

General Studies-2; Topic: Functions and responsibilities of the Union and the States, issues and challenges pertaining to the federal structure, devolution of powers and finances up to local levels and challenges therein

Federalism in India

1) Introduction

- Federalism is a system of government in which power is divided between a central authority and constituent political units.
- The Constitution of India establishes a federal structure to the Indian government, declaring it to be a "Union of States".
- Indian model of federalism is called quasi-federal system as it contains major features of both a federation and union.

2) Evolution

- In India, Between 321 and 185 B.C. in Magadha, the Mauryans for the first time assimilated a number of kingdoms and republics which might be the first sub-continental state in Indian history India.
- The Mughals, beginning with Sher Shah's land revenue system and Akbar's division of his empire into Provinces provide excellent examples of a federal government.
- The turning point in India's federal scheme came when it was taken over by the British forces.
- The genesis of the present federal system in India lies in the Simon Report of May 1930 which supported the idea of a federal government in India.
- The Government of India Act 1935 aimed to establish India as a Federation of States.

3) The Constitutional Character of Federalism in India

- Dual Government (that is, national government and regional government)
- Written Constitution
- Division of powers between the national and regional government
- Supremacy of the Constitution
- Rigid Constitution
- Independent judiciary
- Bicameral legislature

4) Merits

- Division of power helps in the easy governance of the country.
- The independent judiciary is a merit for the nation as it helps in proper remedy for rights.
- The motto of "Unity in diversity" has been very important to India and a federal government helps to establish a country with mutual tolerance and existence.

5) Provisions of the Constitution that clash with the Federal Nature

- Unlike in other federations, the states in India have no right to territorial integrity.
- Union has the power to make new states or alter the boundaries of existing states.
- Union has the power to make laws on state matters and if both state and union adjudicate on a certain matter, the latter will prevail.
- During an emergency, the central government becomes all powerful and the states go into the total control of the centre.

- The Governor is appointed by the President. Through him the centre exercises control over the states.
- The governor is empowered to reserve certain types of bills passed by the state legislature for the consideration of the president. The president enjoys absolute veto over state bills.

6) Judicial Character of Federalism in India

- The Indian judiciary has heard a number of cases involving the issue of the federal character of the Indian constitution.
- The first significant case where this issue was discussed at length by the apex Court was State of West Bengal V. Union of India.
- The apex court held that the Constitution of India is not truly Federal in character.
- State of Karnataka v. Union of India - The Indian Constitution is not federal in character but has been characterized as quasi-federal in nature.
- Kesavananda Bharati v. State of Kerala - federalism to be a part of the basic structure of the constitution which means it can't be tampered with.

7) Issues Revolving Federalism

- For a country like India which is divided on the linguistic and communal basis, a pure federal structure could lead to disruption and division of states.
- India's federal character has undergone, over the past sixty years, many trials and tribulations.
- Formation of Telangana under Article 3 of the constitution raised a lot of questions against the federal nature of the polity.
- 100th amendment of the constitution where land was transferred to Bangladesh posed as a threat to federalism in India.
- On the introduction of GST, critics argue on the autonomy of states.
- With too much power given to a state, it may want to shift away from the union. Jammu & Kashmir's special powers are in question in the public time and again.
- The continued existence of provisions such as Article 356 (President's rule) goes against the grain of federalism.
- States such as Karnataka, Tamil Nadu have asserted their linguistic and cultural rights in the wake of the Centre's interventions such as a promotion of Hindi.
- States are perceiving that their progress is being penalised:
 - 1) While the southern States contribute to the nation economically, they don't occupy a central space politically and are further marginalised culturally.
- Disputes between states over sharing of river water, for example between Karnataka and Tamil Nadu over Cauvery water.

8) Way Forward

- We need to strike a balance between both unitary and federal features of the country.
- States should be autonomous in their own sphere but they can't be wholly independent to avoid a state of tyranny in the nation.
- Long-term solution is to foster genuine fiscal federalism where states largely raise their own revenue.
- Creating a fiscal structure where the states have greater revenue-raising authority, as well as greater decision making power on spending.
- India needs to move away from centralization-decentralization thinking, and embrace genuine fiscal federalism by permanently creating a fiscal power centre in the states.