

## An Analysis of the Major Theories of Federalism

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**Abstract** *This article discusses federalism and deferent theories related to it. Federalism as a theory, as a concept and as an organizational structure refers to the distribution of powers between the two levels of the government. It stands for unity, cooperation, and interdependence between the central government and the component units. Being dynamic in nature, it adopts changes according to the prevailing conditions of the country. An attempt has been made to elucidate federalism from two broad perspectives of the classical approach and Modern approach. The classical approach restricts federalism to cooperation and independence with 'quasi federalism', coupled with the element of encroachment from the federal government. This approach is merely based upon the doctrine of legal formalism or formalism fallacy. The modern approach focuses on two cardinal principles of cooperation and interdependence. The modern theory is a broad term and encompasses many forms of federalism within its ambit.*

### Key Words:

Classical,  
Modern,  
Theory,  
Models,  
Federalism

## Introduction

Federalism is a very broader term in Political Science, signifying both a theoretical and practical framework. It has been used in both conceptual and pragmatic terminologies. Different theories shape the politics of the world in many forms, some of which need to be mentioned here. Constitutional experts and scholars of Political Science discuss different theories of federalism from different angles. They help us to understand how federations emerge and how do they function (Sarita, 2009, pp.4-5). Federalism is an institutional contrivance that aims at

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accommodating the component units to participate in the process of making decisions of the federal government by means of constitutional provisions (ALIFF, 2015,p.71). K.C. Wheare defines it as, “by the federal principle I mean the method of dividing powers so that general and regional governments are each, within a sphere, co-ordinate and independent” (Anthony, 2019, p.10). Scholars have made their efforts on account of which theories of federalism can broadly be categorized into two main areas, The Classical or Conventional Theory of Federalism and the Modern or Empirical Theory of Federalism (Shodhganga, 2015).

### **The Classical or Traditional Theory of Federalism**

The Classical Theory means a particular type of government, functioning with slight variations in America, Canada, Australia, and Switzerland. This type of federalism is very adjustable and is suited to meet special local conditions for states like India, Pakistan, Nigeria, West Indies, Malaya, and Central Africa. This theory pronounces the following postulates and features for a federal system.

- i) The central composition is the result of getting together of break up states combined into just one independent state, whereby both the powers of legislation and execution are distributed between the federal government and the federating units, each of which acts directly on the people.
- ii) A written and inflexible constitution which cannot be altered by a simple majority and must require the 2/3 rd majority for any constitutional amendment.
- iii) An independent judiciary (Pal, 1984, p.17).

The main concern of classical theory is not to explain the effect ‘what federalism is’ but rather its main concern is to explain as to what federal constitution ‘ought to be’. In this parlance, this theory is normative in nature which signifies “what ought to be”. In other words, it means how the world ‘should be’ and focuses on the exploration of values and norms and explain what need to be done on the basis of those values and norms. This approach focuses more on the normative aspect of future predictions of the federal nature of the government. In this sense, this approach is more scientific which mainly relies upon the elements of predictions on the basis of some key observations and hypotheses. Some of the chief protagonists of this theory are; A.V. Dicey, John W. Burgess, James Bryce, K.C Wheare, M. J.C. Vile, Garran, Jether Brown and Harrison Moore, etc.

A.V. Dicey developed his classical theory in 1885 which he mainly based on the American experience since it had all the features mentioned above. According to him, “*federalism means the distribution of the force of the state among several coordinate bodies, each originating in and controlled by the constitution*” (Sharma, 1955, p.10). K.C Wheare gave a very comprehensive analysis which enabled him to give a comparative study of the various constitutions of the entire globe based on federalism and the governments of the United States, Canada,

Australia, and Switzerland, which is still functional (Burgess, 2006, pp.16-17). To make assessment about finding out its working nature of federation or otherwise, he emphasizes on the federal principle, “*I mean the method of dividing of powers so that the general and regional governments are each within a sphere, co-ordinate and independent*” (Wheare, 1967, p.10). So, according to Wheare, coordination, and independence are the two cardinal principles for a true federation. The first principle believes in the cooperation between the various units and between the federal and federating units. The latter believe in the autonomy of the federating units in the exercise of their powers and authority and hence no interference from the federal government. It is based on this federal principle that he differentiates between the federal system, federal constitution, and federal government (Shodhganga, 2015).

The federal system is the entire framework, while the federal government is the practical manifestation of that system for which guarantee is provided by the constitution. He regards the constitution to be ‘quasi-federal’ if it is federal but lacks this conditionality, for example, the constitutions of Canada, India, and Australia can be termed as quasi-federal since they are based upon this principle. He further elaborates that these federating units or states do not function in a coordinated and independent way that is why they are called ‘quasi-federal states’ or ‘quasi-federal governments. Similarly, the constitutions and governments lacking this principle in their function are called ‘quasi-federal constitutions’ or ‘quasi-federal governments’. This view is also called dual federalism or layer-cake federalism. It is a type of federalism based on the distribution of power between the center and the federating unit in a very explicit way. The constitution acts as a guarantor to safeguard the interest of the respective governments (Tariq, 2018). Although most territories in democratic federations have some form of representative government for local affairs, the citizens residing in territories may have fewer political rights than their co-citizens residing in the constituent units (Bulmer, 2015, p.22).

The classical theory has left its mark on many constitutions of the world and scholars of Political Science. It has gained great momentum in furnishing the way for many constitutions of the federal governments. The Indian Constitution also follows this principle. Garran defines federalism in these words (Garran, 2015), “*federalism is a form of government in which sovereignty or political power is divided between the central and local governments, in such a way that each of them is independent within its sphere*” (Pal, 1984, p.17). Birch also gives his definition which is traditional in its outlook, “*There must be a division of powers between one general regional governments, each of which, in its, sphere, is coordinate with the others; each government must act directly on the people, each must be limited to its sphere of action and each must within that sphere be independent of the others*” (Verma, 1986, p.40). Birch’s definition focuses on the formation of regional governments, coordination between the center and the

component units, limitations of powers of the various units and independence from other units, and the federation in the jurisdiction of powers and authority (Birch, 1966, pp.15-33).

By the development of the idea of federalism in the Classical and Traditional parlance, the works of A.V. Dicey and K.C. Wheare were of utmost importance in providing legal coverage. They are rather the pioneers in giving a juristic foundation to federalism. Their explanation of federalism in a juristic way has helped distinguish between federation and confederation, between a federal state and a unitary one, between the jurisdiction of the federation and federating units. This did not help in explaining the relationship between the two sets of the federation (federal and constituent units) in a coordinated way, signifying that the constituent units are not treated in a subordinate way nor are they dependent upon the federal government (Palekar, 1978, p.576). However, the challenges of the 20<sup>th</sup> Century such as economic depression, economic planning, and dependence, challenges of wars, military alliance, and pandemic diseases have made this theory obsolete. This theory has been mainly criticized on the ground of legal formalism since this explains federalism based on law but fails to adhere to the legal division of the two levels of government as each encroach upon the powers and authority of the other. So, the greatest flaw in this theory is that this theory is too legalistic but does not take into account the distribution of powers and authority between the two levels of governments as the central and state unit can easily interfere in the affairs of the other sphere. This theory also fails to notice the interdependence of the various states/units that are parts of the federation. Thus, this theory suffers from the type of “formalistic fallacy” and never goes beyond the legal formalism and practices of federalism (Verma, 1986,p.40). The formalistic fallacy is fraught with the element of subjectivity while true federalism should have the element of objectivity.

## **Modern Theories of Federalism**

Classical or Traditional Theory of federalism was criticized for lacking the interdependence between the two sets of governments and consequently modern theories of federalism got their birth. The classical theory tells more about the legal and juristic aspects of federalism but fails to explain the relationship between the center and component units in a coordinated way. These theories do recognize more interdependence between the two components of government in a federal system. The modern era is an age of cooperation and a joint venture in all walks of life. These theorists believe in cooperative federalism between the center and the federating units in a very positive way. The essential features of “cooperative federalism” are cooperation and interdependence upon one another, hence distinguishing it from the Classical federalism that was mainly based upon coordination and independence. Cooperative federalism is also called marble-cake

federalism whereby both the center and the units through cooperation and collective efforts strive to solve problems rather than make policies disjointedly. Christopher Hughes defines modern federalism as a categorization of the unitary governments of the fully constitutional type (Wheare, 1963). Prof Reagon has summed up the difference between the old fashioned and new-fashioned federalism in the following lines (Hughes, 1990).

*“Old style federalism described a non-relationship between the national and state governments. New style federalism refers to a multifaceted relationship of shared action. The meaning of federalism today lies in a process of joint action, not in a matter of legal status. It lies not in what governments are but in what but they do. It is a matter of action rather than structure. It is dynamic and changing, not static and constant”* (Pal, 1984).

Classical federalism does not describe the relationship between the federal government and state governments in clear terms. Modern federalism is very clear in describing the actions of the state. It refers to joint action in almost all spheres of life. It does not stress upon what the government is but refers to what the governments do. Here, governments are recognized from the facts of doing actions irrespective of what they are and what their structure is. Federalism is dynamic and changing, adjusting itself according to the needs and requirements of modern times and the particular atmosphere of the area. Modern federalism can better be called as “cooperative federalism” as in today’s world no branch of any government can claim independence. There is complete dependence of the central government on the federating units and vice versa. So, modern federalism is characterized by cooperativeness and interdependence, which distinguishes it from classical federalism which was more characterized by legal formalism. It does not believe in what the government is but rather believes in what the governments do under the umbrella of joint action. It is synonymous with the adjustability of the government with the changing circumstances of modern time (Satyanarayana, 2011).

Modern theories of federalism can be classified as:

- a) Origin Theory
- b) Functional Process Theory

## **Origin Theory of Federalism**

This theory relates to those conditions and circumstances which are concerned with the establishment of a federal system. In this way, it defines federalism in terms of circumstances, conditions, and requisites. This theory is further categorized into three sub-categories:

- i) Sociological theory of Federalism
- ii) Multi-factor theory of Federalism
- iii) The political theory of Federalism

## **Sociological Theory of Federalism**

It is a very significant theory that takes into account the sociological aspect of the nature of society. Peculiar nature of the society is very relevant in this paradigm as a political system is the direct outcome of the nature of the society. Hence a society that is federal by nature results in the creation of a federal system or a federation. In such a society, the elements of a diversification play a key role in bringing the people together. Livingston is the driving force of this theory (Verma, 1986), who extricated federalism from the clutches of the legal orthodoxy of K.C. Wheare and A.V. Dicey. According to Livingston, the diversity may be due to the gap in the economy, interest in the field of economy, religious affiliation, racism, and affiliation to a particular nation, social distances, chronological milieu and previous nature of existence of the state such as colonial position (Livingston, 1952, reprinted in 1967).

Another important point of this theory is the federal political system in which the division of powers between governments is made based on territory. According to Livingston, federal society is one in which diversity is made based on territory. Diversity does not mean breakage of the society into independent segments and groups nor should this be used to convert the society into a unitary form of government. Livingston opines that the federal form of government is the direct result of society being federal. He defines the federal form as a political contrivance in which the various diverse groups, ethnic groups, and groups claiming different languages, religions, races, and cultures unite into a single whole to make a federation (Sharada, 1984, p.2).

Livingston describes federalism differently. He opines that that the federal nature of the society caters for the creation of federation. This federal nature is the direct outcome of diversity, which compels the states to enter into a federation. Diversity is a very positive term that does not change the existing status of the form of government whether unitary, federal, or otherwise. Another noteworthy point in this theory is the federal political system in which the distribution of powers is made on the basis of territory. So, diversity and territory are the two important ingredients of federalism according to Livingston. They neither alter the existing ethnicity nor change the territorial position of a country but make room for the smooth functioning of the federal society.

Here, a distinction must be made between 'structural federalism' and 'social federalism'. According to Wildavsky, structural federalism is one that is used for the retention of the unity of a particular people (Wildavsky, 1976). For example, the Commonwealth of Australia is an example of this type of federalism. This makes room for unity or unification of people belonging to different areas and territories but they stand together as a single entity. Social federalism is one where the territory, religion, diversities, and distinct geographical areas correspond to the

boundaries of the states, as in the case of the United States when a federation was made in 1787 from the thirteen states (Sharada, 1984).

The sociological theory of federalism has also been subject to criticism. Firstly, this theory describes diversity only but does not describe to explain the factors, which can help in creating harmony among the various ethnic groups for the establishment of the wide-ranging government within the federation. Secondly, it is noteworthy to point out that a society based on ethnic diversification may not result in the creation of a federal political system. The Welsh, the Scots, the Ulster Irish are some of the examples of ethnic diversification connected by the specific geographically demarcated area but still, they co-existence under the umbrella of Unitary form of government of the U.K. The same is also true of France, Ghana, South Africa Ceylon and Indonesia. Thirdly, social attitudes and diversities do not always lead to federalism; and may result in the creation of any type of government-specific to a particular region having its respective constitution or system of politics from a confederation to a system based on the centralization of power with a good bargain of *de facto* insurrection (Sharada, 1984).

### **Multiple-Factor Theory of Federalism**

The chief protagonists of this theory are K.C Wheare and Karl Deutsch. This theory dilates upon certain contingencies for the coming into existence of the federation. Two significant things are regarded as essential for the creation of federalism, the first thing is the yearning for unification and the second thing is having the wish to be independent within a government in a particular region (Wheare, 1950). The desire for union is fraught with earlier subsistence as a separate and distinct state or colony, diversity, geographical factor, and ethnicity. Regional independence remains concerned with the security paradigm and for that purpose focuses on the military alliances to be free of external threats and intrusion.

Karl Deutsch is the founding father of this type of federalism that he introduced in 1957 in his “Political Community and the North Atlantic Area” focusing on the conditions for federal integration” and was termed as an “amalgamated security community” (Burgess, 2006). The concept of ‘security community’ was defined by Karl Deutsch as, “union or a group of states that had become integrated in order to settle disputes not physically but in some other way, i.e absence of violence. He also opined that the states living in the security community have created a stable peace. Moreover, he formulated two varieties of security communities: amalgamated and pluralistic. In the former case, states formally unify for peaceful coexistence while in the latter, states remain independent in their spheres (Revisiting Securities Communities after the Cold War, 10-02-2016). The main criticism of this theory is that it fails in explaining the establishment of the federal state by the process of decentralization or

centralization. It also fails to describe the relations of federal states in a regulating way (Sharada, 1984).

### **Political Theory of Federalism**

This theory focuses on the fact the panacea of all issues related to a political system can better be resolved by federalism. The solution is political because it circles a political power. Thus, political motives play a key role in the origin of the federal systems. This theory was put forward by William H. Riker who advocated the scientific study of political phenomenon what is known as “Positive Political Theory” (Verma, 1986). According to Riker, *“federalism is one way to solve the problem of enlarging government and once one government enlarges itself, then its competitors and neighbor feel themselves compelled to do likewise in order, supposedly, to jump in before the expected aggression”* (Dosenrode, 2010, p.10) (Mckay, 2004, pp.166-186). Thus, the traditional method of imperialism, expanding the area through force and coercive measures has become outdated and old fashioned, being against human civilization. Federalism is the only viable remedy for expanding territory and area through cooperation, coordination, and independence within its respective sphere without subjugating one or the other, and where the authority of the constituent units is preserved.

Two basic conditions compel politicians to engage in bargaining for a federation. Firstly politicians, to meet a military threat or prepare for military aggression, enter into negotiations to expand their territory through peaceful means and existence. This purpose can best be served by federalism without the use of coercive measures or use of force for expansionism. Secondly, the politicians who opt for the bargain, sacrifice some part of their independence for the sake of the union, want to do so, to avert some external threat or avail an opportunity (Dosenrode, 2010). This theory also faced criticism as it focuses on the establishment of a central government for contracting a political bargain between the political leaders operating at both ends but fails to ensure the bargain.

### **Functional Theory of Federalism**

The origin theory discusses those guidelines that lead towards a federal society or a federation but says nothing about the survival of federalism in the wake of new challenges that have arisen in the current arena. For addressing this fissure, functional theory was incorporated by the political scientists for finding out a viable remedy. The traditional theory brought about dual federalism which centered on the two forms of coordination and independence for its survival. The upholders of this theory indoctrinate the spheres of duties for both the federal and regional governments. This further goes to the explanation that each can be independent within its sphere of duty. The dual federalism through having



demarcated the power of jurisdiction between the center and the component units does not provide a guarantee for the independence of one level from the other.

The empirical study of the six federal constitutions of India, Pakistan, Malaysia, Rhodesia, and Nyasaland, Nigeria, and West Indies by Watts, shows the inevitability of cooperative federalism in the political culture of their respective countries. This development took place on account of the expansion of the countrywide marketable enterprises, the growth of an interdependent economy, the ever-enlarging concept of positive functions and the growth of national sentiment, etc. has resulted in the impartial monetary reliance of the local government on the central government, and the managerial reliance of the latter upon the former. This shows coherence and cooperation between the various units and hence between the center and the component units.

Each of the above-mentioned theories has some elements of validity and usefulness, while at the same time; they suffer from some gaps and inadequacies. The above theories supplement one another one way or the other way. The origin theory gives primacy to the central government and terms it as a central supervisory body in the development of federalism while looking at it through the prism of legal perspective. The second one explains the services, playing an important part in the formation of a federal system. The third one gives primacy to the investigative aspect and considers federalism based on vibrant and changing procedure collaboration and distribution between two levels of government. Thus, the above theories help in formulating a new theory of federalism, which reads as, “federalism is a political system which creates in a society broadly two levels of government with assigned powers and functions originating from a variety of factors and political bargain and displaying a tendency to persist through active response to the changing environment by a process of adaptation through creative modes of institutions as well as functional relationship (Sharada, 1984)

## **Process Theory of Federalism**

This theory views federalism as a dynamic process and not a static one. Federalism is a process by which a unitary political community gets differentiated into an organized federation. Carl Friedrich, the great exponent of this theory, is of the view that federalism is a dynamic process, through which several separate political communities work out joint solutions to the problems which resultantly help them in getting integrated (Burgess, 2006). To Friedrich, federalism is the joint name of interdependence, cooperation, and dynamic process between the two levels of government. As a process, it moves from ‘dual federalism’ to ‘quasi-federalism’ or even ‘union’. The main criticism of this theory is that it does not foresee any goals attached to federalism.

The above discussion shows that attempts have been made to explore a commonly agreed-upon definition of federalism but all these show that no proper

conceptual framework has been given to federalism. They focus on the peripheral side of federalism but fail to work out the real force which operates a federal system. The origin theory only provides information about the forces and factors that cater to the formation of a federation. The classical theory explains federalism from the viewpoint of the legal perspective. Both functional and process theories study federalism from the analytical angle and consider federalism not as a rigid force but as a dynamic and flexible process of cooperation between the two levels of government.

## **Conclusion**

Thus, the classical theory is normative in nature and discusses the ‘ought to be’ factor in the federal constitutions. Another important contribution of this theory is that it is flexible and adjustable, that is why it is there in use in many countries of the world. Wheare gives a comparative analysis of the constitutions of the world particularly, American, Canada, Switzerland, and Australia. His analysis is so compact that it exists even today in most of the countries. To him, federalism is a framework that believes in the principles of coordination and independence. A distinction has also been drawn by him between the quasi-federal and true federal governments. He is of the view that the governments that are federal in principle but where the units do not function in a coordinate manner and are not independent in their powers are called quasi-federal states. Similarly, Birch is very clear in his definition of federalism by saying that there must be a division of powers between one general regional government, for coordination is must among the various units, and where every unit must be limited within its sphere of action without interference from the federal as well as the other units. The classical theory is fruitful in making a distinction between the federation and confederation, between the unitary and federal state and between the federal government and the federating units. This also makes a distinction between the federal and federating units by focusing on the autonomy of the units in clear terms that they are independent and are never subordinate to the federal government. This theory is criticized because it fails to explain the legal distribution of powers and is more concerned with legal formalism or legal fallacy in which each government encroaches upon the powers of the other.

Modern theories of federalism are more concerned with the interdependence of the federal government and federating units in a very cooperative and positive way. The essential features of modern federalism are cooperation and interdependence that distinguishes it from the classical federalism. Modern federalism stands for action and is not concerned with the structure of the government. It stands for joint action by the federation. Modern theory can be categorized into three sub-headings, origin theory, functional theory, and systematic theories. The origin theory discusses federalism from the prism of three

angles of circumstances, conditions, and requisites. The sociological theory discusses federalism from the federal nature of the states and federal political system. The federal nature is itself the outcome of diversity, which carries a very significant meaning without changing the existing nature of the form of government. The multiple-factor theory discusses federalism from the prism of two angles of desire for union and desire to be regionally independent. Karl Deutsch gives a very pragmatic picture for federalism by saying that federalism is the name for integration the purpose of which is the resolution of disputes through negotiations and peaceful means. He pinpoints the concept of security community under the domain of amalgamated community and pluralistic community. In the former the states live in peaceful coexistence while in the latter states remain independent in their own spheres. The political theory of federalism sees federalism as a solution to the political problems. This theory rejects the traditional method of imperialism of enlarging states and supports the expansion of states through cooperation, coordination, and independence coupled with interdependence.

Many scholars have made their contribution in reaching out to a specific definition

of federalism but each definition has its limitations and delimitations. No specific definition has so far, been ascribed to federalism. Every scholar and scientist have given his definition depending upon his subjectivity and the prevailing atmosphere of the era and country. Anyhow, federalism has universal uniqueness that is true and applicable everywhere. Federalism, thus, is the joint name for interdependence, cooperation and dynamic process between the two levels of governments. To the classical federalists, it stood for coordination and independence while to the modern federalists; it is the joint name for cooperation, interdependence, and joint action.

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