
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 exposes you to conceptual and analytical frameworks which capture and explain federalism. The unit also takes three federations (Canadian, Australian and the Indian) for an 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

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governments. 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' has been 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 Garan 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 Gujrat, 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 Center (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 citizenship: 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, I 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.

THE DIFFERENCE BETWEEN FEDERATION AND CONFEDERATION

Sometimes the terms Federation and Confederation are misused with the same meaning. Because of 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 center 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 center 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*, rest 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 was a 181 membered chamber. 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 membered legislature while Quebec has 125 membered 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 smallstates 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 call for constitutional reform in recognising the local government, cooperative federalism, and reallocation and adjustment of powers between two levels of government.

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 Center-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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