

# **FEDERAL SYSTEM**

**Powers divided between National/Federal/central/union & regional/state(US)/province(Canada)/Cantons(Switzerland)/Republics Governments & they operate in their respective jurisdictions independently**

**US, Switzerland, Australia, Canada, Russia, Brazil & Argentina**

**Federation formation : 1. by integration (US-1787) – militarily or economically weak units coming together 2. by disintegration (Canada-1867) – granting autonomy to units**

# **For India federalism why?**

- **Large size of the country & socio-cultural diversity**

**Term federation NO where used in constitution**

## **Indian federalism**

- **not result of agreement & states not able to secede**
- **Canadian model -**
  - ✓ **In its formation**
  - ✓ **In its preference to the term Union**
  - ✓ **In its centralizing tendency**

# **FEDERAL FEATURES OF THE INDIAN CONSTITUTION**

- 1. Dual Polity – Centre & states both sovereign**
- 2. Written constitution – prescribes the limits**
- 3. Division of powers – Lists - Union [97 → 100 subjects], state [66→61] & concurrent [47→52], if conflict Central law prevail, residuary power to Centre**
- 4. Supremacy of the constitution – Centre & states laws & actions**
- 5. Rigid constitution – Amendment of federal provisions by joint action of states & Centre**
- 6. Independent Judiciary – to protect supremacy of the constitution & to settle disputes between Union & states or between states**
- 7. Bicameralism- Rajya Sabha**

# **UNITARY FEATURES/NON – FEDERAL OF INDIAN CONSTITUTION**

## **1. Strong Centre – division of powers in favour Centre**



**More subjects**

**Important subjects**

**Over-riding authority in concurrent list**

**Residuary power with Centre**

## **2. Indestructible Union & destructible states**

## **3. Single Constitution except J & K**

## **4. Flexibility of the constitution – Parliament amend bulk of the constitution unilaterally**

## **5. No Equality of state representation in Rajya Sabha → 1 to 31**

## **6. Emergency Provisions – not found in any federation**

- 7. Single Citizenship [but US, Switzerland & Australia - dual]**
- 8. Integrated Judiciary – but US double system of courts**
- 9. All-India Services – Recruitment, Training & ultimate Control by Centre**
- 10. Integrated Audit Machinery – CAG audits states & Centre, appointment removal by president without state consultation [American Comptroller General NO role with respect to states]**
- 11. Parliament's authority over state list – if Rajya sabha passes resolution – without amendment or NO emergency**
- 12. Governor (Canadian Model)- appointment by president, having term on pleasure of president [US elected governor]**
- 13. Integrated Election Machinery – President constituted body with states having NO role [US – separate machinery for federal & states]**
- 14. Veto over state bills – Governor reserve certain bills for President & absolute veto over that [But US & Australia no such provision]**

# **CRITICAL EVALUATION OF THE FEDERAL SYSTEM**

**Quasi-federal – K C Wheare**

**Financial dependence of states on Centre**

**Extremely Federal - Paul Appleby**

**Bargaining Federalism – Morris Jones**

**Federation with a strong centralizing tendency –  
Ivor Jennings**

**India is a case *sui generis* – Alexandrowicz**

**Cooperative Federalism – Granville Austin**

**Federal according to the requirements of time &  
circumstances – Dr B R Ambedkar**

**In 1994 - Bommai Case – federalism is basic  
feature**

**Territorial & river valley disputes between states, aspiration for new states, financial autonomy from Centre, resistance to the interference from Centre & S.Court's limitations on use of Art. 356 - reflect federalism in India**

**Legislative, Executive & Financial ways federal but not judicial**