



# The Federal System In India And Switzerland A Comparative Perspective

Mayank Kansal

LLM Constitution, ICFAI Law School, The ICFAI University, Dehradun

Vivek Kumar

Assistant Professor, ICFAI Law School, The ICFAI University, Dehradun

## Abstract

A federal system is a very complex, though a very popular political system among the comity of nations of the world today. There are more than 20 countries that take pride in claiming to possess & practice the federal system. They include some of the biggest countries in the world-U.S.A, Canada, Australia & India, & the smallest countries like Switzerland, Austria & Yugoslavia. **William H.Ricker** says: "Well over half landmass of the world was ruled by governments that described themselves as federations. Many new institutions & conceptions have been established to meet the needs of the age, & as social & economic conditions have been different from region to region, the political pattern has undergone changes simultaneously. Man has reacted to all these changes & adjusted himself to the changing environment by the adoption of new devices.

**Keywords-** And, World, Pattern, Twenty, Country

## Introduction

The history is the development and growth of political organization in accordance with the particular needs and environments of each age. Man has always been haunting to apply his reason to solve newer problems that have come in his way during the last decades.

Human history summarizes that there has been a slow incessant integration of political groups and communities into larger and larger combinations, the Nation-state, which was once considered to be the highest form of political society, has yielded place to international co-operation and this lead to slow erosion of national sovereignty.

From this comparative study, area of tensions/conflicts in centre-state relations discerns that federal disputes are always political disputes and therein lies the problematic nature of tensions/conflicts in the whole of centre-state relations.

Therefore, new challenges to federalism are the basis for comparative study. New challenges are the base point of an in-depth inquisitive of modern federalism, which is seen as a need to stress the dynamics of flexibility and adaptability, because, today, the distinction between centralized and decentralized can only be a starting point of comparisons stereotyped.

This attitude helps to understand comparatively the federal spirit, federal behaviour of the systems to developing the annals of co-operative inter-governmental centre-state relations realistically aiming at rendering services to mankind in general and weaker segments of society in particular.

### **STATEMENT OF THE PROBLEM**

The concept of federalism is dynamic and is an independent organization with its own articulation and manifestation of centrifugal and centripetal forces. The working of a federation is largely determined by the nature of the society, for which these institutions have been devised consequently the real nature of the federal institution varies as we move from one federal society to another.

### **OBJECTIVES OF THE STUDY**

The present study deals with the following objectives-

1. To examine the genesis of Indian and Swiss federal system.
2. To examine the constitutional features of Indian and Swiss federal system.
3. To make a comparative study of the working of Indian and Swiss federal systems.
4. To analyze the role of political parties in the working of these two federal systems.
5. To highlight the recent trends of federalism in India and Switzerland.

### **HYPOTHESES**

In order to explore the potential for research, the present study has set up the following tentative hypotheses:-

1. In India, more powers are concentrated at the centre but in Switzerland more powers are given to cantons.
2. Party politics plays an important role in shaping and strengthening of federal structure in both the countries.

## METHODOLOGY

In order to find out the truth involved in the problem certain steps have to be taken in a certain order, and the ordered steps are called a method. So unless right methodology is followed, truth cannot be arranged in correct order. Hence in order to discover the exact truth, the following methodology has been drawn in this study.

## CONCEPT OF FEDERALISM

Federalism is frequently spoken of as an American invention. And this may be a correct statement if the particular kind of union created in 1787 is taken as the archetype of federalism.

At the dawn of history the usual method of making big government was conquest, the method of forming a league or alliance, of tribes or other local units was occasionally used. When the organs of the league had more than military duties and among primitives they often had religious duties as well it is not unreasonable to describe them as federations, or confederacies. In the late 19th century, after modern federalism had become a well established political form, historians have been to look back on these primitive leagues.

The range of past and present governments are commonly referred to as federalism, some are centralized dictatorships and others are loose alliances with barely any central institutions at all (e.g. the old Swiss Confederations before 1878) some are successful governments that have survived the test of territorial civil war (e.g. the United States).

While others are fragile constructs that have fallen apart almost as soon as they were born (e.g. the British West Indian Federation). With such a wide range of governments described with one word, it becomes very difficult to define the word in scientifically useful way.

## MEANING AND DEFINITION OF FEDERALISM

An initial difficulty in any discussion of federalism is that the meaning of the word which has been confused by dramatic changes in the institutions which it refers. Hence, before one can discuss the institutions of federalism, it is, therefore necessary to explain the word and reconcile its references. **The word federalism has entered English language, via French, from Latin. 'Foederatus' means, "bound by treaty" deriving from 'Faedus (=treaty)' and 'federal (=to trust)'. The term means a covenant or an agreement.**

In very broad sense, every intergovernmental alliance would be a federation, but in early medieval times, the words for a federation had a more restricted sense. They referred to that particular kind of alliance in which the allied governments create an additional government to act for them in at least certain matters. With this term, the original sense of federalism can be expressed as a political organization with constituent and central governments.

## **ESSENTIAL CHARACTERISTICS OF FEDERALISM**

1. The number and nature of the constitutional units, and the orders and tiers of government.
2. The scope of autonomy for constitutional units and their territorial integrity.
3. The role that the constitutional units are to play in the national government.
4. The competences, powers and responsibilities of various orders and tiers of government and the scope and place of concurrent and residual powers.
5. The mechanisms and the role of institutions for resolving conflicts between the orders/tiers of government, besides providing rules for inter-governmental and inter-jurisdictional relations.

## **EVOLUTION OF FEDERAL IDEA IN SWITZERLAND**

Switzerland, or the Helvetic Confederation as it is formally called, is second to the United States of America. Switzerland as a federal state has a deceptively long history stretching back to the 13th century of continuous experiment in federalism. It is useful to consider the origin of the confederation, which is commonly taken as the most celebrated example of a military alliance in the guise of a 'federation'. Indeed, even critics of Riker's "military condition" for federal formation agree that military incentives were crucially important for the initial success of the Swiss Union. Since the end of thirteenth century the area that is now Switzerland was a tangle of military alliances, treaties and dependencies.

The whole evolution of federal system in Switzerland can be studied under five phases-

1. The Old Confederation 1291 to 1798
2. The Helvetic Republic 1798-1803
3. The Napoleonic Period 1803-1815
4. The Confederation of 1815-1848
5. The Federal Period 1848 upto the present day

## **NATURE OF INDIAN FEDERAL SYSTEM**

The Constituent Assembly of India produced a new kind of federalism to meet India's peculiar needs, the significant absence of the expression like federal or federation or federalism in the constitutional vocabulary has led constitutional experts to doubt the appropriateness of the appellation 'federal' to the constitution of India. This peculiarity has influenced the constitutionalist to label Indian constitution with different names viz 'Quasi-Federal', Unitary, Centralist, etc. The thinkers seem to have ignored the historical pulls and pressures as well as circumstances under which the Indian constitution was framed. Principle of federalism is neither a myth nor

watered down in the Indian constitution, opines H.M.Seervai rather the federal principle is dominant in the Indian Constitution.

### **RECENT TRENDS IN INDIAN FEDERAL SYSTEM**

The constitution of India envisaged a pattern, which sought to create a central authority powerful enough to maintain and consolidate India's political integrity, to secure rapid and planned economic growth and to give the states an effective and autonomous role in designated fields of governmental activity. All the three objectives were pursued to a reasonable extent in the first two decades. As it has been analyzed earlier, the 1967 general election ushered a new trend in centre-state relations in India, and this new trend has been identified with the demand for decentralization of power, more autonomy and financial independence of the states. This new trend is not unique to the Indian federation but is inevitable even in the constitutionally strongest federations.

The centralizing tendencies or forces dominated in every federation in the early periods of nationalism, economic development, nation-building etc. Once these stages are completed, decentralizing tendencies become important as a substitute for participatory democracy, India is now going through this latter phase, giving rise to new trends in federalism.

### **FINDINGS OF THE STUDY**

The following are the major findings of this study:-

- ❖ The strong political leadership in the congress led to one party dominant system and this in turn led to strained relationship between the centre and the states.
- ❖ Emergence of strong regional political parties to share their power at the national level gave birth to the concept of coalition government at the national level in India.
- ❖ Coalitions in India have become a bridge between the centre and state in order to maintain a balance between centre-state relations and to enable them to exercise their powers within their own sphere.
- ❖ Lack of political homogeneity and diversified ideologies of different political parties, while forming an alliance have become a major cause for breakdown of coalitions in India.
- ❖ Interest in nation-building and in strengthening the Indian union has got eroded because of the new breed of self-seeking politicians, growth of vote merchants, power-brokers and the like, role of money and muscle power during elections, building of vote banks on caste, communal and other lines.

## Federal System of India and Switzerland a Comparative Perspective

The Swiss federal system consists of three levels of governance. Authority is shared between the Confederation (central state), the 26 cantons (the federal states), and the 2,352 communes. Each of these three levels has legislative and executive powers. In addition, the Confederation and the cantons have judicial powers. The Confederation's authority is restricted to the powers expressly conferred to it by the Federal Constitution. All other areas, such as education and health care, are the responsibility of the cantons which enjoy considerable autonomy. Some of the responsibilities of the communes are expressly assigned to them by the Confederation, or by the canton of which they are a part. However, communes can also legislate when cantonal law does not specifically refer to issues that affect them directly. Switzerland's direct democracy means that all proposed amendments to the constitution are decided by referendum. Any federal law can be put to a referendum if a petition for reform receives the signatures of 50,000 citizens. This means that the Swiss people have the ability to make changes to the federal system. While the process of and implementing reform may be slow, changes do occur frequently. In recent years the provision, form, and length of compulsory education in Switzerland has been a topic which has challenged the federal system, as debate continues between the Confederation and the various cantonal governments on the extent to which education should be homogenized across the country in order to ensure that Swiss children are best prepared for adulthood. The question of language learning has been a particularly pertinent issue in this regard.

India is a federal system but with more tilt towards a unitary system of government. It is sometimes considered a quasi-federal system as it has features of both a federal and a unitary system. Article 1 of the Indian Constitution states, India, that is Bharat, shall be a **union of states**. The word federation is not mentioned in the constitution.

Elements of federalism were introduced into modern India by the Government of India Act of 1919 which separated powers between the centre and the provincial legislatures. Federalism can be defined as a system of government where the powers are divided equally between the Centre and its various parts, including provinces and states. Federalism is an institutional mechanism for accommodating two different sets of politics: First, at the national level the Centre and secondly, at the provincial and regional levels. While studying for UPSC, the federal system is a crucial part of the syllabus; therefore, a thorough understanding of each concept is important. This article will introduce you to the federal system in India.

### Conclusion

Federalism and working of federal political set-up have been significant subjects of discussion and debate in academic and intellectual circle. As federalism cannot be viewed as static in the same way the working of the federal system also cannot be viewed as static.

The socio politico changes and situations of the country tend to the changes in the working of the federal system. Any federal scheme involves the setting up of dual governments and division of powers. But the success and

strength of the federal policy depends upon the maximum of co-operation and co-ordinate between the governments.

The present study has highlighted on the working of federal system in India and Switzerland. It may seem daring to study Swiss federalism in order to put into perspective the Indian federal system, given the enormous difference in size between the two countries.

Switzerland has barely 7 million inhabitants, while India has over 900 million. Switzerland has an area of just over 40,000km<sup>2</sup> while India has an area of nearly 10 million km<sup>2</sup>. There are two reasons why such an undertaking is far from futile, not necessarily to copy the systems but to better understand them.

First, Federalism in the two countries displays important similarities, which bode well for a fruitful comparison. Swiss and Indian federalism have important points in common. Not only are the systems in both countries established federations but also their federalism is rooted in comparable principles. Both systems seek to reconcile needs for unity and cohabitation with cultural and linguistic diversity and regional and local autonomy.

Both systems have found in federalism a means of pursuing the common good while attributing to regional entities some degree of autonomy that should enable them to display and develop their unique situations. Secondly, the federalism in these two countries also displays dissimilarities in the working of its federal system. Switzerland is a strongly federalist country, where much powers are concentrated to cantons and in India, much of the powers are concentrated at the centre.

But now the trend in both these countries has led to mutual co-operation. One thing is clear that the practical experience of the working of federalism has led us to believe that for solving the complex problems of a fast changing society of today the union and the state governments have to work in mutual co-operation rather than in conflict.

This new type of approach has been nomenclature as co-operative federalism. Although the Indian federal system has been dynamic in accommodating political and societal changes and keeping the country together, since its inception i.e., 1950, there has been a fundamental transformation of the operative principles of federalism during the last decade or so.

The rhythm and the beat of the political system and of the federal system within it has changed on account of a variety of socio-economic and political factors but primarily because of a disarray of the party system, neo-liberal economic policies and judicial decisions.

The centralizing thrust of the earlier years has yielded to some kind of a 'confederal operation of the political system, making the formulation and implementation of public policies a 'consociational' exercise between political elites at the two levels of government-central and state. During the forty-year rule of one 316 dominant congress party, the central government has treated the state governments as '**glorified municipalities**' and the union government accumulated powers beyond its constitutional competence.

It is true that the constitution permits for the circumstantial concentration of federal powers in the union, but it nowhere means suspension of federal autonomy and powers of the states even during normal times. The resentment was created among the states and the states demanded a shift from centralized federalism to co-operative federalism.

With the rise of regional parties the state demanded the centre to consult them in all matters that concerned them. In short, the growing self-consciousness and self-assertiveness of the regional governments have been quite vocal in demanding state autonomy. This trend in fact has brought a change in federal structure of India and shaped centre state relations in new setting over the years, the Indian federalism has shown enough resilience to adapt and to accommodate structurally and politically the various pressures of federal state formation.

The federal democracy has decentralized itself to the level of village self-governance. In the arena of union state relationships one finds almost total unanimity among political parties and the units of federation to follow the recommendations of Sarkaria Commissions in building a co-operative-collaborative model of Indian federalism.

The growing salience's of regional processes in the present era of coalition governance show the participatory strength of Indian federalism. When we come to the question of Switzerland it has long been a prime example of a strongly federalist state. This is unlike that of Indian federation though like that of USA federation where residuary 317 powers are left to states.

The cantons enjoy supremacy in their own sphere and are empowered to amend their own constitutions. Under the provision of the constitution: the cantons are sovereign so far as their sovereignty is not limited by the federal constitution. As such, they exercise all those rights, which are not delegated to the federal government. Historically speaking, the Swiss federation is a case of "non-centralization".

There are no universal provisions concerning the division of power between the federation and the cantons; any responsibility may be attributed to either the federation or the cantons. Furthermore, the federation and cantons can assume joint responsibility. It has been observed that since 1874, the powers of the central government have increased immensely. In fact the desire for national solidarity has induced the people to broaden their vision, overcome cantonal prejudice and steadily agree to the extension of the powers of the federal government.

John Andrew expresses the fear that if this tendency continues, cantons will gradually lose their autonomy and cease to be sovereign states and become merely distinct administrative bodies carrying at the behest of the federal authority.

But we cannot deny the fact, that the cantons still maintain the spirit of autonomy, because centralization has largely been confined to legislation, while policy implementation has been left to the cantons and the communes. The central government controls only above one-third of public revenue and expenditures, while the cantons and municipalities manage about two-third of public finance and human resources.



It is the canton and municipalities that are the main actors in a wide range of policy areas. Thus even today, Switzerland remains one of the world's most decentralized countries. 318 Hence the hypothesis formulated in this study that more powers are concentrated at the centre in India and whereas in Switzerland more powers are given to cantons is proved.

## **REFERENCES**

### **PRIMARY SOURCES**

1. Constitutional Documents Constituent Assembly Debates (1947- 49) the Government of India Act 1935, the Constitution of India 1950, the Federal Constitution of Switzerland 1874, the Federal Constitution of Switzerland 2000.
2. Reports Report of Centre-state Relation, Enquiry Commission Tamil Nadu 1971 Report of Sarkaria Commission on centre state relation 1987 Report of the National Commission to review the working of the constitution 2002.

### **Secondary Sources**

1. Sharma, B.M., "Federalism in theory and practice" vol-I, Bhargava and Sons, India, 1953
2. Riker, William H., Federalism: Origin, Operation, Significance, Little Brown, Boston, 1964
3. Wheare, K. C., Federal Government, Oxford University, London, 1953
4. Basu, D.D., Comparative Federalism. Prentice Hall of India Pvt. Ltd., New Delhi, 1987
5. Shodhganga.com
6. [www.thefederalismconstitutionalism.com](http://www.thefederalismconstitutionalism.com)