CHAPTER-I

INTRODUCTION

The history is the development and growth of political organization in accordance with the particular needs and environments of each age. Man has always been haunting to apply his reason to solve newer problems that have come in his way during the last decades. Human history summarizes that there has been a slow incessant integration of political groups and communities into larger and larger combinations; the Nation-state, which was once considered to be the highest form of political society, has yielded place to international co-operation and this lead to slow erosion of national sovereignty; Many new institutions and conceptions have been established to meet the needs of the age, and as social and economic conditions have been different from region to region, the political pattern has undergone changes simultaneously. Man has reacted to all these changes and adjusted himself to the changing environment by the adoption of new devices.

This shows that different political groups have led to adopt different political systems to suit their particular needs and achieve their set goals. But among the contemporary forms of polity admitted, the federal type is one of the most important and popular. The federal form of government has been adopted in different continents and it is growing out of a sense of mutual political co-operation and the necessity of integration. Sidgwick correctly ventured, when he wrote about the tendency towards greater political integration between smaller political units in modern times: “When we turn our gaze from
the past to the future, an extension of federalism seems to me the most probable of the political prophecies relative to the form of government".¹

History of federal movement in the world shows that a successful federation is made, voluntarily, when the necessary amount of consciousness of common good comes to exist among the states that federate. Federation is the result of evolutionary process, but not of revolution. It connotes a high degree of political experience for its successful establishment and working.

A federal system is a very complex, though a very popular political system among the comity of nations of the world today. There are more than twenty countries that take pride in claiming to possess and practice the federal system. They include some of the biggest countries in the world-U.S.A., Canada, Australia and India, and the smallest countries like Switzerland, Austria and Yugoslavia. William H.Ricker says: "Well over half landmass of the world was ruled... by governments that described themselves as federations..."²

Keeping these aspects an attempt has been made to analyze the comparative study between India and Switzerland the two federations. Because a comparative approach is particularly advantageous by way of arriving at a better understanding of political system, one which is called quasi-federal and the other, called classical federation. Further, a comparative study of political, legal and constitutional systems not only promotes better understanding but also helps in proper evaluation of one's own institution. Thus through a comparative study many constitutional problems can be solved, particularly where a
constitution is framed with material borrowed from other constitutional instruments. It is obvious that the need for a comparative study assumes a special importance, because the provisions of such constitution cannot be interpreted without applying the foreign precedents. Therefore, it is proposed to make a comparative study of relevant constitutional provisions.

From this comparative study, area of tensions/conflicts in centre-state relations discerns that federal disputes are always political disputes and therein lies the problematic nature of tensions/conflicts in the whole of centre-state relations. Therefore, new challenges to federalism are the basis for comparative study. New challenges are the base point of an in-depth inquisitive of modern federalism, which is seen as a need to stress the dynamics of flexibility and adaptability, because, today, the distinction between centralized and decentralized can only be a starting point of comparisons stereotyped. This attitude helps to understand comparatively the "federal spirit", "federal behaviour" of the systems to developing the annals of co-operative inter-governmental centre-state relations realistically aiming at rendering services to mankind in general and weaker segments of society in particular.

There may have been ups and downs, failures and success on economic front, parliamentary election front, and political front. It is also an attempt of evaluation of India's constitution essentially to the impetus of success and failures during the past 57 years, because it has been confronting ups and downs since its inception, first from those who have striven to inject their own political ideology short of will of the people, and second, from those Villain Scammers who have
been responsible to taint the so well knit system. Be that as it may, in a rapidly changing scenario the question of failure or success depends upon the relations between the centre and states; it depends on the re-examination of their attitude, behaviour and spirit, which the founding fathers of the Indian constitution and the basic law of Switzerland conceived, whether the centre and the states have succeeded to address the problems of the people to whom they represent in the right perspective. The success depends how far the pluralistic societies are nourished to live in harmony and with the spirit of toleration rather than fundamentalism; the success depends how far the centre and the states interact to withstand the new challenges to its survival. Federalism, its success is conceivable if it has regarded the avowed constitutional mandate as an instrument to overcome conflicts and promote consensus formation in the nation building process.

A revisit to the two federal constitutions is the rediscovery of two federal nations of the globe. The comparative analysis of conceptualization shows that the concept of federalism is embedded in the history, in the spatial culture, in the democracy, in the language, nationality and nationhood of both the countries. The comparative study indeed focuses on the similarities and dissimilarities in the experiences of the working of the constitutions of both countries.

**STATEMENT OF THE PROBLEM**

The concept of federalism is dynamic and is an independent organization with its own articulation and manifestation of centrifugal and centripetal forces. The working of a federation is largely
determined by the nature of the society, for which these institutions have been devised consequently the real nature of the federal institution varies as we move from one federal society to another.

Here, the problem under investigation that "the federal system in India and Switzerland: A Comparative perspective" is taken with an intense inquisitiveness to study comparatively the Indian federalism where more powers are vested with the centre and Switzerland which has given more powers to cantons. The aim of this study is to explain one of the most conceived essential feature of constitutions of India and Switzerland namely federalism, illuminated by the competing traditions devised by the founding fathers, developed by the growth of constitutional politics, compared with the developments aftermath the World War-II as well as decolonization giving rise to a new constitutional culture, viz., constitutional democracy impregnated with federalism, enriched by the judicial decisions, and analyzing the new ideas as well as paradigms as conceivable new challenges to federalism in quest of future directions. Comparative dimensions of incongruous constitutions analysis is inevitable: "for only by making comparisons can we distinguish ourselves from others and discover who we are in order to become all that we are meant to be".

Very few studies have been made in this area, so in order to fill this gap an attempt has been made in this thesis to analyze comparatively the working of India and Swiss federalism.

**REVIEW OF LITERATURE**

We shall briefly examine the works done in the field in order to make clear how the present study relates to previous works or in what
manner it contributes to that literature. The following few works on the subject have been referred.

K.C. Wheare's Classic "Federal Government" is a comprehensive treatise and a basic book for a beginner to understand the meaning of federal government, how it is organized? Then how federal government works? So it is valuable contribution to our study.

D.D. Basu's "Comparative Constitutional Law" is a unique book with a classical treatise on the constitutional law of different countries, such as the U.K., U.S.A., India Switzerland etc., which discusses the principles of constitutional law on a comparative and global level.

Ursula K. Hicks' "Federalism: Failure and Success: a Comparative study" is a book which deals with essence of federalism and attempted to study the working and failure of federations comparatively.

"Rethinking Indian Federalism", edited by Rasheeduddin Khan broadly reflects the macro rubrics of Indian federalism quest for a new federal identity and recasting centre-state relations in order to build a co-operative federal polity, is a best supportive document for current work.

"Indian Government & Politics" edited by B.L. Fadia critically examines the dynamics of federalism and centre-state relations with special reference to the recommendations of the Sarkaria Commission report this book mainly discusses nature of the party system, regional political parties, coalitions in India and also gives statistical data of these coalitions. Hence it is very useful work of Dr. Fadia to our study.
"Federalism in Theory and Practice" by B.M. Sharma is a comprehensive book on federalism, which examines the scope and method of federalism. It also explains the growth of federalism. It gives overview picture of ancient and medieval federations. This book is a best supportive document for understanding federalism.

"Struggles of Indian Federalism", By Bonita Aleaz examines the centre-state relations in India with special reference to sarkaria commission report, changing concept of federal relations, issues of greater state autonomy and concentrated on Article 356.

"Coalition Government and Politics in India" edited by Subhash C. Kashyap highlights most recent political development following the electoral verdict, emergence of a "hung parliament" and formation of minority governments, separate articles are devoted to models of coalition politics at the state level as also to the experience of other countries is very useful to this study.

"Indian Government and Politics" by S.S. Awasthy, this book is very important to know about the meaning of federalism, key concept of federalism, features of federalism, pre-requisites of federalism, nature of Indian federalism, issues of state autonomy and strong feature of Indian federalism is more relevant to our study.

"Studies in Federalism" by Bowie & Friedrich is a documentation work which provides detailed comparative material for the deliberations on the European constitutions & also gives us first hand information regarding working of various constitutions viz., Australia, Canada, Germany, Switzerland and United States.
George Arthur Codding's "The Federal Government of Switzerland" is a work, which investigates the federal political institutions to which the Swiss owe much to create and maintain the conditions of the life. It describes the political institutions as they are set forth in the fundamental documents since one must always be aware of the machinery and the rules which lay down the general limits of action.

Christopher Hughes's "The Federal Constitution of Switzerland" is a book, which deals with the constitution of the Swiss federation and explains the parliamentary procedure.

Bhuninya Niranjan, "Direct Democracy in Switzerland" is a work which outlines the history of Switzerland and about its working with the tools of federalism, democracy, liberalism. It also sketches briefly regarding the working of federal assembly, federal council and federal tribunal. It also outlines the party position.

Jean Francois Aubert " The Swiss Federal Assembly 1848-1998" is a work, which give detail information regarding the birth of Swiss federal state and of the federal assembly and about the electoral system i.e., how they are elected under the majority voting system. It gives detailed information regarding the proportional representation in Swiss federal assembly. It also throws light on the political parties and their representation.

The article "Covenantal basis for the Development of Swiss Political Federalism: 1291-1848" of J. Wayne Baker argues that the modern political philosophy of federalism is directly linked to the Swiss reformed idea of religious covenant had roots both in the old
testament and in the early federal ideal and reality that had come out of the Swiss Middle ages; it therefore had important social and political implications as well as theological meaning. During 16th and 17th centuries, this theological idea of federalism fed into and helped to create the modern political concept of federalism, the Swiss federal constitution of 1848 was instructed by the mature concept of political United States, and by the long tradition of Swiss federalism.

The article of Gerhard Lehmburc on "Consociational Democracy and Corporatism in Switzerland" traces the development of this practice from its earliest origins to its current manifestation, focusing especially on the role that religion and linguistic differences have played. The influence of the emerging "Political market" is also examined, as is the disappearance of traditional political cleavages. The article concludes with the author's speculation on the future relationship between Swiss "Consociational Democracy" and the European community.

The article "The Role of Semi-Direct Democracy in shaping Swiss Federalism: The behaviour of Cantons Regarding revision of the constitution 1866-1981" of Andre Eschet-Schwarz throws a light on the working of Swiss federalism as a semi direct democracy involving reiterated constitutional choice by the people and the territorial units. He says that the Swiss federal process is unique in comparison to other federal systems and explains the behaviour of the cantons by their socio political features. He also says that the Swiss federal process is found to strengthen nation building by means of the continual adaptation, along with some innovation, of the original
constitutional design on the part of the people as a whole and the cantons.

Another article “Swiss Political Parties: Between Persistence and Change”\textsuperscript{20} of Andreas Ladner gives clear picture about the parties, which are continuously represented in government, and there is no change of power between the parties in government and the parties in opposition. He also explains that in last few years the Swiss party system seems to have become less stable and explains that the 1995 and 1999 national elections brought remarkable shifts in voting. He says that the federal structure of the political system has not only hampered the creation of powerful centralized national parties and led to, much stronger cantonal parties. He thus considers that the Swiss party system is one among the 26 different party system with distinctive party system with different power configurations.

Another interesting article of Jan-Erik Lane’s “Switzerland-key Institutions and Behavioural Outcomes”\textsuperscript{21} explains Switzerland as a labyrinth of political institutions and is an interesting laboratory for institutional research. Author says that Swiss political system is composed of many institutions such as referendum, Swiss federalism and the grand coalition. Equally interesting are Swiss corporatism, the central bank and the federal Supreme Court as well as the electoral system, which has both proportional and majoritarian techniques. The author analyses how these institutions interact, each conditioning the operation of the others. He analyzes Swiss politics in terms of the new institutional paradigm in the social sciences.
Another interesting article of Peter Schweizer i.e., "Federalism in Switzerland" explains that among 160 or so countries of the globe today none have adopted a system like the Swiss type of federalism. This article reads how the federalism was embedded in the constitution and how the birth of modern Switzerland took place during 1847-1848. The author explains how the process went through pains of a civil war.

Another article “The Success story of Switzerland how could Switzerland’s specific Political Institutions Contribute to the Country’s Political Stability and Economic Wealth” of Who-hwa Park, Heungehong Kim and Linda Maduz analyse the important characteristic of Switzerland’s political system. First, continuous political stability derives from the consensus-based system, through its institutions. The Swiss political system balances different interests and focuses on finding consensus. Second, characteristic of Switzerland’s political system is its political integration power. Thirdly, in the Swiss political system, the people have the final say, fourth, there has been large autonomy of the cantons and restricted power of central government. Fifth, multiplicity of relatively weak political parties in a nevertheless stable system is important.

A book “The Swiss Constitution: Can it be Exported? By Nicholas Gillett gives introductory note of Swiss model of participatory democracy, common sense, the limitation of political power and the maximum service of the common interest. The author admits that Switzerland—its history, its people, its geographical location—is special and exceptional. The tradition of politicians keeping a low profile is only one Swiss practice which might encounter difficulty elsewhere.
The author admits that Swiss system is a fascinating example of a working human experiment, from which anyone interested in political or social system or the psychology of politics can only gain enlightenment and new ideas.

The other article the "Historical Growth of Swiss Political System" of Baker outlines the historical evolution of the Swiss political system in modern times and describes the main features of its contemporary federalism. In particular, it focuses on how the division of competences and the distribution of power have changed over time, what factors have driven these changes and describes the current situation, which derives from them. It emphasizes the role of historical experiences and of political culture in shaping Swiss federalism and the difficulties, if not the impossibility, of replicating them in the European context.

OBJECTIVES OF THE STUDY

The present study deals with the following objectives:

1. To examine the genesis of Indian and Swiss federal system.

2. To examine the constitutional features of Indian and Swiss federal system.

3. To make a comparative study of the working of Indian and Swiss federal systems.

4. To analyze the role of political parties in the working of these two federal systems.

5. To highlight the recent trends of federalism in India and Switzerland.
HYPOTHESES

In order to explore the potential for research, the present study has set up the following tentative hypotheses:

1. In India, more powers are concentrated at the centre but in Switzerland more powers are given to cantons.

2. Party politics plays an important role in shaping and strengthening of federal structure in both the countries.

METHODOLOGY

In order to find out the truth involved in the problem certain steps have to be taken in a certain order, and the ordered steps are called a method. So unless right methodology is followed, truth cannot be arranged in correct order. Hence in order to discover the exact truth, the following methodology has been drawn in this study.

1. Documentary Method:

   Documentary sources wherein the expressed thought embodied is systematically analyzed and useful issues are taken into consideration. The documentary sources include the primary sources, secondary sources and the tertiary sources. Accordingly, the data collected from primary sources are various Commissions, Committees, Reports, and so on, and from Secondary sources, Viz., Books, articles, etc.

2. Historical Method:

   Past knowledge is considered to be pre-requisite for present knowledge. This method is used to trace the origin and growth of
certain institutions such as Federalism, Parliamentary democracy etc. Without the knowledge of the past institutions, it is difficult to understand their true nature at present. It explains generalizations from the past trends in order to understand the present and to anticipate the future. It enables us to grasp our relationship with the past and to plan more intelligently for the future. This method helps us in visualizing the society as a dynamic organism and its structures and functions as evolving steadily growing and undergoing change and transformation.

3. Descriptive Method:

This method is used for collection of data, since mere collection of data does not constitute research, unless the data are properly interpreted to find the causal connections and relations. Thus, this method is employed for the interpretation of the data. This method aims at identifying the various characteristics of a community or institution or problem under study, it can reveal potential relationship between variables, thus setting the stage for more elaborate investigation. This method highlights important methodological aspects of data collection and interpretation. Descriptive information obtained in a research may be useful for prediction about areas of social life outside the boundaries of the research.

4. Comparative Method:

In this method the outcome of the issues and its practical relevance to the existing political environment is weighed and subsequent issues are raised. With the help of this method it is possible for the researcher to come to some conclusion.
CONSPECTUS

This thesis has been divided into eight chapters.

The first chapter is an introductory one, which deals with statement of the problem, Review of relevant literature, objectives, hypothesis and research methodology.

The Second chapter examines the theoretical dimensions of federalism.

The third chapter deals with the genesis of federal system in India and Switzerland.

The fourth chapter deals with the nature of federal system in India and Switzerland within the Constitutional framework.

The fifth chapter analyses the comparative perspective of the working of the federal system in India and Switzerland.

The sixth chapter examines the party system and federal process in India and Switzerland.

The seventh chapter looks into the recent trends of India and Swiss federalism.

The last chapter is concluding chapter, which lists the findings of the study and traces some suggestions.
REFERENCES


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