
UNIT 15 FEDERALISM AND LINGUISTIC STATES

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15.0 OBJECTIVES

This unit would enable you to understand:

- the history and concept of federalism;
- the basic feature of Indian federation; and
- Ambedkar's views pertaining to federalism and linguistic states.

15.1 INTRODUCTION

In this unit we will discuss about the history and concept of federalism, basic feature of Indian federation and also Ambedkar's views pertaining to federalism and linguistic states. Federalism is concerned with the relationships between different administrative units such as states and the union such as a country. The relationship primarily covers social, political and economic spheres of the state. It is concerned with the form of both the government and the Constitution. Ambedkar in his writings, particularly "Federation versus Freedom" published in 1939, and through his interventions in the Constituent Assembly debates on the draft constitution presented on 4 November 1948, defined the history, concept and nature of federalism in India.

For Ambedkar, the features of Indian federalism were:

- a flexible but strong constitution,
- the constituting units of the union having adequate balanced power and authority,
- a strong centre as the final decision-making authority.

During the formation of the Indian union, Ambedkar was of the view that there should be 'one-state one-language' and not 'one-language one-state'. This model remains significant till date.

15.2 INDIA AS A UNION OF STATES: SETTING THE STAGE FOR INDIAN FEDERALISM

India as a union of states was much debated in the Constituent Assembly of India. Many members proposed names such as Bharat, Hindustan and Aryavrata for India. Many wanted India to be a federation, conglomeration or organism of states. Anticipating legal and constitutional pre-requisites, Ambedkar strongly stood for India as a union of states. On 4 November 1948, he discussed the name of the union under Article 1 of the Draft Constitution. Further he mentioned that:

Some critics have taken objection to the description of India in Article 1 of the Draft Constitution as a Union of States. It is said that the correct phraseology should be a Federation of States. It is true that South Africa which is a unitary State is described as a Union. But Canada, which is a Federation, is also called a Union. Thus the description of India as a Union, though its constitution is Federal, does no violence to usage. But what is important is that the use of the word Union is deliberate. I do not know why the word 'Union' was used in the Canadian Constitution. But I can tell you why the Drafting Committee has used it. The Drafting Committee wanted to make it clear that though India was to be a federation, the Federation was not the result of an agreement by the States to join in a Federation and that the Federation not being the result of an agreement, no State has the right to secede from it. The Federation is a Union because it is indestructible. Though the country and the people may be divided into different States for convenience of administration, the country is one integral whole, its people a single people living under a single imperia derived from a single source. The Americans had to wage a civil war to establish that the States have no right of secession and that their Federation was indestructible. The Drafting Committee thought that it was better to make it clear at the outset rather than to leave it either to speculation or to dispute. (CAD Vol. VII, 4 Nov 1948)

Form of the Government: American versus Indian Federation

On 4 November 1948, while presenting the draft before the constituent assembly about the form of the government, he compared the Indian parliamentary system with the American presidential one to distinguish the nature of Indian federalism.

Under the Presidential system of America, the President is the Chief Head of the Executive. The administration is vested in him. Under the Draft Constitution the President occupies the same position as the King under the English Constitution. He is the head of the State but not of the Executive. He represents the Nation but does not rule the Nation. He is the symbol of the nation. His place in the administration is that of a ceremonial device on a seal by which the nation's decisions are made known. Under the American Constitution the President has under him Secretaries in charge of different Departments. In like manner the President of the Indian Union will have under him Ministers in charge of different Departments of administration. Here again there is a fundamental difference between the two. The President of the United States is not bound to accept any advice tendered to him by any of his Secretaries. The President of the Indian Union will be generally bound by the advice of his Ministers. He can do nothing contrary to their advice nor can he do anything without their advice. The President of the United States can dismiss any Secretary at any time. The President of the

Indian Union has no power to do so long as his Ministers command a majority in Parliament.

The Presidential system of America is based upon the separation of the Executive and the Legislature. Therefore, the President and his Secretaries cannot be members of the Congress. The Draft Constitution does not recognize this doctrine. The Ministers under the Indian Union are members of Parliament. Only members of Parliament can become Ministers. Ministers have the same rights as other members of Parliament, namely, that they can sit in Parliament, take part in debates and vote in its proceedings. Both systems of Government are of course democratic and the choice between the two is not very easy. A democratic executive must satisfy two conditions

- 1) It must be a stable executive and
- 2) it must be a responsible executive.

Unfortunately it has not been possible so far to devise a system which can ensure both in equal degree. You can have a system which can give you more stability but less responsibility or you can have a system which gives you more responsibility but less stability. The American and the Swiss systems give more stability but less responsibility. The British system on the other hand gives you more responsibility but less stability. The reason for this is obvious. The American Executive is a non-Parliamentary Executive which means that it is not dependent for its existence upon a majority in the Congress, while the British system is a Parliamentary Executive which means that it is dependent upon a majority in Parliament. Being a non-Parliamentary Executive, the Congress of the United States cannot dismiss the Executive. A Parliamentary Government must resign the moment it loses the confidence of a majority of the members of Parliament. Looking at it from the point of view of responsibility, a non-Parliamentary Executive being independent of parliament tends to be less responsible to the Legislature, while a Parliamentary Executive being more dependent upon a majority in Parliament become more responsible. The Parliamentary system differs from a non-Parliamentary system in as much as the former is more responsible than the latter but they also differ as to the time and agency for assessment of their responsibility. Under the non-Parliamentary system, such as the one that exists in the U.S.A., the assessment of the responsibility of the Executive is periodic. It is done by the Electorate. In England, where the Parliamentary system prevails, the assessment of responsibility of the Executive is both daily and periodic. The daily assessment is done by members of Parliament, through questions, Resolutions, No- confidence motions, Adjournment motions and Debates on Addresses. Periodic assessment is done by the Electorate at the time of the election which may take place every five years or earlier. The Daily assessment of responsibility which is not available under the American system is it is felt far more effective than the periodic assessment and far more necessary in a country like India. The Draft Constitution in recommending the Parliamentary system of Executive has preferred more responsibility to more stability. (CAD Vol. VII,4 Nov. 1948)

Form of the Constitution: Unitary versus Federal

Having explained the form of government, next, Ambedkar explained the form of the constitution thus:

Two principal forms of the Constitution are known to history - one is called Unitary and the other Federal. The two essential characteristics of a Unitary Constitution are:

- 1) the supremacy of the Central Polity and
- 2) the absence of subsidiary sovereign polities.

Contrariwise, a Federal Constitution is marked:

- 1) by the existence of a Central polity and subsidiary polities side by side, and
- 2) by each being sovereign in the field assigned to it.

In other words, federation means the establishment of a Dual Polity. The Draft Constitution is, Federal Constitution in as much as it establishes what may be called a Dual Polity. This Dual Polity under the proposed Constitution will consist of the Union at the Centre and the States at the periphery, each endowed with sovereign powers to be exercised in the field assigned to them respectively by the Constitution. This dual polity resembles the American Constitution. In the same way the Indian Constitution proposed in the Draft Constitution is not a league of States nor are the States administrative units or agencies of the Union Government. Here, however, the similarities between the Indian and the American Constitution come to an end. The differences that distinguish them are more fundamental and glaring than the similarities between the two. (CAD Vol. VII, 4 Nov.1948)

The Question of Citizenship

Ambedkar sought to bring out the uniqueness of the Indian federation. For him:

The points of difference between the American Federation and the Indian Federation are mainly two. In the U.S.A. this dual polity is followed by a dual citizenship. In the U.S.A. there is a citizenship of the U.S.A. But there is also a citizenship of the State. No doubt the rigors of this double citizenship are much assuaged by the fourteenth amendment to the Constitution of the United States which prohibits the States from taking away the rights, privileges and immunities of the citizen of the United States. At the same time, as pointed out by Mr. William Anderson, in certain political matters, including the right to vote and to hold public office, States may and do discriminate in favour of their own citizens. This favouritism goes even farther in many cases. Thus to obtain employment in the service of a State or local Government one is in most places required to be a local resident or citizen. Similarly in the licensing of persons for the practice of such public professions as law and medicine, residence or citizenship in the State is frequently required; and in business where public regulation must necessarily be strict, as in the sale of liquor, and of stocks and bonds, similar requirements have been upheld.

The proposed Indian Constitution is a dual polity with a single citizenship. There is only one citizenship for the whole of India. It is Indian citizenship. There is no State citizenship. Every Indian has the same form of citizenship, no matter in what State he resides. The dual polity of the proposed Indian Constitution differs from the dual polity of the U.S.A. in another respect. In the U.S.A. the Constitutions of the Federal and the States Governments are loosely connected. In describing the relationship between the Federal and State Government in the

U.S.A., Bryce has said: 'The Central or national Government and the State Governments may be compared to a large building and a set of smaller buildings standing on the same ground, yet distinct from each other.' Distinct they are, but how distinct are the State Governments in the U.S.A. from the Federal Government? Some idea of this distinctness may be obtained from the following facts: First is concerned with the subject to the maintenance of the republican form of Government, each State in America is free to make its own Constitution. Second, that the people of a State retain forever in their hands, altogether independent of the National Government, the power of altering their Constitution. (CAD Vol. VII, 4 Nov. 1948)

Ambedkar pointed to certain special features of the proposed Indian federation which mark it off not only from the American federation but from all other federations.

All federal systems including the American are placed in a tight mould of federalism. No matter what the circumstances, it cannot change its form and shape. It can never be unitary. On the other hand the Draft Constitution can be both unitary as well as federal according to the requirements of time and circumstances. In normal times, it is framed to work as a federal system. But in times of war it is so designed as to make it work as though it was a unitary system. Once the President issues a Proclamation, which he is authorized to do under the Provisions of Article 275, the whole scene can become transformed and the State becomes a unitary state. The Union under the Proclamation can claim if it wants:

- 1) the power to legislate upon any subject even though it may be in the State list,
- 2) the power to give directions to the States as to how they should exercise their executive authority in matters which are within their charge,
- 3) the power to vest authority for any purpose in any officer, and
- 4) the power to suspend the financial provisions of the Constitution.

Such a power of converting itself into a unitary State no federation possesses. This is one point of difference between the Federation proposed in the Draft Constitution, and all other Federations we know of. (CAD Vol. VII, 4 Nov. 1948)

15.3 FEATURES OF INDIAN FEDERATION

Ambedkar compared the Indian federation not only with that of the USA but also with other existing federations. By comparing different countries' constitutions, Ambedkar discusses the features of Indian federalism such as:

- Rigid versus flexible constitution
- Single judiciary
- Division of power
- Freedom of states with strong emergency power residing with the Union government.

Ambedkar argued:

This is not the only difference between the proposed Indian Federation and other federations. Federalism is described as a weak if not an effete form of Government. There are two weaknesses from which Federation is alleged to suffer. One is rigidity and the other is legalism. That these faults are inherent in Federalism, there can be no dispute. A Federal Constitution cannot but be a written Constitution and a written Constitution must necessarily be a rigid Constitution. A Federal Constitution means division of Sovereignty by no less a sanction than that of the law of the Constitution between the Federal Government and the States, with two necessary consequences:

- 1) that any invasion by the Federal Government in the field assigned to the States and vice versa is a breach of the Constitution and
- 2) such breach is a justifiable matter to be determined by the Judiciary only.

This being the nature of federalism, a federal Constitution has been found in a pronounced form in the Constitution of the United States of America. (CAD Vol. VII, 4 Nov. 1948)

In order to avoid rigidity and legalism from federalism, Ambedkar divided the Articles of

Constitution into two groups:

The second means adopted to avoid rigidity and legalism is the provision for facility with which the Constitution could be amended. The provisions of the Constitution relating to the amendment of the Constitution divide the Articles of the Constitution into two groups. In the one group are placed Articles relating to

- a) the distribution of legislative powers between the Centre and the States,
- b) the representation of the States in Parliament, and
- c) the powers of the Courts.

All other Articles are placed in another group. Articles placed in the second group cover a very large part of the Constitution and can be amended by Parliament by a double majority, namely, a majority of not less than two thirds of the members of each House present and voting and by a majority of the total membership of each House. The amendment of these Articles does not require ratification by the States. It is only in those Articles which are placed in group one that an additional safeguard of ratification by the States is introduced. One can therefore safely say that the Indian Federation will not suffer from the faults of rigidity or legalism. Its distinguishing feature is that it is a flexible federation.

Division of Authority

Ambedkar points out that the division of authority between legislature, executive and judiciary makes the Indian Constitution different from other constitutions. However this division of authority might create chaos. So Ambedkar opines that a single judiciary, common All-India Services and uniform civil, criminal, fundamental laws shall bring in uniformity in the Indian federation. He wrote:

There is another special feature of the proposed Indian Federation which distinguishes it from other federations. A Federation being a dual polity based on divided authority with separate legislative, executive and judicial powers for each of the two polities is bound to produce diversity in laws, in administration and in judicial protection. Up to a certain point this diversity does not matter. It may be welcomed as being an attempt to accommodate the powers of Government to local needs and local circumstances. But this very diversity when it goes beyond a certain point is capable of producing chaos and has produced chaos in many federal States. One has only to imagine twenty different laws - if we have twenty States in the Union - of marriage, of divorce, of inheritance of property, family relations, contracts, torts, crimes, weights and measures, of bills and cheques, banking and commerce, of procedures for obtaining justice and in the standards and methods of administration. Such a state of affairs not only weakens the State but becomes intolerant to the citizen who moves from State to State only to find that what is lawful in one State is not lawful in another. The Draft Constitution has sought to forge means and methods whereby India will have Federation and at the same time will have uniformity in all basic matters which are essential to maintain the unity of the country. The means adopted by the Draft Constitution are three

- 1) A single judiciary,
- 2) uniformity-in fundamental laws, civil and criminal, and
- 3) a common All-India Civil Service to man important posts. (CAD Vol. VII, 4Nov. 1948)

Amending the Constitution

Ambedkar was aware that:

The provisions relating to amendment of the Constitution have come in for a virulent attack at the hands of the critics of the Draft Constitution. It is said that the provisions contained in the Draft make amendment difficult. It is proposed that the Constitution should be amendable by a simple majority at least for some years. The argument is subtle and ingenious. It is said that this Constituent Assembly is not elected on adult suffrage while the future Parliament will be elected on adult suffrage and yet the former has been given the right to pass the Constitution by a simple majority while the latter has been denied the same right. It is paraded as one of the absurdities of the Draft Constitution. I must repudiate the charge because it is without foundation. (To know how simple are the provisions of the Draft Constitution in respect of amending the Constitution one has only to study the provisions for amendment contained in the American and Australian Constitutions. Compared to them those contained in the Draft Constitution will be found to be the simplest. The Draft Constitution has eliminated the elaborate and difficult procedures such as a decision by a convention or a referendum. The Powers of amendment are left with the Legislature Central and Provincial. It is only for amendments of specific matters – and they are only few – that the ratification of the State legislatures is required. All other Articles of the Constitution are left to be amended by Parliament. The only limitation is that it shall be done by a majority of not less than two-thirds of the members of each House present and voting and a majority of the total membership of each

House. It is difficult to conceive a simpler method of amending the Constitution. (CAD Vol. VII, 4 Nov. 1948)

After answering all criticisms against the draft constitution, Ambedkar presented it to the

Constituent Assembly:

I believe I have dealt with all the adverse criticisms that have been leveled against the Draft Constitution as settled by the Drafting Committee. I don't think that I have left out any important comment or criticism that has been made during the last eight months during which the Constitution has been before the public. It is for the Constituent Assembly to decide whether they will accept the constitution as settled by the Drafting Committee or whether they shall alter it before passing it. (CAD Vol. VII, 4 Nov. 1948)

15.4 AMBEDKAR ON LINGUISTIC STATES

India, being a multilingual nation, the issue of reorganisation of states on the basis of linguistics was an important issue. The proponents of the linguistic provinces believed that it would give them the space to develop their languages and culture and impregnate a distinct nationality. However this idea faced vehement contradictory opinions and prejudices as the idea was believed to lack farsightedness in considering the fact that there was a possibility of the future government of independent India being of dual form (central government and multiple provincial governments). It was even believed that the creation of linguistic provinces shall have an adverse effect on the working of the Central Government as well as provincial governments as their working was primarily based upon inter-linked discharge of legislative, executive and administrative functions. Various Commissions like the Dar Commission, JVP Committee and States Re-organization Committee worked on the reorganization of states for administrative convenience, geographical contiguity and economic viability.

Paradoxes on Linguistic States

Ambedkar's intervention since the genesis of the issue with the creation of a separate Karnataka Province in 1938 under the Bombay Legislative Assembly has been an important and interesting journey. In the beginning, on the issue of separate Karnataka province, he spoke against it as it seemed untenable and a vague idea to get the

'Kanarese' speaking people under one state. He feared for the disintegration of the land. He said:

Our strength lies in a polyglot administration. I do not say, but I have my fears that if Karnataka is created as a separate province, it would be a province of all the Lingayats against everybody else. I am not mincing matters, but if for instance, there was a separation there would be a combination of the Marathas against the Kanarese – we don't want this kind of thing and there cannot be a common front which we at present enjoy. (ibid)

He believed that a unilingual state would shake the spirit of unity and further

divide India. He was against one-language, one-state as it would hamper the spirit of fraternity. Also from the perspective of minorities, his theory was:

As the area of the State increases, the proportion of the minority to the majority decreases and the position of the minority become precarious and the opportunities for the majority to practice, tyranny over the minority become greater. The State must, therefore, be small. (ibid)

He thus believed that linguistic state is an absurd idea as it would diverge the State. He opined that it would gradually result into some states being bigger while the rest being smaller, that would have serious repercussions on India as a whole. The disproportionate size of the states would inculcate cultural differences that could brew civil war. Ambedkar's fear proved right with the Dravidian movements in south India like Dravida Munnetra Kazhagam. He believed that the British gave India the gift of enjoying a common nationality and carving states on the basis of linguistics would be an infringement upon the development of a common nationality.

However, later, there was a flux in the ideology of Ambedkar in favour of linguistic provinces. In the States Re-organisation Commission, Ambedkar himself gave a different argument regarding state reorganisation and the question of language, because of the changing circumstances. Also, due to the fact that he got a complete picture of the problem, on the publication of the Report of the States Re-organisation Commission, he thought responsibility was more important than consistency. Moreover he was examining the entire problem de novo from the point of view of the minorities also.

Ambedkar's Remedies:

His definition of linguistic province was the following:

By a linguistic province, I mean a province which by the social composition of its population is homogenous and therefore more suited for the realisation of those social ends which a democratic government must fulfil. In my view, a linguistic province has nothing to do with the language of the province. In the scheme of linguistic provinces, a language has necessarily to play its part. But its part can be limited to the creation of the province i.e. for demarcation of the province. (ibid)

Ambedkar viewed linguistic provinces as means to strengthen the democratic set up of the government and vice versa.

He observed that,

Linguistic provinces would make democracy work better than it would in mixed provinces. A linguistic province produces what democracy needs, namely social homogeneity. Now the homogeneity of a people depends upon their having a belief in a common origin, in the possession of a common language and literature, in their pride in a common historic tradition, community of social customs, etc. is a proposition, which no student of sociology can dispute. The absence of a social homogeneity in a State creates a dangerous situation especially where such a state is raised on a democratic structure. History shows that democracy cannot work in a State where the population is not homogenous. (Ambedkar Writings and Speeches, Vol 2, p. 195 Government of Maharashtra Publication)

Elaborating on the subject of linguistic provinces, Ambedkar opined that a Linguistic Province is one which, by the social composition of its population is homogeneous and therefore more suited for the realization of those social ends which a democratic government must fulfill. It should have nothing to do with the linguistic and making it official. The linguistic province shall rather impart cultural unity by cumulating common factors like that of language as a common historical tradition of the community. This way there shall be no fear of say, a Maharashtrian not being a Maharashtrian if he can speak languages other than his mother tongue as well. Similarly in the case of Bengalis, Tamilians and others.

Ambedkar suggested certain principles which should underlie the creation of linguistic states:

- 1) The idea of having a mixed state must be completely abandoned.
- 2) Every state must be a unilingual state. One-state one-language.
- 3) The formula one-state one-language must not be confused with the formula of one- language one-state.

The formula one-language one-state means that all people speaking one language should be brought under one government, irrespective of area, population and dissimilarity of conditions among the people speaking the language. This is the idea that underlies the agitation for a united Maharashtra with Bombay. This is an absurd formula and has no precedent for it. It must be abandoned. A people speaking one language may be cut into many States as is done in other parts of the world.

- 4) Into how many states a people speaking one language should be cut up, should depend upon (a) the requirement of efficient administration, (b) the needs of the different areas, (c) the sentiments of the different areas and (d) the proportion between the majority and minority.
- 5) The states must be small.

As the area of the state increases, the proportion of the minority to the majority decreases and the position of the minority becomes precarious as the opportunities for the majority to practice tyranny over the minority becomes greater.

- 6) The minority must be given protection to prevent the tyranny of the majority. To do this the Constitution must be amended and provisions must be made “for a system on plural member constituencies (two or three) with cumulative voting.”

Thus, he wanted that effective steps should be taken to pre-empt any possible future move to convert linguistic provinces into provincial nations. He tried his best to prevent the provincial language taking shape of the official language. He believed that provincial language as official language would crystallise the provincial cultures leading to isolation and fragmentation. Thus it was better to let the provincial culture remain fluid in nature.

Ambedkar even opined that his solution was not the best one but would aid in the successful functioning of the constitution in the provinces on democratic lines. So the States Reorganisation Commission was given the responsibility to create

linguistic states and provide adequate institutional checks. Ambedkar, in short, called for national integration in the true sense while discussing the possibility of linguistic states in terms of not one-language one-state but one-state one-language. It is interesting to note that in post-independent India, reorganisation of states has been possible only on the formula of Ambedkar under which divisions in Bihar, Uttar Pradesh and most recently Andhra Pradesh have been possible.

15.5 LET US SUM UP

In this unit you have learned about the federalism, basic feature of Indian federation and also Ambedkar's views pertaining to federalism and linguistic states. For India, independence and partition occurred simultaneously and drafting a Constitution under such a scenario was an arduous task. It was essential to forge a unified nation while paying attention to the expectations of the various constituent units. This would only work under a federal system wherein the social, political and economic aspects of both states and the centre are adequately represented and their grievances addressed. Ambedkar in his writings, as member of the drafting committee and through his interventions in the Constituent Assembly debates defined the history, concept and nature of federalism in India. Ambedkar realized that checks and balances are required to maintain equilibrium between a strong centre and the states of the Indian union. He was of the opinion that only such a federal system can be more inclusive and represent people's interests.

Ambedkar believed that a unilingual state would shake the spirit of unity and further divide India. He was against one-language one-state as it would hamper the spirit of fraternity. He clearly favoured linguistic states in terms of not one-language one-state, but one-state one-language. He argued that large linguistic state was an absurd idea as it would divide the state. He opined that it would result into some states being bigger and the rest being smaller, which would have serious repercussions on India as a whole. The disproportionate size of the states would inculcate cultural differences that could brew civil war. He observed that small linguistic provinces and large linguistic states was an absurd idea would make democracy work better than mixed provinces as it would produce what democracy needs, namely social homogeneity.

15.6 QUESTIONS TO CHECK YOUR PROGRESS

- 1) How did Ambedkar define federalism and its importance?
- 2) How is authority distributed between the centre and the states?
- 3) How can we understand the centre-state relationship in the context of federalism?
- 4) Do you think that small states can also negotiate effectively with the centre within the framework of federalism? Explain with relevant examples.
- 5) What are the ideas of Ambedkar on linguistic states?
- 6) How did Ambedkar suggest the creation of linguistic states?

SUGGESTED READINGS

- 1) “Evolution of Provincial Finance in India,” Dr. Babasaheb Ambedkar: Writings and Speeches, Vol. 6, Education Department, Government of Maharashtra, 1989.
- 2) Dr. Babasaheb Ambedkar: Writings and Speeches, Vol. 1 & Vol II, Education Department, Government of Maharashtra, 1989.
- 3) B R Ambedkar. Thoughts on Linguistic States, Dr Babasaheb Ambedkar: Writings and Speeches, Vol. 1, Education Department, Government of Maharashtra, 1979.
- 4) Constituent Assembly Debates Volume VII

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Constituent Assembly Debates (CAD), Vol. VII, 4 Nov. 1948.

