So, institutions like CBI and CVC should be reasonably used.

### Conclusion

This government has given new impetus to discussions of cooperative federalism. That said, the need to maintain a balance between regional autonomy to design and implement policies in ways that respond to local priorities, alongside the space for authoritative action by the Central government, are critical issues for India.

ASPIRE IAS