



Federal System in India And U.S.: A Comparative Study

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ABSTRACT

This article provides a comparative examination of the federal systems in India and the United States, two distinct and intricate democracies that have implemented federal structures to govern their affairs. The analysis explores the constitutional frameworks, distribution of powers, financial arrangements, judicial responsibilities, amendment procedures, and approaches to cultural and ethnic diversity within the federal systems of both countries. Through the exploration of commonalities and disparities, this study offers insights into the operation and development of federalism in these two nations.

Federalism in India is established in the Constitution, which outlines the distribution of powers between the Union and the states through designated lists of subjects for legislation. Fiscal federalism in the country involves resource sharing, with the Finance Commission playing a crucial role. The judiciary, especially the Supreme Court, interprets the Constitution and settles disputes between the Union and states or among states. Constitutional amendments in India necessitate approval from both houses of Parliament and ratification by state legislatures, showcasing a more adaptable approach to federal governance.

On the other hand, the federal system in the United States is established on a written Constitution that divides powers between the federal government and the states. The Tenth Amendment specifically reserves powers for the states. The federal government is responsible for collecting taxes and distributing resources to the states, while the states also possess the authority to generate revenue. Disputes between the federal government and states, as well as conflicts among states, are resolved by the Supreme Court through the interpretation of the Constitution. The process of amending the Constitution in the U.S. is rigorous, guaranteeing stability in the allocation of powers.

KEY WORDS: UNION, FEDERAL, INDIA, USA

INTRODUCTION

Federalism is a political system where authority is shared between a central government and its individual components, like states or provinces. This structure serves as a way to manage two distinct political spheres: one at the national level and the other at the regional level.¹ India gained independence from British rule in 1947, followed by the implementation of a constitution highlighting a robust central government in 1950. From the 1980s onwards, there was a transition towards multi-level federalism, leading to a greater involvement of local bodies in governance.² During the 2009 general elections, it secured the highest number of seats in the House of the People, the lower house of the Parliament, and consequently established a coalition government.³

The national government of the United States is the federal government. It is headquartered in Washington, DC, the capital city of the United States. This government is composed of three branches: the executive branch, legislative branch, and judicial branch. The Founding Fathers established the federal government of the United States. Initially, the government operated under the Articles of Confederation, but it was soon realized that this document was ineffective. Consequently, the Founding Fathers convened to establish a stronger federal government. In 1788, they created and ratified the Constitution, which has served as the framework for the US federal government for more than two centuries.⁴ Federalism was first implemented in the state paradigm in Switzerland during the 12th century.¹ The United States of America then incorporated its initial model of federalism, known as the balanced model, into its constitutional framework.² Each of these nations has distinct approaches in fostering their implementation of federalism. Some examples of these nations include Argentina, Australia, Austria, Belgium, Bosnia and Herzegovina, Brazil, Canada, and Comoros. The countries listed, including Germany, India, Malaysia, Mexico, Micronesia, Nepal, Nigeria, Pakistan, Russia, South Africa, St. Kitts and Nevis, Spain, Switzerland, United Arab Emirates, United States of America, and Venezuela, each exhibit a unique constitutional framework that varies from one nation to another.⁵

¹ <https://byjus.com/free-ias-prep/federalism/>

² <https://forumfed.org/countries/india/>

³ <https://forumfed.org/countries/india/>

⁴ <https://study.com/academy/lesson/what-is-a-federal-government-definition-powers-benefits.html>

⁵ Federalism in India v USA: a Comparative Study Niyati Trivedia a Symbiosis International University, Pune, India

LITERATURE REVIEW:

1. Federalism in India v USA: a Comparative Study Niyati Trivedia a Symbiosis International University, Pune, India

The past two decades have been marked by significant upheavals in Indian federalism, prompting various viewpoints on the unfolding events. The Sarkaria Commission report effectively highlighted the initial hurdles faced by Indian federalism. It is imperative to reassess the states' capacity to influence policies, especially in light of the central government's prowess in negotiating treaties and fulfilling international obligations.⁶

2. Comparative Study of Indian Federalism with USA Monalisa Mukherjee1

This research paper has provided an exclusive overview of the Indian and American Federal systems of government. It has subsequently conducted a thorough analysis of the federal structures in both countries, highlighting the similarities and differences in their respective Constitutions. These distinctive Federal features contribute significantly to the unique character of each nation.⁷

3. FEDERALISM IN U.S. AND INDIA: A COMPARATIVE STUDY by PRERNA GALGOTIAS UNIVERSITY SCHOOL OF LAW, L.L.M

Both India and the United States have progressed beyond the initial group of individuals involved, expanded certain platforms for decision-making, established additional networks and capabilities for collaboration, heightened opportunities for political and practical policy disagreements, and also intensified their focus on involving third parties in order to enhance performance.⁸

STATEMENT OF PROBLEM

1. Despite their unique historical, cultural, and political backgrounds, both countries have implemented federal frameworks to oversee their governance, incorporating a variety of regional interests and promoting efficient administration.
2. Numerous critical inquiries emerge concerning the operation and efficacy of federalism in these nations by structural variations, division of powers, judicial, amendment process.

OBJECTIVE OF THE STUDY

1. The main goal of this comparative analysis is to examine and contrast the federal governance systems in India and the United States, in order to gain insight into their organizational frameworks, processes, and operations.
2. In order to examine the variances in structure between the federal systems of India and the United States, it is imperative to analyze the allocation of powers, the mechanisms governing intergovernmental relations, and the institutional arrangements in place.

HYPOTHESES OF THE PROJECT

The structural variances in the federal systems of India and the United States have a significant impact on the distribution of power. Variances in fiscal arrangements, judicial oversight, and amendment processes play a crucial role in shaping governance outcomes in these two nations.

FEDERAL FEATURES OF INDIAN CONSTITUTION:

The salient features of the Indian Constitution are listed and briefed below:

1. Longest Written Constitution

Constitutions can be categorized as either written, such as the American Constitution, or unwritten, like the British Constitution. Among all the written Constitutions in the world, the Constitution of India is the longest. It is an extremely comprehensive, detailed, and elaborate document.⁹

Initially, the Indian Constitution comprised of 395 articles that were divided into 22 Parts and 9 Schedules. Currently, it includes a Preamble, approximately 450 articles divided into 24 Parts, and 12 Schedules.¹⁰

2. Flexibility and rigidity

The Indian constitution is characterized by a distinctive combination of rigidity and flexibility. While amendments can be made through the Parliament, there are certain provisions within the Constitution that are safeguarded from any amendment. Additionally, the Constitution includes a mechanism that

⁶ Federalism in India v USA: a Comparative Study Niyati Trivedia a Symbiosis International University, Pune, India

⁷ Comparative Study of Indian Federalism with USA Monalisa Mukherjee1

⁸ FEDERALISM IN U.S. AND INDIA: A COMPARATIVE STUDY by PRERNA GALGOTIAS UNIVERSITY SCHOOL OF LAW, L.L.M

⁹ <http://student.manupatra.com/Academic/Abk/Constitutional-Law-of-India/CHAPTER-2.htm>

¹⁰ <http://student.manupatra.com/Academic/Abk/Constitutional-Law-of-India/CHAPTER-2.htm>

allows for amendments to be made without the involvement of Parliament. This dual nature of the Constitution makes it simultaneously rigid and flexible.¹¹

3. Preamble of the constitution

- The Constitution's Preamble encompasses the fundamental principles, goals, and values that guide its framework.
- The Constitution's salient characteristics have evolved from these objectives, both directly and indirectly, which emanate from the Preamble.
- It declares India as a Sovereign Socialist Secular Democratic Republic, dedicated to ensuring justice, liberty, and equality for its citizens, as well as fostering fraternity, individual dignity, and national unity and integrity.
- The Preamble encapsulates the essence of the Indian state and the objectives it strives to achieve for the betterment of its people.¹²

4. Parliamentary Form of Government

The parliamentary system, largely influenced by the British model, is based on the principles of collaboration and alignment between the legislative and executive branches. It is characterized by a responsible and cabinet government. This form of government is not only prevalent at the national level, but also adopted by various states.¹³

Key features of the parliamentary system include:

1. Distinction between nominal and actual executives.
2. Governance by the majority party.
3. Collective accountability of the executive to the legislature.
4. Inclusion of ministers in the legislative body.¹⁴

5. Integrated and Independent Judiciary

India operates under a unified judicial system, as outlined in the Constitution, which ensures the independence of the judiciary from both the executive and legislative branches. At the apex of this system is the Supreme Court, serving as the primary judicial authority. Supporting the Supreme Court are the high court's at the state level, collectively forming a comprehensive framework for the administration of justice.

The Supreme Court holds a significant position within this judicial system, functioning as a federal court and serving as the ultimate court of appeal. It plays a crucial role in safeguarding the fundamental rights of citizens and upholding the integrity of the Constitution. As the guardian of the Constitution, the Supreme Court ensures that the principles and provisions enshrined within it are upheld and protected.¹⁵

6. Directive Principles of State Policy

The Directive Principles of State Policy, as described by Dr. B. R. Ambedkar, represent a novel dimension of the Indian Constitution and are outlined in Part IV. These principles were included in our Constitution with the aim of promoting social and economic justice for all citizens. One key aspect of the Directive Principles is the prevention of wealth concentration among a select few in India's welfare state. It is important to note that these principles are non-justiciable. The Indian Constitution is built upon the principle of striking a balance between the Fundamental Rights and the Directive Principles.¹⁶

7. Fundamental Rights

The Constitution, under Part III, enumerates 6 fundamental rights:

- Right to equality (Articles 14-18)
- Right to Freedom (Articles 19-22)
- Right against exploitation (Articles 23-24)
- Right to freedom of religion (Articles 25-28)
- Cultural and Educational Rights (Articles 29-30)
- Right to constitutional remedies (Article 32)

¹¹ <https://unacademy.com/content/upsc/study-material/polity/the-salient-features-of-the-indian-constitution/>

¹² <https://www.insightsonindia.com/polity/indian-constitution/salient-features-of-indian-constitution/>

¹³ <https://www.geeksforgeeks.org/features-of-the-indian-constitution/>

¹⁴ <https://www.geeksforgeeks.org/features-of-the-indian-constitution/>

¹⁵ <https://www.geeksforgeeks.org/features-of-the-indian-constitution/>

¹⁶ <https://www.studyiq.com/articles/salient-features-of-constitution-of-india/>

These fundamental rights are designed to uphold the principles of Political Democracy. They serve as constraints on the authority of the state. Nevertheless, they are not absolute and can be subjected to reasonable limitations.¹⁷

8. The Directive Principles of State Policy

The Directive Principles of State Policy, which are outlined in Part IV of the constitution, pertain to social and economic rights. These principles, however, are not justifiable in a court of law. Nevertheless, they hold immense significance in governing the nation and aim to establish a welfare state in India.¹⁸

9. Single citizenship

In contrast to the United States of America's system of dual citizenship, where individuals possess both national and state citizenship, the Indian Constitution embraces the concept of single citizenship. This means that every Indian citizen holds citizenship throughout the entire country, granting them equal rights and reinforcing the core values of equality, unity, and integrity.¹⁹

10. Emergency Provisions

There exist three categories of emergency situations in India. The first type is triggered by war, external aggression, or armed rebellion, as outlined in Article 352 of the Constitution. The second type of emergency is declared when there is a breakdown of the constitutional machinery in states, as specified in Articles 356 and 365. The third category is a financial emergency, which is covered under Article 360. These provisions were included in the Constitution to protect the sovereignty, unity, integrity, and security of the nation, as well as to uphold the democratic political system. In times of emergency, the central government assumes extensive powers, while the states come under the complete control of the central authority.²⁰

11. Drawn from Various Sources

12. Federal System with Unitary Bias

13. Synthesis of Parliamentary Sovereignty and Judicial Supremacy

14. Rule of Law

- In a democratic system, the law holds supreme authority. It leaves no space for any form of arbitrariness, ensuring that individuals are granted certain fundamental rights. The highest judicial body serves as the ultimate guardian of the law's sanctity. The establishment of Lok Adulate and the introduction of "public interest litigation" by the Supreme Court are notable endeavors that have been put into practice.²¹

15. Fundamental Duties

16. Indian Secularism

17. Three-tier Government

- The 73rd and 74th Constitutional Amendment Acts (1992) have added a third-tier of government (that is, Local Government), which is not found in any other Constitution of the world.²²

18. Co-operative Societies

FEDREALISM IN THE USA

On July 4, 1776, the 13 North American colonies declared their independence from Great Britain and recognized the necessity of coordinating their military efforts and fostering collaboration among themselves. To achieve these objectives, the Articles of Confederation were ratified, serving as a constitution that established a League of Sovereign States. This league obligated the states to work together in areas such as military affairs, foreign policy, and other significant domains. However, during the war against England, the Articles of Confederation proved to be insufficient in maintaining unity among the states. Following the successful conclusion of the war, the states prioritized their individual interests over the national interest of the newly formed United States, leading to the dissolution of the league.²³

FEDERAL FEATURES OF THE USA FEDERAL SYSTEM

1. WRITTEN CONSTITUTION

¹⁷ <http://student.manupatra.com/Academic/Abk/Constitutional-Law-of-India/CHAPTER-2.htm>

¹⁸ <https://vajiramandravi.com/quest-upsc-notes/indian-constitution-features-and-significant-provisions/>

¹⁹ <https://vajiramandravi.com/quest-upsc-notes/indian-constitution-features-and-significant-provisions/>

²⁰ <https://byjus.com/free-ias-prep/major-features-of-the-constitution/>

²¹ <https://www.geeksforgeeks.org/features-of-the-indian-constitution/>

²² <https://byjus.com/free-ias-prep/major-features-of-the-constitution/>

²³ M.P. JAIN, INDIAN CONSTITUTIONAL LAW (2010).

The world's oldest and most concise written constitution is comprised of a Preamble and seven Articles, spanning approximately 4000 words and occupying 10 to 12 pages, which can be read within a half-hour timeframe. In addition to its written components, this constitution also incorporates unwritten elements such as conventions. Furthermore, the constitution has been expanded through the inclusion of statutes enacted by Congress, judicial decisions, and executive decrees.²⁴

2. SEPERATION OF POWERS

The implementation of this theory was first witnessed in the formation of a constitution. The primary objective of this theory is to safeguard the freedom of individuals by preventing the accumulation of powers. It emphasizes that no single person or group should possess all the powers of the government. In the United States, the government's three functions are divided among three separate branches - Congress, the President, and the Supreme Court.²⁵

3. DUAL FEDREALISM

The inception of the United States heralded the era of Dual Federalism. In this system, the Federal government and state governments each had distinct areas of authority. The federal government exercised control over certain areas, while state governments had jurisdiction over others. Both levels of government were considered equal entities. Article I, Section 8 of the United States Constitution delineated the specific powers granted to the federal government.²⁶

4. Presidential system of government

America operates under a Presidential system of government, where the citizens directly vote for the President. The President holds significant power and is not answerable to Congress. The President serves a fixed term of 4 years and can only be re-elected for a maximum of two terms. The President has the authority to appoint their own staffs, who are not required to be affiliated with the House of Representatives or the Senate, to aid in governing. These staff members are not accountable to Congress, allowing the President to independently manage the government and be directly responsible to the American people.²⁷

5. Dual Citizenship

Citizenship refers to the status of individuals who hold complete membership in a particular state, entitling them to exercise political rights within that state. The initial constitution did not explicitly define the concept of citizenship. However, the 14th Amendment Act introduced the notion of dual citizenship, granting individuals the privilege of being citizens of both the United States and the specific state in which they reside. This arrangement allows individuals to enjoy the benefits and responsibilities associated with both levels of citizenship within the United States.²⁸

6. Judicial Review

The institution in question serves as the custodian of the constitution and the ultimate resolver of constitutional conflicts, ensuring the paramount of the constitution. It stands as a significant addition to contemporary governmental and constitutional procedures. Moreover, it possesses the authority to nullify any legislation or executive directives that are deemed inconsistent with the principles enshrined in the constitution.

7. Cooperative Federalism

8. Delegated Powers

9. Reserved Powers

10. Concurrent powers

11. Implied powers

Federalism is distinctly outlined in the U.S. Constitution through six specific provisions, including the

- Commerce Clause in Article I, Section 8,
- the Elastic Clause (Necessary and Proper Clause) in Article I,
- Section 8, the Supremacy Clause in Article VI,
- the Admission of New States in Article IV, Section 3,
- the guarantee of a "Republican form of government" in Article IV, Section 4, and

²⁴ FEATURES_OF_THE_US_FEATURES_OF_THE_US_CO.pdf

²⁵ FEATURES_OF_THE_US_FEATURES_OF_THE_US_CO.pdf

²⁶ <https://usgovtpoli.commonsgc.cuny.edu/chapter-five-federalism-american-style/>

²⁷ <https://www.civildaily.com/constitution-of-usa-features-comparison-with-indian-other-constitutions/>

²⁸ FEATURES_OF_THE_US_FEATURES_OF_THE_US_CO.pdf

- The Tenth Amendment.²⁹

Judicial interpretation and landmark judgments Indian federal system

Kesavananda Bharati v. State of Kerala

Several judges in this particular case maintained that federalism is an integral component of the fundamental framework of the constitution, thereby rendering it inviolable.

State of Karnataka v. Union of India

The Indian Constitution is often described as quasi-federal rather than strictly federal in nature. While it clearly outlines the executive and legislative powers of both the Centre and the States, there is a noticeable centralizing tendency that gives the Centre significant control in various aspects.

State of West Bengal v. Union of India

The character of the Constitution of India is not genuinely federal. The allocation of powers between the Union and States is based on the principle that the States are entrusted with powers related to the regulation of local issues, while the Union retains authority over the residue, particularly those that contribute to the preservation of the economic, industrial, and commercial unity of the nation.

S.R. Bommai v. Union of India-In this particular instance, the judges provided four distinct viewpoints.

1. Justice Ahmadi: Due to the absence of terms such as 'federal', he concluded that it should be classified as a quasi-federal constitution.
2. Justice Sawant & Kuldip Singh: They emphasized that federalism is a fundamental characteristic of the constitution.
3. Justice Ramaswamy: He asserted that India is an "Organic Federation" specifically designed to cater to the requirements of the parliament.
4. Justice Jeevan Reddy and Justice Agarwal: They argued that federalism within the constitution holds a distinct meaning depending on the context. Furthermore, this case imposed limitations on the arbitrary utilization of article 356.

USA FEDERAL JUDGEMENTS

Marbury v. Madison (1803)

The responsibility and authority to determine what the law entails explicitly lie within the Judicial Department. This decision bestowed upon the Court the capability to invalidate laws based on their unconstitutionality, a power known as judicial review.³⁰

Gibbons v. Ogden (1824)

The Supreme Court ruled that the responsibility of regulating commerce falls under the jurisdiction of the federal government, thereby prohibiting states from enacting their own laws to regulate interstate commerce. Additionally, the Court expanded the definition of "commerce" to include activities beyond mere buying and selling goods. Specifically, the Court concluded that the regulation of water navigation constituted a form of commerce regulation.

Dred Scott v. Sandford (1857)

The 1857 Court ruled against Congress having the constitutional authority to ban slavery in free territories and denied African Americans the right to bring lawsuits in federal court. Prior to the Civil War Amendments, the Court interpreted the Constitution to assert that individuals of African descent did not possess any citizen rights. Additionally, the Court argued that slaves were considered as "property" and could not be deprived of their owners without due process.

Roe v. Wade (1973)

The Constitution does indeed prohibit laws that severely restrict or deny a woman's access to abortion. This conclusion was reached by the Court, which determined that such laws infringe upon the Constitution's right to privacy. The Court specifically stated that, in accordance with the Fourteenth Amendment Due Process Clause, states are only permitted to impose restrictions on abortions in the later stages of pregnancy, with the aim of safeguarding the life of the woman or the fetus.

ISSUES FACED IN THE INDIAN FEDERAL SYSTEM

- Regionalism
- Division of Powers
- Absence of Fiscal Federalism

²⁹ <https://usgovtpoli.commons.gc.cuny.edu/chapter-five-federalism-american-style/>

³⁰ https://www.americanbar.org/groups/public_education/programs/constitution_day/landmark-cases/

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- Unequal Representation of Units, Centralized Amendment Power
 - The Indestructible Union with Destructible Units, Office of the Governor, Single Constitution and Citizenship, Integrated Services, Centralised Planning
 - Language Conflicts, Issue of Religion, Economic Incompatibilities of the units, Physical Environment,
 - External forces³¹

ISSUES FACED IN THE AMERICAN FEDERAL SYSTEM

- Balancing Power, Fiscal Federalism,
- Fiscal Federalism, Inequality
- Political Polarization, Preemption
- Judicial Activism, Representation
- Emergency Response, Erosion of Federalism

CONCLUSION

This research paper has extensively examined the broad scope of comparison between the Federal nature of India and the United States of America. This research paper provides a limited overview of the Indian and American Federal polity. It proceeds to analyze and compare the federal structures of both countries, highlighting the issues faced in their respective federal system and the Constitutions. The judicial interpretation and landmark judgments related to the Indian and American federal systems are also provided in this research paper.

³¹ <https://www.clearias.com/indian-federalism-issues-challenges/>