

BLOCK -V

Federalism and Decentralization

FEDERALISM AND DECENTRALIZATION

In the last few decades, two apparently contradictory trends- integration and localization- have become at work in global politics. There has been a growing integration of national economies with states reaching out to international partners at bilateral and multilateral levels. At the same time, there has been a growing assertion of ethnic, caste, class, gender, tribal and ecological groups within the states. Such assertions are actually manifestations of the growing desire of the people for a greater voice in the government. It is in this context that federalism and decentralization have gained significance since the beginning of the twenty-first century. Many countries with multicultural and diverse geographical areas like Australia, Argentina, Austria, Belgium, Germany, Russia, Switzerland, the USA, India, Brazil, Mexico, Canada, the United Arab Emirates, etc., adopted the federal system. Many countries are incorporating some elements of federal structure or decentralized local governments with devolution of powers in response to increasing demands for regional autonomy and independence. Decentralization is the devolution of powers, functions and responsibilities from national and state/provincial governments to the local governments. It is widely accepted that many problems and issues are best settled and dealt with at the local level.

This Block consists of units on decentralization and federalism. Both the units are detailed with a particular focus on both theories and the historical experiences of the developing countries and the advanced industrialized countries in a comparative perspective. The first Unit deals with the concept of Decentralization taking the experiences of Brazil, India and Britain for comparative analysis. The second unit on federalism deals with the conceptual framework and historical circumstances that have shaped the federations. It takes the Canadian, Australian and Indian federations for comparative analysis.

UNIT 13 DECENTRALIZATION: BRAZIL, INDIA AND BRITAIN*

Structure

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- 13.1 Introduction
- 13.2 Decentralization
 - 13.2.1 Types of Decentralization
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13.0 OBJECTIVES

This unit introduces you to the decentralization processes by taking up three cases- two federal (India and Brazil) and a unitary state- Britain. After reading this unit, you should be able to:

- Explain the nature and characteristics of decentralization
- Explain and differentiate between various types of decentralization
- Discuss the Decentralization in Brazil, India, and Britain
- Analyze the decentralization in Britain, India, and Brazil
- Identify and Compare the major issues and challenges related to decentralization.

13.1 INTRODUCTION

The term ‘decentralization’ is made up of two words- de (removal or negative) and centralisation (the process of centralizing or concentrating power, authority, and resources). In political science, decentralisation refers to the distribution of power, authority, resources to all levels, starting from central to provincial to

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district and lower levels. Distribution of power becomes necessary because many countries are simply too large and complex to be governed from a single central location. Most large countries have therefore adopted a federal system that provides for a formal division of powers between the national government and the states/provinces. In unitary systems, too, decentralisation has become necessary because of the enormous increase in the variety, number and complexity of functions of the modern state. Therefore, almost all governments, whether democratic or non-democratic, have at least two levels – the central and the local. As a general rule, subjects of national importance such as foreign policy, defence, economic development, distribution of national resources are handled by the central government while the affairs of municipalities and rural areas are left to the administration of local government. In federal systems, in which the constitution divides the powers between the central and the state/provincial/regional governments, the local government may be said to constitute the third level of government. In other words, in a federal set-up, the state/provincial/regional governments form the intermediate tier between the central and the local governments.

A large number of countries have been experimenting with decentralization initiatives to devolve powers and responsibilities to elected bodies at the lower tiers of the political and administrative system. In several countries, decentralization as a means of achieving socio-economic goals has got the constitutional mandate. In this unit, we examine the decentralization process by studying two federal states-(India and Brazil) and a unitary state, Britain. The case of Brazil is referred to as fiscal decentralization, which refers to a structure where resources are allocated to subsidiary units by giving authority to collect local taxes and spend them without much scrutiny by the central government. India is a special case, it has both unitary and federal structures, where power and authority to get the work done are decentralized, but the financial allocation is largely centralized. On the other hand, Britain is an example of devolution, which refers to the system when quasi-autonomous local governments exercise absolute control over transferred subjects.

13.2 DECENTRALIZATION

Decentralization means the transfer or delegation of powers and functions from the higher-level government to lower-level governments. Generally, decentralization is understood to involve transferring power and responsibility from national (or central) government to subsidiary levels that may be regional, municipal or local. Decentralization, in other words, means a multi-level structure of government that functions based on how powers are delegated.

Decentralization is widely seen as an essential element of participatory democracy as it allows citizens to have an opportunity to communicate their preferences and views to elected officials who are subsequently rendered accountable for their performance to citizens. The political and philosophic arguments for decentralized government emerged along with the evolution of modern democracies in America and Europe in the Eighteenth and Nineteenth Centuries.

The idea of decentralization is derived from the principle of subsidiary, the principle that decisions should be taken at the lowest possible level. In the West, the political philosophy of Protestants in the early 17th century and Catholics of the 19th century defended the priority of smaller communities against large societies and a centralized state. In the mid 19th century, the British thinker, John Stuart Mill (1860-73), who is associated with the development of liberal values, also argued that local self-government was important because political decisions, as far as possible, should not be imposed from above, but developed and accepted from below. He believed that the local government, as compared to the central government, gives more people a firsthand experience of public affairs. He believed that this experience is valuable for educating the people into their civic duties. Pluralist ideas that evolved with the setting up of democratic institutions in America and Europe also encourage political opinion and participation diversity. Modern pluralists believe that democracies should not have a single, monolithic centre of power. Instead, democracies should have many centres of power so that many people and groups can influence different issues differently and in different political arenas. It is primarily because of the influence of these ideas that all democracies divide power vertically (between the executive, legislature and the judiciary) and horizontally (between the different layers of territorial government- the centre and the local government) in order to create a variety of political arenas.

In contemporary times, the principle of subsidiarity has turned into a legal principle stipulating a prerogative for decentralization. In case of dispute, i.e. in case of conflict among the decision-making of centre and state, the subsidiary units are bound to follow the decision of hierarchically superior. In India, the British colonial rulers needed a 'rule of law' and official machinery to enforce contractual obligations to meet the expanding commerce. They carried out political and administrative reforms from time to time, including the establishment of local self-governing institutions on lines of British theory and practice.

After the Second World War, growth centred model of development was the choice of newly independent countries as well as the war-ravaged countries of Europe. With growth failing to trickle down, this 'top down' model of development came into question. Several field-based studies on development projects conducted in the 1970s found that the problems associated with this model of development, such as unequal distribution of development benefits, increased dependency of people on external resources and depletion of natural resources, originated mainly due to the exclusion of people from the development process. These findings, along with other political developments at that time, such as the women's movement, environmental movements and greater involvement of NGOs, called for alternative approaches to the development approach. In the 1980s, these ideas got crystallized into a 'participatory development approach'.

The participatory approach to the development sought to involve citizens in the decision-making process by giving greater autonomy to local authorities and

vulnerable sections of the society. In the subsequent years, the participatory approach gained prominence due to two contrasting phenomena, globalisation and localisation, both traceable to the growing economic interlinkages between nations. The first represented progressive integration of the world's economies requiring national governments to reach out to international partners, bilaterally and multilaterally. The second, localization, reflected the growing desire of people for a greater voice in their government. It compelled central governments to reach down to regions, cities and localities, generating in the process political pluralism and self-governance around the world. In other words, by the end of the Twentieth century, there was a general trend towards decentralization across the globe.

The trend towards decentralization is no doubt because of the benefits that decentralisation offered when the government functions and obligations had increased enormously. G.Shabbir Cheema and Dennis A.Rondinelli, in their book *Decentralization and Development* (2007) have enumerated the following advantages of decentralization:

- Tailor-made plans as per the needs of heterogeneous regions and groups are possible.
- It can curtail red-tapism and bureaucratic delay.
- Closer contact between government officials and the local population is possible.
- It can allow better penetration of national policies to areas remote from the national capital.
- It ensures greater representation of political, religious, ethnic and tribal groups in development decision-making that could lead to greater equity in the allocation of resources.
- It will develop the capacity of local institutions and their managerial and technical skills.
- It will institutionalize the participation of the citizens and exchange of information.
- It will offset the influence of the elite people.
- It will lead to a more flexible, innovative and creative administration.
- Local people can execute, monitor and evaluate better than the central agencies.
- Increased political stability will be ensured by increasing the participation of the local people in decision-making.
- It will also reduce the cost of planning and increase the number of public goods.

In sum, decentralization leads to the empowerment of the local people through deconcentration and devolution. Decentralized governance seeks to tap local initiatives and practices by involving gross grassroots organizations such as self-

help groups. Representative democracy and participatory democracy both become possible through decentralized governance.

Another important feature of decentralized governance is interactive policy-making which leads to decentralized decision-making. The interactive policy is a process where government and non-governmental sectors such as the private sector, non-governmental organizations, communities, grassroots organizations, and pressure groups participate in decision-making to influence issues and suggest alternatives. Therefore, decentralized governance is an alternative development strategy, a people-centred, participatory, and bottom-up development mechanism.

13.2.1 Types of Decentralization

The term decentralization has a wide variety of meanings that must be carefully examined in a particular space and context. Administrative decentralization seeks to redistribute authority to lower levels of government. It is the transfer of responsibility for planning, financing, and managing certain public functions from the central government to subordinate units or lower levels of government, semi-autonomous public authorities or corporations, or area-wide, regional, or functional authorities (Rondinelli, 1999, p.2). Administrative decentralization has three major forms—deconcentration, delegation, and devolution -each with different characteristics.

In a political system, administrative power transfer is called administrative decentralization or **deconcentration**. It is a process by which the agents of central government control are relocated and geographically dispersed. In deconcentration, the central government, for the sake of convenience, devolves some functions to the administration on the spot. As the officials at the local level are appointed and responsible for administration, the centre retains authority and discretion.

Delegation is a more extensive form of decentralization. It transfers political responsibility to local governments or to semi-autonomous organizations that are not controlled by the central government but are accountable to it (Schneider, 2003: 38). Through delegation, central governments transfer responsibility for decision making and administration of public functions to semi-autonomous organizations accountable to it. Governments delegate responsibilities when they create public enterprises or corporations, housing authorities, transportation authorities, special service districts, semi-autonomous school districts, regional development corporations, or special project implementation units. These organizations usually have wide discretion in decision making.

Devolution is the transfer of authority for decision-making, finance, and management to quasi-autonomous units of local government. Devolution usually transfers responsibilities and decision-making powers for services to local government bodies that elect their representatives, raise their revenues and have the autonomy to spend revenues. In this system, local governments have clear and legally recognized geographical boundaries over which they exercise authority and within which they perform public functions. Compared with the

other two types of administrative decentralization, devolution provides the most significant degree of autonomy for the local unit.

Check Your Progress 1

Note: i) Use the space given below for your answer.

ii) Check your answer with the answer given at the end of the unit.

1) What is deconcentration?

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13.3 BRAZIL

Brazil is one of the largest federal states in the world and one of the oldest, dating from 1889. The country started with a unitary central authority as a colony. It retained the unitary structure after becoming independent from Portugal in 1824 and emerged as a constitutional monarchy. With the adoption of the republican constitution in 1889, Brazil became a federation. Since then, Brazil has oscillated between centralizing military dictators and authoritarian regimes and decentralizing liberal governments. When democracy was restored in 1985 after two decades of military dictatorship, Brazil became a federal republic under the Constitution of 1988.

Brazilian federalism is unique since it has recognized and included municipalities as integral entities of the federal structure. The municipalities are invested with some of the traditional powers usually granted to states in the federation. Brazil's municipalities enjoy independent and coequal status along with the provinces, unlike in other federal countries where the federal units, that is, the provinces/states, control the local bodies.

Brazil is a federation of 26 states and 5,564 municipalities plus the federal district of Brasilia. The states have their constitution while the municipalities have 'organic laws' (laws mentioned in a nation's Constitution)

Brazil is an example of a more 'robust federation' compared to other federal countries of the world in decentralization. Few federal countries have given such a large share of the total tax revenue to the states and municipalities. The state governors have a lot of influence and power. After having suffered from the centralized military dictatorship in the past, the framers of the Constitution 1988 seem to have opted for decentralization, creating more powerful local leaders to balance any strong and ruthless president. Governors and mayors of wealthy states and cities compete with the federal president for power and resources. The Brazilian structure is often described as 'cooperative federalism' since the distribution of powers and responsibilities is based on cooperation between the three federal entities: central, state and municipal authorities.

The bicameral national legislature – the Federal Senate (the upper house) and the Chamber of Deputies (the lower house) – reflects the federal spirit of the constitution. Each state, big or small, is represented equally in the Federal Senate by three senators elected by popular ballot for eight years directly from the states. The number of seats in the Chamber of Deputies is distributed according to the population in each state.

The Constitution of 1988 focussed more on decentralization and not just the deconcentration of finance and revenue. States and municipalities were granted autonomy for controlling debt and managing finances. The federal government has very limited jurisdiction over managing the expenditure at the state and municipal levels. While these arrangements have caused problems in fiscal adjustments at all levels, it has enabled municipal governments to experiment with a variety of way to mobilize revenue and deliver services in the social service sector. A good example here is the participatory budgeting that was implemented in Porto Alegre in the 1980s. In this city, the Brazilian Workers Party encouraged the people in the neighborhoods to analyze the previous year's budget and decide the allocations for the next year. The success of this model in improving local amenities (such as access to sewers, road building etc.) and improving the conditions of the poor gave a boost to participatory democracy. Over a hundred municipalities in Brazil and several cities in Africa, Europe, Latin America and Asia have experimented with some forms of participatory budgeting.

Thus, even though policy-making is concentrated at the federal level in Brazil, which ignores differential preferences and needs of various regions, the local level governments enjoy much autonomy in designing the policy or the programme and then implementing it. The prosperous states do not support the central level spending more on poorer states because that is a share that everyone commonly owns. The development programmes are designed regionally and not as per national standards to benefit the least advantaged. Fiscal Responsibility Law was passed in May 2000, which restricted expenditure levels of all governments and prohibited refinancing of the debt of the provinces and municipalities.

Check Your Progress 2

Note: i) Use the space given below for your answer.

ii) Check your answer with the answer given at the end of the unit.

1) What is participatory budgeting?

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13.4 INDIA

India had a history of colonial subjugation and the long national movement for independence. Independent India's Constituent Assembly was keen on adopting a

federal system with decentralized authority to lower levels. However, because of internal turmoil, demands for the reorganisation of provinces and the external threats that came in the wake of independence, it drafted a constitution that provided for a federal system with a strong central/union government. The Constitution, however, directed the state to take necessary measures “to organize Village Panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government” (Article 40).

In the early years after independence, Indian planners had emphasised community and rural development programmes. In 1957, the Balwantrai Mehta Committee, which went into the working of the community development programmes, recommended the establishment of the scheme of ‘democratic decentralisation’, which finally came to be known as *Panchayati Raj*.

The Committee recommended the setting of three-tier local democratic institutions at districts, block and village levels, namely Zila Parishad, Panchayat Samiti, and Village Panchayat, respectively. There was to be a Panchayat Samiti at the Block level, which was to be indirectly elected by the village Panchayats. At the district level, there was a coordinating body called the Zilla Parishad consisting of the Presidents of the Panchayat Samitis, Members of State Legislatures and Parliament, and all district level officers of the development departments, with the collector as the Chairman.

While the introduction of Panchayati Raj institutions (PRI) in the late 1950s was hailed as one of the most important political innovations in independent India, it was in the late 1980s that the first constitutional efforts to transfer power to the grassroots people took shape. The 64th and 65th amendments to the constitution, which later became the 73rd and 74th amendments, formally recognized the three-tier local governance system.

The 73rd Amendment Act of 1992 strengthened people’s participation at the local level by giving constitutional status to rural local governments. The Act added the Eleventh Schedule to the Constitution of India. It deals with the provisions that specify the powers, authority, and responsibilities of the Panchayats. Panchayats have a wide range of comprehensive 29 subjects like agriculture, rural housing, drinking water, health and sanitation, small scale industries, poverty alleviation programmes, maintenance of community assets etc. All States governments enacted new Acts or incorporated changes in their existing acts in conformity with the 73rd Amendment Act. As a result, they now have a uniform three-tier structure of local governments. At the village level, the Gram Panchayat covers a village or group of small villages. At the intermediate level of Taluka or Mandal or Block Panchayats (Panchayat Samithi) and the district level, Zilla Panchayat (Zilla Parishad) covers the entire rural area of the district.

The Constitution 74th amendment Act 1992 defined the powers and functions of the municipalities. The urban local governments (Municipalities) were to work within limits prescribed by the state Municipal Act which creates and governs them. The powers and responsibilities of over 18 subject matters such as urban planning, water supply, public health and sanitation, roads and bridges etc., are given to the urban local bodies in India.

With a wide variety of functions assigned to local government institutions, India has moved towards strengthening participatory democracy at the grass-root level. However, democratic decentralization remains an ongoing project. The devolution of powers and functional strengthening of different tiers of the Panchayat Raj system has progressed at a slow pace in most of the states. The financial devolution from the centre to the states and then to the PRIs remains a major challenge in realizing effective decentralization. Nevertheless, efforts to strengthen democratic politics in a hierarchical society have been a major challenge. Even as they empower a vast majority of the marginalized and the weak, they are strengthening ethnic identities, often resulting in ethnic conflicts.

13.5 BRITAIN

The United Kingdom of Great Britain consists of England, Wales, Scotland and Northern Ireland. The United Kingdom (UK) is a constitutional monarchy with a parliamentary system. The Crown is the head of the state, and the Prime Minister is the head of the government. The UK does not have a written constitution. That is, there is no single formal document. Laws followed are statute laws, case laws made by judges and various international treaties. The unwritten sources include parliamentary conventions and prerogatives exercised by the royals. The powers which were under the domain of Monarch initially have now been devolved to the Ministers. In exceptional circumstances, Monarch has the power to appoint the Prime Minister or dissolve the Parliament. The UK exists as a unitary structure, although powers are devolved to Scotland, Wales and Northern Ireland.

In a unitary state like the UK, political authority is centralized in all aspects. Decisions taken by the central government have binding authority on all agencies through Acts of Parliament and regulations prepared in the Whitehall. Within England, the local government comes under the central government. Local governments are generally divided into two tiers of County and District Councils, each having its jurisdiction. The grants from the central level are the highest source of revenue for the local government. There is no concept of Income-tax at the local level, and this power resides with the central authority.

Major constitutional changes were initiated in the late 1990s leading to the devolution of power. Following the referendums in Northern Ireland and the Republic of Ireland in 1998 and Scotland and Wales in 1997, the UK Parliament transferred a range of powers to national parliaments or assemblies. The Scottish government is accountable to Parliament and can enact legislation on education, health, and roads. The Welsh assembly enjoys administrative discretion but does not have any legislative or taxing powers. The exception is that of Northern Ireland, where police and security are under the British minister.

The UK government remains responsible for the national policy on all matters that have not been devolved, including foreign affairs, defence, social security, macro-economic management, and trade. It is also responsible for government policy in England on all the matters devolved to Scotland, Wales, or Northern Ireland. Within the UK government, the Secretaries of State for Scotland, Wales, and Northern Ireland are responsible for the Scotland Office, the Wales Office, and the Northern Ireland Office.

A state's economic role is to provide public goods that private players cannot provide. Each local area or local government provides welfare services to their citizens as per the local needs. Residents of each province might not want the same services; therefore, it is perfectly fine to have different locally known services.

The multiple government levels in Britain are very confusing for voters - The European Union, UK Parliament, County Council, District Council, Parish or Town Council. In many parts, some of the other levels are missing. Furthermore, in many places, it does not include the whole population too.

13.6 COMPARATIVE PERSPECTIVE ON DECENTRALIZATION

Brazil's decentralization, despite a complicated system of transfers it has not addressed regional inequalities, and the expected improvement of service delivery has not made up for the net decrease in spending in the area, and the ambiguities in the system help account for the way that local (particularly state-level) elites have used the decentralized resources in patronage schemes. India has made progress in decentralization through three different channels: political, administrative, and fiscal, but a lot more needs to be done. Economic and social progress continues to be uneven across population groups, gender groups, and geographic areas. Much more needs to be done to address long-term concerns of uneven development. The story of devolution is different in each part of the UK. Scotland benefited from more than a decade of deliberation about which powers should be devolved and how the new institutions should work. By 1997, a detailed blueprint was backed by almost three-quarters of Scottish voters in a referendum. Support for devolution was far weaker in Wales, with only 50.3% of voters supporting the change in 1997. In Northern Ireland, devolution resulted from the peace process that had concluded with the signing of the Belfast (Good Friday) Agreement in April 1998. The deal was overwhelmingly endorsed in referendums in both parts of Ireland, and elections to the new Northern Ireland Assembly were held in June 1998. England was left largely untouched by devolution, except for London, where the government created a Mayor and Assembly. Whitehall and Westminster were also barely affected initially, and the UK and the devolved government created few formal mechanisms for joint working between them. Brexit (that is, the withdrawal of Britain from the European Union) has had a huge and disruptive impact on devolution, creating tensions between the different parts of the UK about the future relationships between the UK and EU, and between central and devolved governments.

The two federal systems we have studied, Brazil and India, share a common feature concerning local participation. In both these countries, local governance has been a major contributing factor in nation-building and strengthened the democratic participation of the stakeholders at the local level. Brazil and India have had overlapping and diversions in their political paths in the Twentieth century. Both the countries erected a centralized developmental state in the late thirties (Brazil) and late forties (India.) Both the countries had an economic structure dominated by state-run enterprises. However, the result was in stark

contrast where Brazil passed through 36 years of authoritarianism and India remained a democracy, with a very short emergency episode.

Democratization in Brazil and in India changed the relationship between the national and local governments in both countries. Devolution has brought about a democratic shift by bringing decision-making closer to people across the UK. The people of Scotland, Wales, and Northern Ireland, and those represented by Metropolitan Mayors, can have an increasingly greater say in the policies that affect them. Devolution has also resulted in more effective and tailored policy-making. Policies can be produced and delivered that better account for the needs and priorities of the individual parts of the UK. The Welsh Government can deliver agriculture policy that reflects the unique importance of livestock farming to the Welsh economy, and the Scottish government can run an education system that responds to the socio-economic landscape of Scotland. Devolution has encouraged innovation in policy-making. The devolution of powers to the four legislatures in the UK also enabled them to learn from each other's policies and practices. An example of this is the Scottish government's decision to ban smoking in enclosed public spaces in 2006, and a success replicated in Wales, Northern Ireland, and England.

In all the three cases we have examined, there has been a strong commitment to decentralisation and devolution of powers that is reflected in the constitutional changes in Brazil and India and the devolution of power in the UK in the 1990s. However, local governments in all the three countries we have examined have undergone and are going through significant restructuring. This is largely because both the national and local governments have had to adapt to powerful social, economic and technological changes. These include huge population movements, growth of huge metropolitan areas, increased interdependence of rural and urban areas, as well as national and global economies. Technological changes, especially in transportation, communications and computer technologies, are also impinging on centralisation and decentralisation processes. They are making decentralisation and devolution of local government easier, just as they have helped centralise other public services such as health, and educational records, to name a few.

Centralization responds to the need for national unity, whereas decentralization is in response to demands for diversity. Both forms of administration coexist in different political systems. There seems to be a consensus since the 1980s that too much centralization or absolute local autonomy is both harmful and that it is necessary to put in place a better system of collaboration between the national, regional, and local centres of decision-making. The renewed interest in this type of structure of the state that decentralization comes from recognizing that less centralized decision-making would make national public institutions more effective and make local governments and civil society more competent in managing their affairs. Recent research (World Bank, *Decentralization, Fiscal Systems, and Rural Development*) by different international organizations confirm this point of view:

Check Your Progress 3

- Note:** i) Use the space given below for your answer.
ii) Check your answer with the answer given at the end of the unit.

1) What benefits have devolution of powers brought in the UK?

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13.7LET US SUM UP

The idea of decentralization evolved with the development of democratic institutions in America and Europe. Decentralisation processes have led to the emergence of multi-level governments, national, state, and local governments in large countries with adopted federal systems. In others, the variety, number and complexity of functions of the modern state have compelled the central governments to devolve significant powers to the local governments.

As we saw, in all three cases) we have examined - Brazil, India and United Kingdom- decentralization as a means of achieving socio-economic goals has got the constitutional mandate. The case of Brazil is unique in terms of the high level of decentralization built into the federal constitution of 1988. Here, decentralization subsidiary or municipal units have been given authority to collect local taxes and spend them without much scrutiny by the central government. As a result, sub-national governments, especially the states, are now at the centre of the political and financial scene.

On the other hand, India is a special case, a centralized federal system. Introducing electoral politics and allotting a wider variety of functions to the local governments, the 73rd and 74th constitutional amendments made India into a multi-level government. Significant devolution of powers in the UK occurred in the late 1990s. In 1997 voters chose to create a Scottish Parliament and a National Assembly for Wales. In Northern Ireland, devolution was a key element of the Belfast (Good Friday) Agreement and was supported in a referendum in 1998. The UK Government has also developed decentralization in England. This is through the transfer of powers, budgets and responsibilities to mayors and city deals.

The specific case studies of the three countries show how different political systems have tried to unite the State- Centre dichotomy. It is clear that too much centralization or absolute local autonomy is both harmful and that it is necessary to put in place a better system of collaboration between the national, regional, and local centres of decision-making.

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13.9 ANSWERS TO CHECK YOUR PROGRESS

Check Your Progress 1

1) Deconcentration refers to the system where functions and responsibilities of the central governments are dispersed to lower-level governments. Power remains vested in the central government, which administers through officials appointed by and responsible to it.

Check Your Progress 2

1) It is a process by which governments empower the citizens to take part in deciding the budget allocations. Initially implemented in the Porto Alegre city, it has become a model for involving citizens in managing municipal affairs.

Check Your Progress 3

1) It has encouraged innovation in policy-making. Also, enable the four legislatures in the UK to learn from each other's policies and practices.

UNIT 14 FEDERALISM: CANADA, AUSTRALIA AND INDIA*

Structure

- 14.0 Objectives
- 14.1 Introduction
- 14.2 Federalism: Meaning and Origin
- 14.3 Federalism: Defining Characteristics
- 14.4 Federalism in Australia
- 14.5 Federalism in Canada
- 14.6 Federalism in India
- 14.7 Functioning of Federalism in Australia, Canada and India
- 14.8 Let Us Sum Up
- 14.9 References
- 14.10 Answers to Check Your Progress Exercises

14.0 OBJECTIVES

This unit introduces you to conceptual and analytical frameworks which capture and explain federalism. The unit also takes three federations (Canadian, Australian and the Indian) for a comparative analysis. After reading this unit, you should be able to:

- Explain the process involved in the evolution of federal systems
- Identify the characteristics of federalism
- Describe the nature and features of federalism in India, Australia, and Canada
- Identify the centralising and decentralizing trends in federal processes.

14.1 INTRODUCTION

A state can be classified as federal or unitary based on the division of powers or absence of division of powers, between the national and provincial governments.

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In a federal system, the constitution formally divides the powers between the centre/national and states/provinces, whereas in a unitary system, power is concentrated in the central/national government, though it may devolve certain powers to the local governments. Federalism is an essential concept of comparative politics. Some scholars have also used federalism to study regionalisation and regionalism in international politics and area studies. The usefulness of federalism has been a debated issue. In the first half of the twentieth century, Harold J. Laski had opined that the days of federalism are gone.

In contrast, while writing in the second half of the Twentieth Century, William H. Riker, a noted scholar of federalism, asserted about coming of the age of federalism. Notwithstanding competing claims, twenty-five states have recently been identified as federal states. These include Australia, Argentina, Austria, Belgium, Germany, Russia, Switzerland, the USA, India, Brazil, Mexico, Canada, Nigeria, Pakistan, Malaysia, Ethiopia, Venezuela, the United Arab Emirates. However, about forty per cent of the world population lives in federal states. Out of the eight largest states of the world, seven are federal. China is an exception. Therefore, it would be appropriate to decipher that federalism is popular among larger states but not very popular among small states.

14.2 FEDERALISM: MEANING AND ORIGIN

The word 'federation' is derived from the Latin word *foedus*, which means treaty, contract or compact. Thus, a federal state is seen as a compact or association of states/provinces due to an agreement or treaty. It is an arrangement by which many relatively autonomous parts come together to make a whole. It refers to a structurally and functionally divided government into national governments and its constituent parts, called provinces or states. The political institutions, their compositions and the functioning of federal states necessarily reflect this associational relationship. Robert Garin has defined federalism as a "form of government in which sovereignty or political power is divided between the Central and Provincial Governments so that each of them within its sphere is independent of the other". William S. Livingstone defines federalism as a "form of political and constitutional organization that unites into a single polity a number of diversified groups or component politics so that the personality and individuality of component parts are largely preserved while creating in the new totality a separate and distinct political and constitutional unit". According to William H. Riker, federalism is "a political organization in which government activities are divided between regional governments and a central government in such a way that each kind of government has some activities on which it makes final decisions".

Most often, federalism comes into being through either of the two processes: centripetal and centrifugal. In the *centripetal* process, the constituent units take the initiative in the formation of the federation. The motive behind federation-making may diverge from case to case. However, security concerns of the constituent units and desire for economic prosperity are two main pull and push factors in the centripetal origin of federalism. Independent states come together to form a federation if they think they can maximise their security and achieve a

higher level of economic prosperity by forming a federation than doing it alone. The US federalism is an excellent example of the centripetal origin of federalism. In the early federation-making process, the US federation was formed when thirteen independent states expressed their consent to create a federation. Since the provinces have made US federalism, the national government cannot bring territorial changes in provinces against their will. In Australia, some states (then British colonies) had actively advocated for establishing a federation since the mid-nineteenth century.

Federations also come into being through a *centrifugal* process when the national government initiates and gives designated powers to the provinces. In this process, the national/ central government divides its territory into various provinces for administrative convenience or meets people's aspirations for a separate identity. India is an excellent example of this kind of federation. The present structure of the Indian federation is primarily a function of centrifugal tendencies working in the Indian political system. In the Indian constitutional scheme, the central or union government and Parliament have the authority to redraw state borders and create new states (i) by adding new territory in the Indian federation (for example, the integration of Sikkim into the Indian Union in 1975) (ii) by dividing a state into two or more states (for example, the states like Bombay and Punjab were divided into Maharashtra and Gujarat, and Punjab and Haryana, respectively). (iii) by extracting territories from two or more states (for instance, the states of Uttarakhand, Chhattisgarh and Jharkhand were formed by extracting territories from Uttar Pradesh, Madhya Pradesh and Bihar) the national government can also unite two provinces together.

14.3 FEDERALISM: DEFINING CHARACTERISTICS

Federation is identified by some common characteristics shared by different forms of federal states. Cumulatively, the defining characteristics of the federation are division of powers, dual government and citizenship, supremacy of the constitution, written and rigid constitution, dispute settlement mechanisms and bicameral legislature. Let us examine these defining features.

Division of Powers: Division of powers is a defining feature of federal states. Power is divided on two bases: territory and functions. Territorially, the power to govern is divided into central/national and various constituent units, popularly known as state/province or regional governments. Every province is made of its fixed territory, population and government. Functionally, power is divided between national and provincial governments. The division of power is done in three ways. First, in the list system, the constitution enumerates the powers of the national and provincial governments, listing subjects of national concern such as defence and taxation in the Union or national list and subjects or matters of regional concern in the state list. The national and provincial governments have exclusive jurisdiction over subjects listed for them. In addition to national and provincial lists, a Concurrent List falls under the jurisdiction of both provinces and the national government. Second, listing the powers of the central government and giving the residual powers to the provinces/states, the USA, Australia, and Swiss follow this method. The third scheme lists the powers of

both governments and gives residuary powers to the Centre (Canada). The concurrent list remains open to both national and provincial governments. Australia, Germany, Switzerland and the US follow this scheme.

Dual Government and Citizenship: As a result of territorial division of power and creation or coming together of many constituent units, there are two government levels in federal states: the provincial and national. Coexisting side by side, both the levels of government have their legislature, executive and judiciary. Both levels of government exercise exclusive power over their citizens in their respective jurisdictions. Some federal states, such as the USA, provide double citizenship: first of national government and another of the provincial government. In this regard, Switzerland is a special case as it provides three citizenships: the citizenship of federal government, communal and cantonal (district) citizenship.

Supremacy of the Constitution: The constitution is the cornerstone of a federal state. It is the supreme law of the land that stipulates the territorial and functional division of powers. The constitution is the source of powers and functions of both provincial and national governments. It regulates the relations among provinces and between provinces and the national government. It informs provinces and national government about where their limits start and where the jurisdiction of others begin. The supremacy of the Constitution prevents national and provincial governments from encroaching on each others' jurisdiction. Since the constitution is supreme, an independent judiciary is the arbiter of the constitution, interpreting the constitution to resolve disputes between the national and provincial governments. Constitutional supremacy provides the foundation for and guarantees the smooth functioning of federal states.

Written and Rigid Constitution: The rigidity of the constitution is a defining feature of federal states. A rigid constitution is a constitution that cannot be changed unilaterally either by states or the centre. In other words, the powers and roles of either constituents or the national government cannot be reduced or increased by either of them alone. The rigid constitution guarantees autonomy and prevents encroachment and infringement of rights by one level of government against another level of government.

Dispute Settlement Mechanism: If many provinces live in proximity and share natural resources and culture, conflicts of interests or dispute are likely to emerge. These disputes usually take four forms: between two provinces, among three or more provinces, one province and national government, and provinces and the national government. In such a situation, the dispute settlement mechanism plays a pivotal role in sustaining and strengthening federalism. This role can be played by any institution or a set of institutions. Most often, this is played by the apex courts. In Canada, India and the USA, the Supreme Court plays this role. There may also exist Councils or other inter-governmental bodies which bring provinces and national governments together. By facilitating debates, such mechanisms help to solve inter-provincial and national-provincial conflicts at the early stage.

Bicameral Legislature: The bicameral legislature is another defining feature of a federal state. The two chambers of the national legislature are named differently

in different states. For instance, they are called the *Chamber of Deputies* and the *Federal Senate* in Brazil, the *House of Representative* and *Senate* in the USA, and *Lok Sabha* and *Rajya Sabha* in India. The people directly elect the first chamber or the lower house. In federal states, the upper house necessarily represents the provinces. However, the election process of the second chamber or the upper house varies from country to country. Some states follow the direct election, while others prefer the indirect election. In some states, the provinces are represented equally, i.e. an equal number of seats to every province in the Upper Chamber. The provinces are given representation based on their share of the population, with states having more population having greater representation in the upper house than the smaller states.

FEDERATION AND CONFEDERATION

Sometimes the terms Federation and Confederation are used synonymously. This is because a few countries which started their journey as confederations retained the word in their titles even after officially becoming federations. For example, Switzerland constitution of 1874 was titled as Swiss Confederation. The United States of America (USA) was a confederation before it became a federation with the ratification of the U.S. constitution in 1788. Hence, the distinction between Federation and Confederation is significant.

A confederation is a voluntary association of sovereign independent states formed for specific objectives, which is less binding in its character. A central authority is established for achieving common objectives and interests; however, the joining states would not lose their sovereignty, independence and retain the right of secession. The member states of the confederation maintain their respective military and diplomatic representation also. Contrary to that, states entering into a federation lose their sovereignty and separate entity on the global political map. A federation creates a single sovereign state. Federation is permanent, and states lose the right of secession, and any such attempts are considered illegal and unconstitutional. In a federation, both the Centre and states derive powers from the constitution, and the constitution is the supreme law of the land. Any change in federal powers and functions in a Federation requires a constitutional amendment, and both the Centre and states cannot modify federal structure unilaterally.

Check Your Progress Exercise 1

Note: i) Use the space given below for your answer.

ii) See the end of the unit for tips for your answer.

1) What are the defining characteristics of federalism?

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14.4 FEDERALISM IN AUSTRALIA

Australian federalism came into existence on 1st January 1901, with six British colonies as its constituents. However, deliberations about the establishment of a federation in Australia started in the mid-Nineteenth century. Economic considerations were leading factors. New South Wales had passed legislation

establishing “free trade between itself and New Zealand and Van Diemen’s Land. Goods from elsewhere were subject to a tariff or import duty” (Brodie, 2012, 7-8). The province of Victoria was against free trade to protect its manufacturing sector. Security concerns had a minor role in the making of the Australian federalism, perhaps because states were colonies under the mighty British Empire and separated by large water bodies from other countries. In Australian federalism, the province is called ‘state’, while the national government is known as the ‘Commonwealth of Australia’. Following are the noticeable features of Australian federalism.

Written and Rigid Constitution: The constitution of the Australian is the source of authority of both the Commonwealth and states powers. That is, both the Commonwealth and states derive their powers directly from the constitution. Australian constitution is also a rigid constitution. The constitutional amendment requires the majority of voters’ support at the national level in a referendum and the majority of voters' support at least four out of the six states. As a consequence of the complex amendment procedure, only eight out of thirty-six proposed constitutional amendments could be passed in the referendum till now. The rigidity of the constitution provides a de facto guarantee to states and the Commonwealth that their respective rights cannot be violated unilaterally.

Division of power: The division of powers in Australian federalism is explicitly mentioned in the constitution. Section 51 of the Australian Constitution states that the jurisdiction to make law on the listed issues rests with the Australian Commonwealth. Forty subjects have been listed or reserved for the Commonwealth. These include defence and external affairs; overseas trade and commerce; immigration; trade; currency, and social functions such as marriage and matrimonial causes. The rest or unlisted subjects, formally known as *residual powers*, are with the states. The states have exclusive rights to make laws on the residual subjects. In addition to the listed and residual powers, the concurrent list identifies subjects over which both the Commonwealth and states can legislate. However, in case of inconsistency between the Commonwealth and state laws, the Commonwealth laws will prevail over the state laws.

Bicameral Legislature: Australian Parliament is made of the Crown and two chambers, namely, the *Senate* and the *House of Representatives*. The Senate is made of 76 senators, while the House of Representatives has 151 members. The states are represented in the Senate. For representation in the Senate, the principle of equality is followed. Each state, irrespective of its population and territory size, has been allotted equal twelve seats in the Senate. The mainland territories- the Australian Capital Territory and the Northern Territory- send two senators each. Of the twelve members elected from every state through the proportional representation system for six years. The 151 members of the House of Representatives are elected for three years terms by the preferential voting system.

Dispute Settlement Mechanism: In the Australian federal system, the Courts and inter-governmental bodies play significant roles in resolving disputes between the states and national government or between states. The High Court is the highest court in Australia. It has played an essential role in sustaining federalism for over

a century. According to Section 77 of the Australian Constitution, the final court of appeal is in dispute between federal and state jurisdiction. It has the authority to interpret the Constitution. The inter-governmental Councils and Committees representing national and state governments such as Loan Councils, Premiers Conference, Special Premiers Conference, and Council of Australian Governments manage federal relations.

14.5 FEDERALISM IN CANADA

The British North America Act, 1867, passed by the British Parliament, established a Dominion of Canada as a self-governing part of the British Empire. It introduced federalism in Canada by bringing together the Provinces of Upper and Lower Canada, Nova Scotia, and New Brunswick together in one federal union. Other provinces joined the Dominion later. The Canadian federation comprises four regions: Ontario, Western Provinces, Quebec, and the Maritime Provinces. In addition to regions, *North-west territories* and *Yukon* are also parts of Canadian federalism. The Canada Act 1982 has further strengthened federalism in Canada. Following federal characteristics can be found in the Canadian Constitution.

Written and Rigid Constitution: The Constitution Act, 1867, also known as *British North America Act, 1867*, passed by the British Parliament, introduced a parliamentary form of government with a federal system in Canada. The amendment process of the Canadian constitution has evolved over a period. The 1867 Act had no formula to amend the constitution. The Canadian Parliament used to request the British Parliament to decide whether the amendment was to be done. In 1949, the Canadian Parliament was given the power to amend some parts of the constitution. According to the *Canada Act, 1982*, the Canadian constitution can be amended in five ways (Pelletier 2017, 258-259). First, provisions affecting the federal government can be amended by the federal Parliament. Second, provinces have exclusive power to amend the constitution of the province. Third, few amendments also require the approval of two-thirds of provinces, containing the majority of the population. It is also referred to as the 7/50 procedure. Fourth, other amendments require the federal consent and the approval of all states (Section 41). Fifth, Parliament's amendment affecting only one or more, but not all states requires approval from the concerned state only. The amendment process of the Canadian constitution affecting federal structure can be regarded as rigid.

Bicameral Legislature: Canada's federal legislature called Parliament is bicameral. It consists of the Queen and two chambers, namely the *Senate* (the upper chamber) and the *House of Commons* (the lower chamber). The Senate represents the provinces. Initially, the Senate had 71 members. However, presently it has 104 members. The membership can be expanded up to 118. Out of 104, four regions of the Canadian federation, namely Ontario, Western Provinces, Quebec and the Maritime Provinces, send twenty-four representatives each to the Senate (Kapur and Mishra 2018, 441). Two Senators represent each of the North-west Territories and Yukon. As per the Constitution of 1867, the

House of Commons had 181 members. Nevertheless, now the membership of the house has been extended up to 282.

Division of Powers: There is an explicit system of division of power in Canada. The Constitution Act, 1867, is the primary source of division of powers in Canadian federation. Under sections 91 and 92(10) of the Constitution, the federal government has the power to make laws on items of 'national' interest such as national defence, foreign affairs, employment insurance, banking, federal taxes, the post offices, fisheries, shipping, railways, telephones and pipelines, Indigenous lands and rights, and criminal law. Similarly, under sections 92, 92(A) and 93, the provincial governments can make laws on 'local' items like direct taxes, hospitals, prisons, education, marriage, property and civil rights. In the Concurrent list, the Canadian constitution enumerates items like agriculture, old-age pensions, and immigration. In case of inconsistency, under section 95, the federal law will prevail on agriculture and immigration, while under section 94A, provincial laws will prevail in the case of the old-age pension. The residual powers rest with the federal Parliament. It implies that powers not listed in the province list will go to the federal Parliament.

Dispute Settlement Mechanism: Before 1949, the power to interpret the constitution was vested with the Judicial Committee of the Privy Council. Since then, the interpretive power has been handed over to the Supreme Court of Canada. Contrary to the centralist intentions of many constitution-makers, in its constitutional interpretation, the Judicial Committee of the Privy Council favoured provincial autonomy between the 1880s and 1930. However, the situation changed after 1949 when the Supreme Court of Canada became the highest judiciary of Canada. The Supreme Court seems to favour the strong federal government.

Two Tiers of Government: Like other federal states, Canada has two levels of government called federal and provincial. The Lieutenant-Governor acts as Crown's representative. If Prime Minister functions as the head of the government at the federal level, the Premiers exercise the executive powers at the province level. In provinces, there also exists a cabinet and ministers. Like the federal government, states have their legislature, executive and judiciary. Initially, the legislature of the four provinces was bicameral. At present, they are single-chambered and elected by people. The size of the provincial legislature varies as Prince Edward Island has only twenty-seven member legislature while Quebec has 125 member legislature.

14.6 FEDERALISM IN INDIA

India adopted its constitution on 26th January 1950. Although the Indian Constitution states that "India that is Bharat shall be a union of states"(Article 1) and nowhere mentions the word 'federation' or 'federalism', Dr B. R. Ambedkar asserted in 1948 that the "Draft Constitution could 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. However, in times of war, it is designed to make it work as a unitary system" (quoted in Tillin, 2019). The following characteristics of federalism can be identified in the Indian constitution.

Written and Rigid Constitution: The Indian constitution adopted in 1950 had twenty-two chapters, 395 Articles and eight schedules. It is the source of states and central government's powers and authorities. The Indian constitution is a blend of rigidity and flexibility. In comparison to the constitutions of the USA and Australia, the Indian constitution is flexible. However, on issues related to centre-state relations, the constitution is rigid. Any constitutional amendment affecting centre-state relations such as the division of powers and state's representation in the Parliament requires a majority of the total membership of the house and a majority of not less than two-thirds of the members of the house present and voting. The amendment also requires to be ratified by fifty per cent of state legislatures.

Division of Powers: The scheme of division of powers in the Indian federation is presented in the Seventh Schedule of the Constitution of India. The constitution has three lists for dividing the powers between the centre and states, Union, State and Concurrent lists. The Union list has 100 subjects over which the central government has exclusive jurisdiction. The State list has 61 subjects. The Concurrent list initially had 47 subjects over which both the central and state can legislate. The Concurrent list has been enlarged to 52 subjects, with the 42nd Amendment of 1976 transferring five subjects from the State List to the Concurrent List. As in most constitutions, when there is a conflict between central and state governments' laws, the centre's law prevails over the state laws. The residual powers rest with the Centre.

Dispute Settlement Mechanism: The judiciary and inter-governmental bodies are two mechanisms in the Indian federation to manage and resolve disputes between the centre and state or between the two states amicably. The Supreme Court is the ultimate arbitrator in matters on centre vs. state and state vs. state. The matters related to (i) the centre and one or more states (ii) centre and state or states vs. a state or states (iii) one or more state vs. one or more states fall under the primary jurisdiction of the Supreme Court. These issues can be directly taken to the Supreme Court. The Supreme Court also has the right to interpret the constitution. Its power of judicial review functions as a guarantee against the possible encroachment of powers and authorities of states by the centre. The inter-governmental bodies prevent the conflict escalation and try to manage before letting them explore or become disputes. Inter-State Council (Article 263) and National Development Council bring central and state governments to a single platform to discuss their problems and issues.

Bicameral Legislature: Indian legislature known as Parliament is bicameral. The two chambers are *Rajya Sabha*, the upper chamber and *Lok Sabha*, the lower chamber. In a bicameral legislature, the Lok Sabha (People's Council) represents the people across the country. In contrast, the Rajya Sabha (Council of States) represents the states in the national legislature. Contrary to the Lok Sabha, whose members are directly elected by the people, the members of the Rajya Sabha are elected by the state legislatures. The President nominates twelve members to Rajya Sabha for their contributions towards arts, literature, sciences, and social services. Unlike the US, where all provinces, irrespective of their size and population, are given equal seats in the Senate, in India states are allotted seats in the upper chamber according to their population. This is why the most populated

states of the Indian Union (Uttar Pradesh) have thirty-one seats in the Rajya Sabha while the seven small states have only one seat each.

Dual Government: In India, a central government and state governments exist, each having its political institutions and processes. They have a separate legislature, executive, and judiciary. The President is head of the Union of India, while the Governor is the constitutional head of states. If the Supreme Court is India's highest judiciary, the High courts are the state's highest judiciary. Establishing a distinct set of political institutions for central and state governments has resulted in establishing two tiers of government in Indian Federation, But unlike the US and Switzerland, there is only one citizenship, that is the citizenship of India.

Check Your Progress Exercise 2

Note: i) Use the space given below for your answer.

ii) See the end of the unit for tips for your answer.

1) Despite persisting centralising tendencies, Australia is a federation. Explain.

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2) What is the role of courts in Canadian federalism?

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14.7 FUNCTIONING OF FEDERALISM IN AUSTRALIA, CANADA AND INDIA

In over a hundred years of its existence, the Australian federation has witnessed a clash between forces of centralisation and decentralisation. Australia's founding fathers had envisioned a weak Commonwealth and strong states. However, there has been a tendency towards centralisation of powers in the Commonwealth. Over the period, factors like political parties, decisions and constitutional interpretation by the High Court, wars and emergencies, and the financial weakness of states have contributed to this trend. More or less, political parties are supportive of the Commonwealth. Labor Party was less favourable towards federalism because it perceived federalism as conservative and inclined towards the market, while the party was committed to redistribution, majoritarianism and unitary government (Hollander and Patapan, 2007). Wars and emergencies demand quick decision-making and resource mobilisation. History shows that centralisation was done and justified by centralist leaders in the name of war in Australian federalism. Economically, key sources of revenue like income tax rest with the Commonwealth. The states are dependent on the Commonwealth for

their share. Conditional financial assistance to states by the Commonwealth has made the Commonwealth's intervention in the state powers possible.

Nevertheless, several steps have been taken to address this issue and minimise the states' dependence on the Commonwealth. In the 1960s, the Labor party tilted towards federalism as it accepted the practical need to work with state governments. In 1992, Prime Minister Keating from the Labour party created the Council of Australian Government comprising the federal government, the governments of the six states and two mainland territories. During the three decades of its existence, the Council managed governmental relations within Australia's federal system within the scope of matters of national importance, in particular, economic integration and structural reforms. More recently, Labor Party's Kevin Rudd has recognised the need of the day and argued that "a properly functioning federation was central to Australia's future, and to the policies of a future Labor government" (Fenna and Anderson, 2012, 396). However, it is still believed that more steps need to be taken to address this problem. To strengthen the federalism constitutional reform in recognising the local government, cooperative federalism, and reallocation and adjustment of powers between two levels of government have become the need of the day.

In over 150 years of the functioning of Canadian federalism, three dominant patterns have been identified: colonial, classical and interdependence federalism. In the *colonial federalism* phase, the federal government dominated the provinces. Canada's federal map was redrawn, and new provinces were added to the federal structure. Moreover, prioritisation of shared rule over self-rule, unity over diversity, and autonomy can be observed. The federal government was given the power to regulate trade, impose taxes and disallow any provincial legislation if it was likely to contradict the federal law. Linguistic tension between English and French, the economic crisis caused by declining imports from colonies, the judicial function of the Privy Council, and the threat of attack from the south rendered centralizing tendency. Canada's first Prime Minister, John Macdonald (1867-73 and 1878-1891), used the power of reservation and disallowance, which strengthened the federal government. The federal government abandoned policies like disallowance, which strengthened the federal government, and provinces stepped into new areas like income tax, minimum wage, highway construction and schooling.

The *interdependence federalism* phase marked a greater degree of coherence and interdependence between federal and provincial governments. The interdependence of federalism has been managed through increased federal spending and intergovernmental relations. The federal government offered conditional grants to provinces to expand social programmes like hospital insurance, mothers allowance and financial aid to disadvantaged groups. Provinces like Quebec contested the conditional grant initiative for being interventionists. The legalisation of cannabis and international trade are two areas that witnessed interdependence. Although jurisdiction to decide on international trade falls under federal jurisdiction, federal and provincial negotiators sat side-by-side to negotiate trade deals with the European Union. Provinces were also consulted on the negotiation of the United States-Mexico-Canada Trade Agreement.

In more than seven decades of its journey, Indian federalism has also been marked by cooperation and competition between Union and States. Various factors such as the role of the Supreme Courts, functioning of political parties, regional and national leadership, emergence of new issues, and emergencies like wars and pandemics have significantly affected the functioning of federalism. Indian federalism has passed through many phases, which is presented in models like cooperative federalism, bargaining federalism, and competitive federalism. The initial phase of Indian federalism is called *cooperative federalism* by Granville Austin. In this phase, given the single-party dominance at the centre and states called Congress System by Rajni Kothari and charismatic leaders like Nehru and Shastri, centre and states worked cooperatively. However, with the end of one-party dominance there began a new phase in Indian federalism called *bargaining federalism* by Morris Jones. In this phase, although Congress maintained dominance at the centre, it lost power in many states. With different parties coming to power at the centre and states, states started bargaining with the central government for financial aid, grants and special status. The *competitive federalism* phase primarily started in the 1990s. In states like Uttar Pradesh, Bihar, West Bengal, Tamilnadu, Kerala, and Tripura, regional political parties and leaders emerged as key players. The regional leaders entered into bargaining with the central government on issues ranging from government formation to policy-related issues. This is undoubtedly because of the rise of coalition politics, as no single party could form a majority government at the centre.

Since the end of coalition politics and the rise of the Bharatiya Janata Party at the centre as the single largest party has led to the return of quasi federalism, though in a competitive federal setting. India has been described as -federal because although there is a federal constitutional structure and constitutional scheme, it is a centralised federal system. It is competitive because states are accusing the central government of not disbursing their share of funds and using federal agencies like the Central Bureau of Investigation and Enforcement Directorate against the leaders of ruling regional political parties. It is competitive also because, in the age of para diplomacy, states are competing among themselves to acquire foreign direct investment and offering facilities to multinational corporations to start a business. The recent COVID-19 pandemic has introduced discord in Indian federalism. As one observer of Indian federalism noted, in responding to the two waves of Covid-19 pandemic, the first in 2020 and the second in 2021, “India has moved from unilateral centralized decision-making in the first wave to something that approximates unilateral decentralized decision-making—by default—in the second wave” (Louise Tillin, 2021). Even though health is a state list item during the first wave, the central government has made rules (under the provisions of Disaster Management Act 2005) to tackle it through initiatives like imposing lockdown and procuring vaccines. The central leadership was missing as there was the decentralization of key areas of pandemic response, such as vaccine procurement and distribution. In both the stages of the pandemic, effective Centre-State coordination was missing.

14.8 LET US SUM UP

Federalism has proved a valuable mechanism for power-sharing and conflict management in diverse, plural and large societies. The origin, type and functioning of federalism have taken distinct forms and paths in different states depending on situations. All defining characteristics are not found in every federation studied in this unit. However, a written and rigid constitution, division of power, bicameral legislature, the existence of dispute settlement mechanism, and two tiers of government have been found in every state. Although these characteristics are found in every state, the degree of rigidity of the constitution, distribution of powers between national and provinces, the principles of the representation of states in the federal legislature, and functioning of the dispute settlement mechanism varies from state to state in discussed cases.

The functioning of federalism has changed over a period. Different factors like ruling parties and ideology have affected the functioning of federalism. As a consequence of changing role of ruling parties, decisions of the courts and ideology, the functioning of the national and provincial governments, federalism has taken distinct forms and patterns such as quasi federalism, cooperative federalism, bargaining federalism, and competitive federalism. The forces of centralisation and decentralisation have been competing for overall federal states. Canadian federalism has evolved from conflictual to interdependence phase via cooperation and constructive engagement phase. Indian federalism has evolved from cooperative federalism to competitive federalism via bargaining federalism.

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14.10 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress Exercise 1

1) Hint (i) Division of power, bicameral legislature, supremacy of the constitution dispute settlement mechanism, written constitution, and dual government.

Check Your Progress Exercise 2

1) (a) Briefly discuss the centralising tendencies, and (b) highlight the federal features of Australian federalism.

2) (a) explain the role of the privy council, and (b) discuss the role of the Supreme Court of Canada.

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