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# A Critical Examination of the Federal Structure in the Globalized World

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VIKETHONUO PIENYU<sup>1</sup>

## ABSTRACT

*“Federalism is a form of government in which local, regional, and state governments work in tandem with the federal government. It entails power distribution and decision-making authority, with each assignee carrying out specified rights and all other authorities being distributed equally between the center and the state. The central government is the sole governing body with the power to produce money, assemble and command an army, and declare war. States, at the intermediate level of government, are the sole bodies with the power to control subjects like education, criminal and civil law, etc. One of the most interesting federal structures in the world may be the Indian style of federalism. Indian federalism is underlined in the “seventh schedule of the Indian Constitution,” which specifies the three lists—the concurrent list, the state list, and the union list—over which each has control. The state list covers the powers and functions that the state must carry out, while the union list deals with the powers and functions that the union must handle. The state list specifies the authorities and functions of the state, whereas the union list delegates decision-making authority to the central government. Center and state have equal decision-making authority on the concurrent list. Examining federations like the United States, Canada, and India, in comparison, requires an understanding of federalism as a concept. India and Canada were established out as quasi-federations, eventually becoming federations over time.*

**Keywords:** *Federalism, Government, Constitution, Authority, List, Globalization.*

## I. INTRODUCTION

The idea of federalism has gained increased relevance in today's globally linked and interconnected society. To address the challenges of administering over diverse and extensive territories, several nations have adopted federal systems of government, which are characterized by the division of powers between a central authority and component states or provinces. The federal institutions in the modern, globalized world are critically examined in this article, with an emphasis on India, the United States of America, Canada, and Australia's respective experiences. These nations provide valuable insight into the difficulties and

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<sup>1</sup> Author is a student at Symbiosis Law School, Hyderabad, India.

possibilities of federalism in the context of globalization, as each has its own distinctive federal structure.

“Federalism is a system of government that dates back to history, although it has developed significantly in response to shifting global dynamics. As globalization increased the movement of products, cash, information, and people across borders, federal systems have faced both possibilities and limitations.”

### **(A) Meaning of federalism**

The broad definition of federalism is the separation of powers among different levels of government. *“It is devised to secure both regional autonomy and national unity.”*<sup>2</sup> Federalism is a *“mode of political organization that unites separate states or other polities within an overarching political system in a way that allows each to maintain its own integrity.”*<sup>3</sup> The problem in treating a country as federal stems from the fact that there is no agreed-upon definition of the term federalism. *“Many authors and writers try to put the other countries into the concept of federalism based on the characteristics that US federalism has because it is the oldest Model of the United States.”*<sup>4</sup>

Apart from India, many other nations follow the federal system of government. Their administration may differ in many ways, but some essential traits or characteristics, such as a written constitution, tiers of government, division of power, and so on, have been adopted by all. There is no specific definition of federalism; it is often understood or characterized by some common qualities and concepts seen in each federal government.

### **(B) Concept of federalism**

Federalism is defined as "a division of jurisdiction and authority between at least two levels of government" in its most basic form. Typically, this division occurs between two or more legally recognized tiers of the government, that is, “levels of government having independent or semi-autonomous constitutional powers.” The name "federalism," according to the "gathering together" conception of federalism, has its origin in the Latin word “Oedus,” which means "league," "treaty," or "compact." Furthermore, each level of government often has its own separate jurisdiction, i.e., areas of governance in which it has sole power or final say.

The division of sovereignty is a crucial aspect of federalism. Both the federal and regional

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<sup>2</sup> “Patil, S.H., Central Grants and State Autonomy, Atlantic Publishers, New Delhi, 1995, P.13.”

<sup>3</sup>“<https://www.britannica.com/topic/federalism> WRITTEN BY The Editors of Encyclopaedia Britannica”

<sup>4</sup> “Durga Das Basu; Introduction to the Constitution of India 22nd edition Chapter 5 Nature of the Federal System pg. 55”

administrations have their own regions of influence and are free to exercise those freely. This division of sovereignty encourages a system of checks and balances and prevents any one entity from becoming overly dominant. Federalism also encourages regional independence. Regional governments have the power to decide on issues like education, healthcare, and law enforcement that directly affect their residents. With more localized requirements and conditions in mind, rules and regulations are made possible by this autonomy. Additionally, federalism is frequently considered as a way to maintain unity among different nations.

### **(C) Meaning of globalization**

“Globalization is the process of increasing global interconnection and interdependence among governments, economies, cultures, and communities.”

Globalization, at its foundation, refers to the greater accessibility and frequency with which products, services, capital, information, ideas, and people travel national borders. It cuts over geographical, political, and cultural borders, transforming how nations and individuals connect and participate in different facets of life. Jan Aart Scholte states that “*globalization stands out for quite a large public spread across the world as one of the defining terms of late twentieth-century social consciousness.*”<sup>5</sup> The term is often distinguished more by what it is not rather than what it is. James Rosenau recognizes such a tendency when he states that “*Globalization is not the same as globalism, which points to aspirations for an end state of affairs wherein values are shared by or pertinent to all the world’s five billion people, their environment, their roles as citizens, consumers or producers with an interest in collective action designed to solve common problems. Nor is it universalism—values that embrace all humanity, hypothetically or actually.*”<sup>6</sup>

### **(D) Research questions**

1. In a globalized world, “how does the federal structure affect the preservation of cultural and regional diversity within nations,” with a particular focus on India's federal system?

2. What are “the problems and possibilities that globalization presents for federal systems, particularly in terms of economic integration and adaptation,” and “how do these challenges materialize in the United States federal structure?”

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<sup>5</sup> Jan Aart Scholte, “Globalisation and Modernity,” Paper presented at the International Studies Association Convention, San Diego, 15–20 April 1995.

<sup>6</sup> “James Rosenau, “The Dynamics of Globalisation: Towards an Operational Formulation,” San Diego, Paper presented at the International Studies Association Convention, San Diego, 18 April 1996, 3–4.”

3. How does “the rising significance of international organizations and supranational organizations affect federal governments' decision-making processes,” and how are federal structures adjusting to these global imperatives, as shown in Australia's federal system?

**(E) Research objectives**

1. To analyze and to evaluate the importance of federalism in conserving cultural and regional variety in a globalized world, with a focus on the Indian federal system, and suggest optimal methods for preserving diversity while encouraging national unity.
2. To examine the problems and possibilities that globalization presents for federal systems, with an emphasis on economic integration and adaptation, and to offer ways for combining local autonomy with international responsibilities using insights from the federal structure of the United States.
3. To examine the impact of international organizations and supranational bodies on federal government decision-making processes, with a focus on Australia's federal system, and to assess how federal structures have evolved to meet global imperatives while preserving national sovereignty and interests.

**(F) Literature review**

The significance and efficacy of federal systems have come under examination in a period characterized by globalization when the globe is more interconnected and interdependent. This literature studies federalism critically in the context of globalization, taking concepts from books, journals, articles, and notable thinkers. It emphasizes the federal systems of India, the United States, Canada, and Australia.

Federalism is frequently lauded for its contribution to the preservation of cultural and geographical uniqueness. According to Kymlicka (2001), he wrote that “Federalism provides a robust framework for accommodating cultural pluralism within a single nation.”<sup>7</sup> This preservation of variety is especially important in a globalized society when cultures and identities are at risk of homogenization.

Federal systems enable subnational bodies to customize policies to their own requirements, increasing flexibility. Oates (1972) points out that “Federalism permits local experimentation and flexibility, which can be crucial in responding to the rapidly changing dynamics of the global economy.”<sup>8</sup>

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<sup>7</sup> (Kymlicka, 2000)

<sup>8</sup> McMillan, M. (1973). [Review of *Fiscal Federalism*, by W. E. Oates]. *Public Choice*, 14, 155–157.

Watts (1998) emphasizes the collaborative character of federal systems, pointing out, “Federalism encourages cooperation among constituent units, enabling them to pool resources and knowledge to tackle transnational issues effectively.”

Federalism frequently includes checks and balances amongst several levels of government. According to Elazar (1987), he states that “Federal structures ensure that no single authority dominates, which is critical for safeguarding democracy.”<sup>9</sup>

Federalism is dynamic, evolving in reaction to shifting global forces. According to Watts (2008), “Federal systems are becoming more interdependent, with states or provinces engaging in international activities and forging direct relationships with global actors.”<sup>10</sup> This development calls into question traditional views of federalism as a strictly domestic concern.

International organizations and supranational authorities are more powerful in determining federal governments' policies and activities. Kirchner (2005) emphasizes the influence of international trade agreements, environment agreements, and human rights treaties on federal government decision-making processes. This tendency emphasizes the need for federal systems to properly navigate both local and global imperatives.

In the age of globalization, federalism is a complicated and dynamic framework for government. It benefits from diversity preservation, adaptation, cooperation, and checks and balances. It does, however, provide obstacles in terms of economic integration, transnational concerns, sovereignty, and resource management. As demonstrated by this literature study, the notion of federalism is developing to handle the complexity of a globalized society, with nations such as India, the United States, Canada, and Australia providing unique insights into continuing discussions and adjustments within federal systems. Understanding these processes is critical for policymakers and researchers navigating the complexities of federalism in a rapidly changing global environment.

## **II. COMPARISON OF FEDERALISM BETWEEN INDIA AND UNITED STATES**

While India approved its Constitution in 1950 and became a Socialist, Sovereign, Secular, and Democratic Republic, the United States became a Federal Republic State in 1789.” Both countries' political frameworks have parallels and differences. “The drafting committee, chaired by Dr. Ambedkar, adopted various features from other nations' constitutions, particularly the

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<http://www.jstor.org/stable/30022712>

<sup>9</sup> (Elazar, D. (1987) *Exploring Federalism*. University of Alabama Press, Tuscaloosa. - References - Scientific Research Publishing, n.d.)

<sup>10</sup> “(Watts, R. (2008). *Comparing Federal Systems* (3rd Ed.). Montreal McGill-Queen’s University Press. - References - Scientific Research Publishing, n.d.)”

United States, that were approved in the Indian context. As a result, despite their federal structure, the United States and India have certain differences as well as similarities.”

Former Chief Justice Beg described the Indian Constitution in **State of Rajasthan v. UOI, 1977<sup>11</sup>**, as “amphibious.” “If then our Constitution produces a Central Government that is amphibious,” According to him, depending on the situation and circumstances, it may proceed on either the federal or unitary platform.

The concept of “pragmatic federalism” was also used in “**S.R. Bommai v. Union of India<sup>12</sup>**.” Justice Ahmadi stated that “...it would appear that the Indian Constitution contains not only characteristics of a pragmatic federalism which, while distributing legislative powers and indicating the spheres of governmental powers of State and Central Governments, is overlaid by strong unitary characteristics.”

Despite their federal structure, countries differ in a variety of ways, implying some degree of relatedness. To clarify, we may compare the concepts of federalism in both countries.

#### **(A) Written constitution**

“Both the written constitutions of the United States and India permit a federal political structure within which both governments exercise their respective functions. The constitutions of both countries allow for revisions to take into account shifting circumstances and escalating political, economic, and social necessities and demands of their respective countries.”

#### **(B) Bill of rights and fundamental rights**

“The United States Constitution guarantees citizens fundamental rights such as equality, freedom, protection against exploitation, religious liberty, cultural and educational rights, property rights, and constitutional remedies. Articles 14 to 34 of Part III of the Indian Constitution safeguard the people's fundamental rights.”

#### **(C) Separation of power**

“The executive, legislative, and judicial branches of both the Indian and American constitutions have authority granted to them. The executive branch presides over the nation, the legislative enacts laws, and the judicial branch enforces the rule of law.” The US is led by the President, but India's genuine executive body is the Union Cabinet.

The court's decision in the case of **Indira Gandhi vs. Raj Narain<sup>13</sup>** is that the concept of

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<sup>11</sup> (State of Rajasthan & Ors. Etc. Etc Vs Union of India Etc. Etc on 6 May, 1977, n.d.)

<sup>12</sup> “(S.R. Bommai Vs Union of India on 11 March, 1994, n.d.)”

<sup>13</sup> “(Indira Nehru Gandhi Vs Shri Raj Narain & Anr on 7 November, 1975, n.d.)”

separation of powers has been embraced in a larger sense in the Constitution of India. The constitutions of the United States and Australia, which demand a precise separation of powers, are not applicable in India.”

#### **(D) Power of checks and balances**

“Despite the fact that both nations have a strong separation of powers between the executive, legislature, and judiciary, these authorities frequently overlap. There is a danger of misuse of authority or arbitrariness. As a result, both countries require a system of ‘checks and balances.’ Similarly, the Prime Minister and his ministers have genuine authority in India. A successful no-confidence motion voted by both chambers of parliament can topple them. Decisions about policy become laws only after obtaining the required majority in parliament. The "checks and balances" structure, which exists in both the United States and India, ensures that laws adopted by parliament are reviewed by the Supreme Court of India.”

### **III. COMPARISON OF FEDERALISM BETWEEN INDIA AND CANADA**

India and Canada are two different countries that both embrace federalism as an approach of managing their huge and culturally rich countries. While their federal systems are similar, there are significant distinctions due to their historical, geographical, and political settings.

The separation of powers between the central and regional administrations is a notable resemblance between the federal systems of India and Canada. Both nations have established a dual or bicameral system that delegated particular functions to each level of government. The Indian Constitution distributes powers between the federal government and the 28 states and 8 union territories. Similarly, the federal government of Canada shares authority with 10 provinces and three territories. This separation of powers aids in managing the unique demands and preferences of each country's many regions.

Furthermore, both India and Canada have written constitutions that define power allocation, making federalism a core part of their political systems. The Union List of India's 1950 Constitution clearly describes the powers and responsibilities of central government, while the State List outlines the respective authorities of the states. Similarly, provisions such as the "Peace, Order, and Good Government" clause and “provincial regions of authority in Canada's Constitution Act of 1867 (previously known as the British North America Act, 1867)” delegate powers to the federal government and provinces.

The Supreme Courts of India and Canada share the purpose of establishing a federal judiciary to settle issues between central and regional authorities, with India's Supreme Court interpreting



the Constitution and Canada's enforcing it. Both India and Canada support federalism as a strategy of managing their various countries. They are comparable in terms of power distribution, the presence of federal courts, and the relevance of written constitutions. However, they differ greatly in terms of the degree of asymmetry in their federal arrangements, the function of the central government, and constitutional amendment methods. These distinctions reflect each country's distinct historical, cultural, and political situations and also illustrate the adaptability of federalism as a governing structure.

#### **IV. COMPARISON OF FEDERALISM BETWEEN INDIA AND AUSTRALIA**

Despite their geographical and cultural contrasts, India and Australia both support federalism as a form of government.

##### **(A) Distribution of power**

India has a federal system in which powers are distributed between the central government, 28 states, and 8 union territories. The Constitution specifies the allocation of powers, with the Union List defining the functions of the federal government and the State List detailing state powers.

The case of **A.H. Wadia v. CIT AIR 1947 FC 18<sup>14</sup>** stated that the State legislature cannot pass extraterritorial legislation unless there is a significant connection or nexus in between the State and the object or subject matter of legislation.

Australia has a federal system in which powers are shared by the federal government, six states, and two territories. The Australian Constitution specifies the distribution of powers, with the Commonwealth (federal government) possessing enumerated powers and the states maintaining residual powers.

##### **(B) Constitutional framework**

India's Constitution: Adopted in 1950, the Indian Constitution is one of the world's longest written constitutions. It establishes a federal system with a strong central government and specifies the functions of the federal and state governments.

Australia's Constitution was adopted in 1901, establishing a federal government with a constitution that can only be altered by referendum. It also establishes the federal government's and states' respective powers.

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<sup>14</sup> (A.H. Wadia Vs Commissioner of Income-Tax on 24 November, 1948, n.d.)

### **(C) Role of central government**

India: The central government of India has broad powers and can intervene in state matters under specific situations, as defined in Article 356. It is also important in income distribution and financial problems.

“According to Article 356, *President’s Rule can be imposed on any state of India on the grounds of the failure of the constitutional machinery. This is of two types:*

*If the President receives a report from the state’s Governor or otherwise is convinced or satisfied that the state’s situation is such that the state government cannot carry on the governance according to the provisions of the Constitution.*

*Article 365: As per this Article, President’s Rule can be imposed if any state fails to comply with all directions given by the Union on matters it is empowered to.”<sup>15</sup>*

Australia: The Australian federal government has particular constitutionally mandated powers, although it has limited jurisdiction to meddle in state matters. The function of the central government is more defined and concentrated on sectors such as defense, immigration, and economic activity.

### **(D) Amendment procedure**

India: Constitutional modifications in India require a special majority in the federal parliament, which can be difficult due to the diversity of political parties and regional interests.

Australia: Constitutional modifications in Australia need a referendum, where a proposal must be accepted by a double majority, meaning it must receive a majority of votes both across the nation and in a majority of states.

### **(E) Interstate relations**

India: The Indian Constitution has regulations for settling disputes between states and between the central and states. The President of India can also interfere in inter-state issues.

Australia has a High Court that hears disputes between states and between states and the federal government. This court is crucial in interpreting the Constitution and settling disputes.

While both India and Australia use federalism to administer their countries, their federal frameworks differ significantly. India's federalism is more asymmetrical, with a stronger central government, whereas Australia's federalism has a clear separation of powers between the federal government and the states, as well as a higher bar for constitutional revisions. These

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<sup>15</sup> (Sharma & Jain, 1964)

distinctions reflect each country's distinct historical and political situation.

## V. CRITICAL ANALYSIS

A close examination of the federal system in a globalized society finds both advantages and problems. Many nations have adopted federalism, a governance structure in which power is split between a central authority and component divisions. In the context of globalization, which is defined by greater interconnection and interdependence among nations, federal systems confront new demands and opportunities:

### (A) Advantages of federalism in a globalized world

- i. *Local Autonomy*: Federalism provides for some autonomy for local or regional administrations. This can be useful in a globalized world since it allows areas to respond to local demands and global concerns with specialized policies. For example, regions might enact environmental rules or economic plans that are tailored to their unique conditions.
- ii. *Management of Culture and Diversity*: Federal systems frequently handle varied populations with varying languages, cultures, and customs. In a globally connected world characterized by multiculturalism and diversity, federal institutions may foster unity while preserving local identities and values.
- iii. *Economic Competitiveness*: States within a federal structure can compete on a global scale by enacting economic policies that are suited to their sectors and resources. This competition could encourage innovation and economic progress, boosting the country's worldwide competitiveness.
- iv. *Redundancy and Resilience*: In the face of global threats such as pandemics or economic crises, federal systems can provide redundancy and resilience. When one region is damaged, others might step in to provide resources and assistance.
- v. *Experimentation and Policy Diversity*: Federalism enables regions to try out new policies and methods. In a worldwide society, this can act as a testing ground for answers to global challenges like climate change and social inequity.

### (B) Challenges of federalism in a globalized world

- i. *Coordination and Inefficiency*: In a globalized world, there is a need for cooperation on a variety of fronts, including economic, security, and environmental challenges. Multiple levels of government can often slow down decision-making and hinder international discussions, resulting in inefficiency.

- ii. *National Identity and Sovereignty*: Maintaining national identity and sovereignty in a globalized society can be difficult. Federal systems sometimes need a balance between regional autonomy and national unity, which may be challenging when global forces evaluate on these identities.
- iii. *Conflict Resolution*: Federal structures may struggle to resolve regional disputes, especially when global concerns intensify local tensions. External influences might worsen ethnic, economic, or political issues, making conflict settlement more difficult.
- iv. *Inequality*: Federal systems can worsen inequality by allowing areas with greater resources or economic power to dominate, putting less fortunate regions at a disadvantage in the globalized economy.
- v. *Global Governance*: Federal frameworks may not always be in sync with global governance arrangements. International organizations and agreements may necessitate a cohesive national strategy in a globalized society, which may conflict with the decentralized structure of federalism.

In a globalized society, federalism brings a complicated combination of benefits and problems. While it can give local autonomy, cultural preservation, and economic competitiveness, it must also deal with coordination, national identity, and inequality concerns. Adaptation and flexibility in federal systems are critical for effectively navigating the intricacies of a globalized world, as they enable countries to reap the benefits of federalism while dealing with the specific problems offered by globalization. Finally, in a globalized world, the efficiency of federal institutions is determined by how well they combine the benefits of local sovereignty with the necessity for national and international collaboration.

## **VI. CONCLUSION**

A comprehensive examination of federal structures shows both their strengths and dangers in an increasingly globalizing society. Federalism, with its separation of powers between central and regional administrations, may be a strong governance model when appropriately adapted to the realities of a globalized world. It does, however, face considerable problems that need careful analysis and creativity.

In a globalized world, the benefits of federalism include the preservation of local autonomy, the management of cultural variety, the possibility for economic competitiveness, and the resilience it may bring during times of crisis. Federal systems allow regions to respond to particular local

requirements and experiment with policy solutions, increasing their adaptability in the face of global concerns. Federal structures, on the other hand, must handle concerns such as coordination and efficiency, national identity and sovereignty, dispute resolution, inequality, and alignment with global governance structures in a globalized society. These issues necessitate innovative solutions and an advanced approach to governance.

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