

## Journey of the Indian Constitutional State

### Why in News?

India celebrates the 75th anniversary of the coming into effect of the Constitution of India.

### What is the character of Indian constitutional federal structure?

- **Union of States** - The term 'federation' has nowhere been used in the Constitution and Article 1 of the Constitution describes India as a 'Union of States'.
- **Reason** - According to Dr. B.R. Ambedkar, the phrase 'Union of States' has been preferred to 'Federation of States' to indicate two things
  - The Indian federation is not the result of an agreement among the states like the American federation.
  - The states have no right to secede from the federation.

*KC Wheare described the Constitution of India as "quasi-federal". He remarked that "Indian Union is a unitary state with subsidiary federal features."*

- **Canadian model** - The Indian federal system is based on the 'Canadian model' and not on the 'American model'.
- The 'Canadian model' differs fundamentally from the 'American model' in so far as it establishes a very strong centre.
- **Co equals** - Dr. Ambedkar explained that the 'Centre and the States are co-equal' in matters of legislative and executive authority.
- The overriding powers for the Union are only placed "to be used in an emergency".
- **Regular conduct** - The regular conduct of democratic business in India is within a federal framework and not to be mistaken for a unitary one.
- **Basic structure** - Constitutional courts have confirmed that federalism to be a part of the basic structure of the Constitution, in *S.R. Bommai vs Union of India* (1994) and *Government of NCT of Delhi vs Union of India* (2024).

### What are the recent federal constitutional issues?

- **Interpretation of India's federal structure** - Many of the constitutional issues that have been keenly debated in recent times have been around India's federal structure.
- **States vs Governor** - Tussles between State governments and some of the State Governors have made their way to the Supreme Court of India.
- **Simultaneous elections** - Conducting lok sabha and state assembly elections simultaneously has been debated between administrative efficiency and federal significance.
- **Regional languages** - The neglect of 'regional languages' such as Tamil, Kannada,

Bengali, Marathi and so on is being argued from the vanguard of multilinguistic equality and State autonomy.

- **Fiscal federalism** - It has been a major sticking point for States that are suffering under the dual regime of the Finance Commission and the Goods and Services Tax Act.
- **Delimitation exercise** - This will determine the democratic future of India and set to result in a showdown between the Union and States that have controlled their population.

### What are the challenges to social democracy?

- **Threat of police state** - Preventive detention, arbitrary arrests, denial of fair trial through the impunity that is guaranteed statutorily in anti-terror laws such preventive detention and unlawful activities.

*Preventive detention act was upheld in the A.K.Gopalan Case 1950.*

- **Inequality** - Achieving a degree of equality among various cohorts in democratic manner.
- Dr. Ambedkar explained that the country must strive to remove social and economic inequality before they become a threat to democracy itself.
- **Caste system** - Terming the idea of an Indian nation as a delusion, Dr. Ambedkar asked how people divided into several thousands of castes can be a nation.
- **Threat to personal liberty** - Reductionist, mechanical readings of the constitutional value of personal liberty and human dignity.

### What lies ahead?

- Clear-headed guidance on the future of our constitutional philosophy.
- Strengthen the constitutional guardians in the form of judges, bureaucrats, politicians, activists, journalists and citizens.
- Exercise of 'creative constitutionalism' by constitutional courts in the cause of the right to personal liberty as justice.

*Supreme Court of India reinstated Justice S. Fazl Ali's dissenting opinion in A.K. Gopalan vs State of Madras, unanimously in Puttaswamy vs Union of India (2017), a case about the fundamental right to privacy.*

### References

1. [The Hindu | Foundational values, the journey of the Indian state](#)
2. [The Hindu | Constitutional Justice and Personal Liberty](#)



**SHANKAR**  
**IAS PARLIAMENT**  
*Information is Empowering*