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An Indestructible Union?: Examining the Centralising Drift in Indian Federalism

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ABSTRACT

Constitutions are generally considered as power maps. They create, maintain, facilitate and constrain powers. Indian Constitution, since its inception in 1950, tries to organise powers between two tiers of government – namely the union and the state (now after 73rd and 74th Constitutional Amendment three-tier – panchayat and municipality). One of the important features of the federal polity is distribution of powers between central authority and various constituent units of Government. Other features include Supremacy of the Constitution, written Constitution, rigidity while amending the constitution and Supremacy of Courts. Though India has these features it cannot be said that India is completely federal. There are many provisions in the constitution that shows that India is more unitary than federal. Some provisions include Appointment of Governor by the Union Government as Constitutional head of the state, Parliament's (Rajya Sabha's) power under Article 249 to legislate on state's subjects in the national interest, Parliament's power to form new states and alter boundaries of existing states under Article 3 and Emergency provisions under Article 352, 356 and 360. Also, after 1950 many Constitutional amendments namely, the 42nd Constitutional Amendment, the 101st Constitutional Amendment (GST), and the transfer of subjects from state list to concurrent list has further made India less federal and more unitary. Thus, today India is Quasi-federal with strong unitary bias.

This paper adopts a doctrinal and comparative analytical approach. The aims of the research are to study the centralizing drift in the Indian Constitution since 1950 especially the political and institutional drivers of centralisation, to analyse the various provisions in Indian Constitution, amendments, existing laws, policies, the judicial pronouncements and the commission reports which affects the union – state relations and to undertake a comparative analysis with other federal countries like USA, Germany and Canada. Thus the study analysis how creeping centralisation has weakened the state's autonomy and the need of cooperative federalism to preserve India's diversity and democracy.

Keywords: *Federalism, Centralisation, Constitutional Amendments, Fiscal Federalism, Union–State Relations, Judicial Review, Cooperative Federalism.*

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I. INTRODUCTION

The Political systems all across the world can generally be classified as unitary and federal. In unitary form of Government, such as the United Kingdom, the powers are centralised with the Central Government. The other provinces are subordinate to the Central Government. In a federal constitution such as the United States, the powers are divided between the federal and state government and both are independent in their own spheres². According to Prof. K.C. Wheare³, in a Federal Government the power is divided between the general and regional governments and they are co-ordinate and independent of each other.

Indian Constitution, at first glance, may look more federal as it has provisions like Article 246 and Schedule 7 which clearly divides legislative powers between the Union and the States. It also has other features such as supremacy of the Constitution, written constitution, rigidity and independence of the judiciary. However, some of the provisions in the Constitution like provisions relating to creation, alteration and destruction of states (Article 3), residuary power of the Union Government (Entry 97, List I, Schedule VII), predominance of Union law in the Concurrent List (Article 254), Union dominance in taxation, restrictions on State borrowing powers (Article 293), Appointment of Governor by the Union Government as the Constitutional Head of the state and the sweeping emergency powers under Article 352, 356 and 360 shows that there are some instances demonstrate India's unitary features. Thus, India is Quasi – Federal with strong unitary Bias. Jennings has characterised India as “a federation with a strong centralising tendency”⁴, while Dr Ambedkar, Chairman of the Drafting Committee, observed that though many provisions that are contained in the Constitution tend to override the powers of the state, it is nevertheless, a Federal Constitution⁵.

Article 1 of the Indian Constitution states that India shall be “Union” of States⁶. The Constituent Assembly deliberately used the word Union. While commenting on this, Dr. Ambedkar noted that while India is federal in structure, the Drafting Committee deliberately chose the term “union” to emphasise two key points⁷. They indicate that Union of India is not a result of an agreement as in the case of US and thus the states cannot secede from the federation⁸. Thus the

² Bose, Dr SK, et al. “Comparing Two Forms of Government: The Unitary and the Federal.” *International Journal of Law, Justice and Jurisprudence*, vol. 5, no. 1, 2025, pp. 115–118, www.lawjournal.info/archives/2025.v5.i1.B.169, <https://doi.org/10.22271/2790-0673.2025.v5.i1b.169>.

³ K.C. Wheare – *Federal Government*, p.27; Jennings – *Some Characteristics of the Indian Constitution*, p. 1.

⁴ Jennings – *Some Characteristics of the Indian Constitution*, p. 1.

⁵ Constituent Assembly Debate, Vol. 4, P.133. See also Constituent Assembly Debate, Vol. 5, pp 33-36.

⁶ Article 1 of the Indian Constitution.

⁷ Draft Constitution 21.02.1948, p.4.

⁸ Constituent Assembly Debates, Vol. 7. P. 43.

main aim of the Constituent assembly was to balance the idea of unitary and federal form of Government.⁹

This federal balance in India has been disrupted as Union has consolidated more powers. Post 1950s, because of Political dominance of the Union Government and judicial trends there has been trend of Creeping Centralisation. In the decades immediately after independence and even in the recent years there has been increase in “High Command culture” the state government is seemed to be subordinate to union government. Also, Governors as political agents of the Central Government often are acting against the State Government. In recent decades, the Governmental agencies like CBI, have further entrenched central control is being influenced by Central Government and is being used as political control over State Government. Furthermore, Constitutional amendments such as 42nd (1976) and 101st (2016) played an important role in further entrenching central control.

The main aim of the paper is to examine the phenomenon of “creeping centralisation” since 1950. The research analysis the Constitutional provisions and amendments, Judicial pronouncements. Commission reports like Rajamannar Committee, Sarkaria Committee and Punchhi, Committee, Fiscal policies and centrally sponsored schemes, Comparative perspectives from USA, Germany, Canada. This paper will try to argue that creeping centralisation has weakened federal balance in Indian Constitution. It tries to emphasis on Cooperative Federalism to safeguard both State autonomy and democracy.

The paper is organised as follows: Part I examines the existing Constitutional Framework concerning union state relations. Part II explores the Political and Institutional Drivers of Centralisation. Part III analysis Constitutional Amendments and legal instruments that was enacted after 1950 which contributed to the centralizing drift. Part IV discusses Judicial Pronouncements that paved way for the centralization. Part V explores various policies and legislations that affects the state autonomy. Part VI provides comparative analysis with other federal countries like United States, Germany and Canada. Part VII presents recent case studies on the centralising drift. Part VIII concludes the study and suggest recommendation.

II. CONSTITUTIONAL FRAMEWORK RELATING TO UNION-STATE RELATION

The Framers of the Constitution aimed to create a federal system with strong union government¹⁰. The main reason behind the creation of strong unitary government was partition. At that time of independence, British India was divided as dominion of India and Pakistan and

⁹ Ghai, Yash. *The Role of Constituent Assemblies in Constitution Making*.

¹⁰ Asad, M. “CHANGING DIMENSIONS of FEDERALISM in INDIA: AN APPRAISAL.” 2019.

there was extreme communal violence. India was created by integrating more than 500 princely states and the constituent assembly wanted to ensure unity. The fear for secession and disintegration made them create a centralised model. Thus, as Ambedkar said India became indestructible union of destructible states.

A. Legislative Powers: Article 245 to 254 and Seventh Schedule:

The distribution of legislative power is primarily contained in Article 245 to 254 and Seventh Schedule. Article 245 talks about the territorial jurisdiction. It states that the Parliament can legislate for whole or part of India and State legislature can legislate for their territory.

Article 246 is about Subject – Matter Jurisdiction. It states about three lists in the Seventh Schedule namely, Union list, State list and Concurrent list. Union list has 97 subjects which includes defence, foreign affairs, banking, railways, atomic energy. Only the Union Government has the power to legislate on union list. The state list has 61 subjects which include police, public order, agriculture, health, local govt. Only the State government has the power to legislate on the State list. The concurrent list has 52 subjects like education, forests, criminal law, marriage/divorce in which both the Union and Central Government can legislate. In case both the union government and state government made laws on the same item in the concurrent list then the union law will prevail over the state laws. The residuary power is vested with the Union¹¹, unlike US where the power is vested with the States.

Article 249 gives power to Rajya Sabha to legislate on a State subject with two-third majority when there is national interest. Under Article 250 and 252, Parliament had power to legislate on State subjects when there is national emergency or if two or more States consent. Thus from the above mentioned provisions we can observe a tilt towards Union Supremacy.¹²

B. Emergency provision: Article 352 to 360

Part XVIII (i.e) Article 352 to 356 of the Indian Constitution deals with emergency provisions. There are three kinds of emergency namely national emergency, state emergency and Financial emergency. Article 356 of Indian Constitution gives power to the Union Government to impose president's rule when there is a failure of constitutional machinery. Ambedkar considered this provision as an emergency brake to be used sparingly. But after the enactment, this provision became one of the most misused provisions in the constitution. During the period between 1950 to 1994 it was used 90 times. However, the misuse of this provision was restricted to a great extent after the Supreme Court Judgment in *S. R. Bommai v. Union of India* where the Supreme

¹¹ Entry 97 of Seventh Schedule.

¹² Gautam Bharia, *Indian Constitution: A conversation with power* (2024).

Court came up with guidelines for declaration of State Emergency. Though Supreme Court restricted misuse, the Union dominance is still evident.

C. Finance Provision: (Article 268 to 293):

Article 268 to 293 of the Indian Constitution deals with the distribution of revenues between the Union and the States. The Union Government enjoys extensive taxation powers, while the states largely depend on the transfers from the centre. Article 268 provides that the duties are to be levied by the Union but collected and appropriated by the States, while Articles 269 and 270 provide for taxes levied and collected by the Union but shared between the Union and States. Article 280 provides for the creation of Finance Commission which recommends for devolution of finance between centre and state. States also depend upon the Union transfers and centrally sponsored schemes for finance. Article 293 states that the State governments need Union Government's approval for borrowing if indebted to Centre. Thus we can observe that State Government depend upon the Central Government in Financial matters and this weakens the real autonomy of the states.

D. Constituent Assembly Debates:

The Constituent Assembly debates reveal that the makers of the constitution wanted to create a federation with strong union government. Dr. B.R. Ambedkar, while acknowledging federal features such as dual polity and constitutional supremacy, repeatedly insisted that India could not afford a "weak centre"¹³ in the wake of Partition and the integration of over 500 Princely states¹⁴. He said the Indian Constitution will be "unitary as well as federal according to the requirements of time and circumstances"¹⁵. He emphasized the peculiar circumstances after Partition demanded "a strong Centre to maintain the unity of the nation", while also recognizing state's autonomy¹⁶.

K. M. Munshi also emphasised that the union must have overriding authority to preserve the integrity of the nation. He noted that the design of the Constitution was "not to weaken the Centre but to make the Union indestructible"¹⁷. Jawaharlal Nehru similarly observed that the India's federal system would reflect India's diversity while retaining a strong Central Government. He clarified that India would be "an independent sovereign republic composed of autonomous units with residuary powers vested in the Centre"¹⁸. Alladi Krishnaswami Ayyar

¹³ Indian Politics and Society since Independence.

¹⁴ Ambedkar, Indian Politics and Society since Independence.

¹⁵ CAD, Vol. XI, 25 Nov 1949, p. 979.

¹⁶ CAD, Vol. VII, 4 Nov 1948, p. 33.

¹⁷ CAD, Vol. VII, Nov 1948, p. 34.

¹⁸ CAD, Vol. I, 13 Dec 1946, p. 59.

supported this, stating that “the Union is not a league of States but an organic federation¹⁹.” Thus we can understand that the framers of Indian Constitution wanted to depart from the classical federal model of US and wanted to design a constitution which is permanent with no right to secession.

Thus we can understand that India has both federal features (such as written Constitution, supremacy of Constitution, independent judiciary, division of powers) and unitary features (such as residuary powers with Union, overriding powers in Concurrent List, emergency powers, fiscal dominance, Governor’s role). Thus India became quasi-federal with strong Union with federal features. It was designed for unity at the time of Independence, but has also opened path to creeping centralisation.

III. POLITICAL AND INSTITUTIONAL DRIVERS OF CENTRALISATION

The constitutional framework of India already tilts towards a strong Union. Beyond this textual design, political and institutional developments since 1950 have further reinforced centralizing tendencies. Patterns of party dominance, the politicisation of the office of the Governor, the use of central investigative agencies, and even judicial interpretations have contributed to what scholars term “creeping centralisation” in India²⁰. This section examines the political and institutional drivers of centralization since 1950s.

A. Dominance of Single party system and “High Command Culture”

In the decades after independence, the Indian National Congress emerged as a single party that has dominance both in central as well as state level. This scenario created de facto centralisation of power. The chief ministers and party heads in the state, though they had power to function autonomously, often function according to the direction party’s high command. The “High Command Culture” often meant that states lack independent political voices and most of the times act according to the dictation of the central leadership. The dominance of Congress in first three decades has entrenched “high command culture” in which the Chief Ministers were dependent on New Delhi rather than their own legislative assemblies. Especially after 1971 elections the state level party leaders were no longer powerful regional figures but rather loyalists to the central leadership. This resulted in undermining state autonomy and the decline in inner party democracy.

¹⁹ CAD, Vol. VII, 4 Nov 1948, p. 34.

²⁰ *The Journal of Federalism*, Volume 49, Issue 1, Winter 2019, Pages 112–137.

B. Governors as Agents of the Centre

According to Article 155, the Governor is appointed by the President as the Constitutional head of the state. These Governors should act according to the aid and advice of the council of ministers. However, governors who should be politically neutral tend to get involved in state politics and destabilize state government. One classic example in this regard is misuse of Article 356, which permits the imposition of President's rule when there is a failure of constitutional machinery. During Indira Gandhi's Tenure, this provision was repeatedly invoked to dismiss the opposition-led state government. Although after *SR Bommai vs. Union of India* the misuse of State emergency has went down, even today there is tension between governor and opposition led state governments. Thus, the governor continues to act as an agent of the union and tend to undermine the integrity of the state government.

C. National Emergency and Centralization

The proclamation of National Emergency in 1975 is one of the most extreme example of centralization in India²¹. Under Article 352, when there is external aggression or armed rebellion, Parliament has the power to legislate on all the matters including those listed on the state list. In such circumstances the State governments completely lose their autonomy and the central government gets the whole control. In such circumstances even the fundamental rights is suspended and the States are just administrators who follow the Centre's will. Even though the 1975 Emergency lasted only for two years, it clearly demonstrated the fragility of the state autonomy.

D. Role of Central Agency and Bureaucracy

Apart from political actors, even institutional actors play an important role in centralization. Central agencies such as the Central Bureau of Investigation (CBI), the Enforcement Directorate (ED), and the Income Tax Department are often deployed against leaders of opposition party and these institutions are used as tool to curtail the opposition.

Also, the structure of All India service (IAS, IPS and IFS) are officers who are recruited and controlled by the Central Government and these people serve as executive officers of the state. Thus, the senior bureaucrats in the state are not fully accountable to the state and they undermine the state autonomy. All India Service was deliberately designed in this way by Ambedkar just to ensure unity but this has led to dominance by the Central Government.

²¹ Roy, Gitanjali. "The Emergency | India, 1975, Indira Gandhi, History, & Facts." Encyclopedia Britannica, 7 Feb. 2025, www.britannica.com/event/the-Emergency-India.

E. Coalition Politics and Decentralisation (1989–2014)

The single party system started to decline in India after 1980. No party got a single majority and the parties were of the need to create a coalition government. The regional parties had influence in their respective states and they had a lot of bargaining power. This allowed them to influence some of the important national policy. Example, Tamil Nadu was able to influence that language policy of the nation is such a way that it reflected the regional sensitivities. In the same way, Punjab and Andhra Pradesh were able to exert influence on agricultural and water policies. However, this phase called as “coalition era” was politically and did not alter the constitutional framework.

F. Return to Single Party System – Post 2014

After BJP came to rule in 2014, the centralization got intensified²². The introduction of Goods and Service Tax through 101st Amendment act has made states dependent on the Union Government and has affected the fiscal freedom of the states to a great extent. The Governors with their political ideologies and favouritism often delay assent to bills passed by the state governments. The central agencies have been frequently being involved to investigate opposition party leaders.

Thus we can find that the political and institutional developments since 1950 have reinforced centralising tendency in India. Even the judiciary’s ruling in cases involving fiscal matters has reinforced centralisation in India. The prevalence of this trend underscored the need to strengthen cooperative federalism in India preserve the balance envisioned by the constitutional makers in India.

IV. CONSTITUTIONAL AMENDMENTS AND LEGISLATIONS

Since 1950, various constitutional amendments, legislation and policies have tilted the balance further towards centralization²³. This section tries to trace their developments and their implications for Union-state relations.

A. The 7th Amendment Act, 1956 (Reorganisation of States)

At the time of independence, the states were classified into four – tier classification as Part A, Part B, Part C and Part D. The States Reorganization Commission 1955 recommended for reorganization of states on the linguistic basis. The act created 14 states and 6 union territories.

²² Raghavulu. “Communist Party of India (Marxist).” Cpim.org, 2024, cpim.org/federalism-undermined-under-modis-rule/.

²³ Ajay Kumar Singh, Dynamic De/Centralization in India, 1950–2010, *Publius: The Journal of Federalism*, Volume 49, Issue 1, Winter 2019, Pages 112–137.

The main aim of the act was to create a more organized and manageable state boundary, that could lead to better governance and greater national integration. While the act granted recognition to linguistic and regional differences, it strengthened union control over reorganization. Article 3 empowers the Parliament to create, alter, or dissolve states without state's consent. Thus the Reorganization Act though framed as decentralizing measure has strengthened unilateral authority, reaffirming unitary bias.

B. The 42nd Amendment Act, 1976 (During Emergency)

The 42nd Constitutional Amendment Act 1976, also known as the mini constitution was passed during the Emergency period. Many changes that were made during this period affected federalism in India. Many subjects like education and forest from the State list were transferred to the Concurrent list, which resulted in reduced state autonomy. State lost exclusive control over many significant subjects because of this amendment.

C. The 44th Amendment Act, 1978 (Post – Emergency)

This amendment was enacted by the Janata Party after the emergency. The amendment made many changes that were brought by 42nd Amendment. It restricted the grounds for proclaiming national emergency. The word “internal disturbance” was changed to “armed rebellion” and the Fundamental Rights under Article 20 and 21 cannot be suspended during National Emergency. Thus the main aim of the 44th constitutional amendment was to prevent abuse of emergency provision and it did not undo the centralizing changes.

D. The 73rd and 74th Constitutional Amendment (1992-1993)

The 73rd and 74th Constitutional Amendment introduced Panchayats and Urban Local Bodies. The main aim of the amendment is to introduce democratic decentralization and to strengthen governance in the grassroots level. It added the 11th and 12th Schedules to the Constitution, 29 subjects for Panchayat, 18 for Municipalities. Thus three-tier governance system was created that did not weaken Union dominance. While they decentralized power downwards, they created lots of obligations on the state and thus affect the state autonomy.

E. The 86th Amendment Act, 2002

Introduced Article 21 A to the Constitution and made education a fundamental right. This amendment strengthened the union's role in matters relating to education. This has given the power to the union government to frame policies in matters relating to education. (E.g. National Education Policy 2020).

F. The 101st Amendment Act, 2016

The 101st constitutional amendment act 2016 introduced a uniform indirect tax system across India called Goods and Service tax. The GST subsumed the state – level taxes into GST. It created GST Council with Union Finance Minister and State Finance Minister. The Union and the state share the revenue between themselves. While GST as a mechanism is designed to foster cooperative federalism, in practice states lost significant financial autonomy. States no longer levy many independent taxes and they increasingly depend on the Union compensation grants. Thus after introduction of GST there has been increasing trend of coercive federalism in India.

G. Various acts and policies that affect federalism

- **NITI Aayog, 2015:** In order to facilitate cooperative federalism, Planning Commission was replaced by NITI Aayog. However, even today the resource allocation is hugely driven by Union Government.
- Programs like MGNREGA - Mahatma Gandhi National Rural Employment Guarantee Act, PMAY - Pradhan Mantri Awas Yojana, and health/education schemes are completely financed by the Union. States implement them but with little flexibility.
- **Fiscal Responsibility and Budget Management (FRBM) Act, 2003:** The act restricts the borrowing limit of the state. Through this act the union has significant financial control over the state and it thus restricts financial autonomy of the state.
- Union Government also use provisions like Article 249 and 252 to legislate on the matters involving state subject when there is national interest or with the consent of two or more states. Eg. Various environmental law and anti-terrorism laws.

H. Judicial Decisions that affect federalism

- **Kesavananda Bharati v. State of Kerala (1973):** This case introduced the concept of Basic structure which limits the authority of the parliament to amend the constitution. However, the decision upheld the supremacy of the Union Government in amending the constitution. The court held that federalism is not a basic structure of the constitution.
- **State of West Bengal v. Union of India (1963):** This case reiterated the sovereignty of the Union Government over the state Government.
- **Recent NCT of Delhi cases (2018, 2023):** It reiterated the power of the Union in matters such as police, land matters in Union Territory of Delhi.

Thus we can observe that the legislative centralization, Fiscal centralization and Administrative Centralization has weakened the state autonomy.

V. JUDICIAL DECISIONS AND FEDERALISM IN INDIA

The judiciary has played an important role in shaping Indian federalism. While the constitutional text tilted towards centralization, judicial decision has practically determined the extent of state autonomy in India. Over the years, the Supreme Court and High Court has given landmark ruling on many things including legislative competence emergency powers, fiscal relations, and the role of Governors.

A. Foundational Cases - Defining the Nature of Indian Federalism:

1. State of West Bengal v. Union of India²⁴:

The case involved about the Union Government's Authority to acquire coal - bearing mines that were owned by the Government of West Bengal. The state argued that the Union cannot unilaterally acquire land that are owned by the State Government. The Supreme Court rejected the argument and held that Indian federalism is not similar that of the US and that in India states are not sovereign entities but a part of the constituent union. This reasoning still holds significant value and adds with the power of the parliament to reorganize or even dissolve states under Article 3 even without states consent.

2. Re Berubari Union (1960)²⁵:

The case arose after a boundary dispute between India and Pakistan on a place called Beruberi in West Bengal. The question that arose in this case whether Parliament can cede a territory without amending the Constitution. The Supreme court unanimously held that ceding any part of Indian territory would require a constitutional amendment under Article 368 of Indian Constitution. This case reinforced India's Federal structure and Sovereignty by declaring that cessation cannot be possible without constitutional amendment and that the Parliament can reorganize states under Article 3 without consent.

3. Kesavananda Bharati v. State of Kerala (1973)²⁶:

It was held that the amendment by the Parliament cannot violate the basic structure of the constitution and that the federalism is basic structure of Indian Constitution.

²⁴ AIR 1963 SC 1241.

²⁵ AIR 1960 SC 845.

²⁶ AIR 1973 SC 1461.

B. Emergency and Its Aftermath:**1. State of Rajasthan v. Union of India (1977)²⁷:**

This case was regarding the Centre's directives to State Government to dissolve assemblies. The court held that the satisfaction of President is subject to judicial review and it can be challenged when the decision is malafide or when it is based on wholly irrelevant grounds. However, the Supreme Court in this case refused to intervene as there were political questions involved.

2. ADM Jabalpur v. Shivkant Shukla (1976)²⁸:

The suspension of Habeas Corpus during the National Emergency was held to be valid. In this case the court accepted the complete central control during Emergency.

3. S.R. Bommai v. Union of India (1994)²⁹:

This case arose because of the dismissal of several state governments under Article 356. The Supreme Court held that the President's power to declare emergency is subject to judicial review. The judgment listed several guidelines like Article 356 cannot be invoked for political reasons and that the material based on which the decision was taken is subject to judicial review. The decision significantly reduced the arbitrary dismissal of State governments by the Centre. However, the judgment did not explain the controversial role of Governor in Indian Polity.

C. Legislative Competence and Distribution of Powers:**1. State of Karnataka v. Union of India (1977)³⁰:**

The State of Karnataka challenged the Union Government's authority to set up a commission of inquiry to investigate allegations against the Chief Minister and other State ministers. The Supreme Court of India upheld the Central Government's power to appoint a commission of inquiry into allegations against State ministers, rejecting Karnataka's argument that this power infringed on the State's autonomy and violated the federal structure.

2. Hoechst Pharmaceuticals Ltd. v. State of Bihar (1983)³¹

The petitioner challenged the 10% Sales Tax surcharge imposed by Bihar Government as being repugnant to the federal Essential Commodities Act, which controlled drug prices. The Supreme Court upheld the Bihar Finance Act, 1981 and affirmed that state and Union governments have

²⁷ 1977 AIR 1361

²⁸ AIR 1976 SC 1207.

²⁹ AIR 1994 SC 1918.

³⁰ 1978 AIR 68.

³¹ AIR 1983 SC 1019.

distinct and exclusive taxing powers under the Seventh Schedule of the Indian Constitution. By affirming the Bihar government's right to impose the tax and the federal government's ability to control drug prices, the case stressed on the idea of cooperative federalism, where both levels of government can legislate within their respective powers.

3. State of Kerala v. Mar Appraem Kuri Co. Ltd. (2012)³²:

In this case the Supreme Court reiterated the supremacy of Union legislation over State laws even when both operate under the Concurrent List. The judgment showed the continuing judicial deference to Union legislation.

D. Other cases involving Federalism

1. Union of India v. Mohit Minerals (2022)³³:

This case raised important questions relating to Fiscal Federalism. The Supreme Court held that the recommendations of the GST Council are not binding but have “persuasive value.” This is one of the rare circumstances when the Supreme Court asserted the state autonomy and allowed the state to have bargaining power in the GST Council. The court also emphasized the federal structure of India and held that the Union and the states have equal and simultaneous power to make laws on GST.

2. Pradeep Jain v. Union of India (1984)³⁴:

The case challenged the residence based reservations in Medical colleges in several states. The court held that such reservations are consistent and uniform in almost all states and hence such reservations are valid. The Supreme Court observed that the Constitution recognizes only one domicile - domicile in India. It also observed that India has only one citizenship and it is not completely federal like US which has dual citizenship. This observation of the court reflects judicial priority for unity over regional autonomy.

3. Union of India v. H.S. Dhillon (1972)³⁵:

The main question in this case was whether the Union Parliament could legislate to impose a wealth tax on agricultural land, a power normally reserved for the States. The Supreme Court held that the Parliament had the power to tax on agricultural land, despite its exclusion from Entry 86, List I of the Seventh Schedule, as its exclusion does not affect the residual power under Article 248 and Entry 97, List I. This case expanded the residuary power in favour of the

³² (2012) 7 SCC 106.

³³ 2022 SCC OnLine SC 657

³⁴ AIR 1984 SC 1420.

³⁵ AIR 1972 SC 1061.

union.

4. Nabam Rebia v. Deputy Speaker, Arunachal Pradesh (2016)³⁶:

The case was regarding the Governor's power to summon, dissolve and advance a session. The court held that Governors cannot interfere with legislative proceedings without aid and advice of the Council of Ministers and that Governor's action is subject to judicial review. Thus the court laid limits on gubernatorial power of the Governor and protect the state autonomy.

5. Government of NCT of Delhi vs. Union of India (2018)³⁷:

The case dealt with the relationship between the chief Minister of the National Capital Territory (NCT) of Delhi and the Lieutenant Governor (LG). The court ruled that the Lieutenant Governor is bound by the aid and advice of the Council of Ministers. The court emphasized over cooperative federalism, stating that the Union and the State Government should work together with the spirit of statesmanship.

6. Government of NCT of Delhi vs. Union of India (2023)³⁸:

The Supreme Court's judgment in 2023 on Government of NCT of Delhi v. Union of India held that Delhi's elected government has executive power over the services within the territory, subject to laws made by Parliament, while the Union of India has executive power over subjects under Parliament's exclusive jurisdiction, such as public order, police, and land. The ruling also clarified that the Lieutenant Governor must generally act on the aid and advice of the Delhi Chief Minister's council of ministers for matters where the Delhi Assembly has legislative competence, unless the LG is required to act at their discretion by law.

7. Governor of Tamil Nadu v. State of Tamil Nadu (2025)³⁹:

In this case Governor of Tamil Nadu did not give assent to nearly 10 bills that were passed in Tamil Nadu State Legislative Assembly. Even when the bill was re-passed by the legislative assembly it The Court analyzed Article 200 of the Indian Constitution and held that the Governor is bound by the aid and advice of the Council of Ministers and cannot indefinitely withhold assent. The court laid down guidelines and timelines for giving assent. In this case the court extended the reasoning given in Nabam Rebia v. Deputy Speaker (2016) and upheld the State's autonomy.

³⁶ 2017 13 SCC 332.

³⁷ (2018) 7 SCC 640.

³⁸ (2023) 5 SCC 768.

³⁹ 2025 SCC Online SC 770

8. Prakash Singh v. Union of India (2006)⁴⁰:

The Supreme Court examined the absence of accountability in police administration and mandated structural reforms in police department to address widespread political interference. This decision of the Supreme Court has a negative impact on federalism. By requiring states to establish oversight bodies like State Security Commissions and fix police tenures, thereby creating an imbalance between central guidance and state autonomy in policing matters.

9. Modern Dental College v. State of Madhya Pradesh (2016)⁴¹:

The entrance exam for private unaided medical and dental colleges called Common Entrance Tests (CETs) and fee determination by the State Government was challenged in this case. The Supreme Court affirmed the state's authority to regulate private unaided medical and dental colleges, particularly regarding admissions through Common Entrance Tests (CETs) and fee determination, and upheld the federal principles of state power over educational matters.

10. State of U.P. v. Dr. Dinesh Singh Chauhan (2016):

The case challenged the state government order that granted separate in-service quotas for practitioners who had worked in remote or difficult areas to postgraduate medical degree courses. This was challenged as being in violation of Regulation 9 of the Medical Council of India Postgraduate Medical Education Regulations, 2000. The court held that state cannot create separate reservations as the Medical Council of India regulations has already been made. This case is deviation from the principle established in *Modern Dental College v. State of Madhya Pradesh* (2016).

11. Tamil Nadu Medical Officers Association v. Union of India (2020)⁴²:

This case also involved the in-service reservation quotas for postgraduate medical degree courses. The court in this case upheld the State's power to provide reservations for in-service doctors in postgraduate medical courses, despite the Union's legislative competence in medical education. The decision highlights the balance between Union government and State Government's power to legislate on an item in concurrent list.

The various judicial decisions of the Supreme Court reveals the struggle to balance the Creeping Centralization and to preserve federalism in India. While the cases like *Kesavananda Bharati* and *Bommai* entrenched federalism as part of the basic structure, the subsequent decisions of the Supreme Court legitimized centralisation. The recent judgments of the Supreme Court in

⁴⁰ (2006) 8 SCC 1

⁴¹ (2016) 4 SCC 346.

⁴² (2020) 10 SCC 407.

Mohit Minerals (2022) and Governor of Tamil Nadu (2025) suggest a trend of growing state autonomy. These decisions shows that the Indian Judiciary always tried to maintain equilibrium by balancing both unity and state autonomy.

VI. POLICY AND FINANCIAL TRENDS WHICH AFFECTS FEDERALISM

Some of the policies introduced by the Central Government over the years has resulted in creeping centralization. Since early 2000, as series of laws and schemes have deepened the Union's control over the states. This section analyses various policies introduced by the Union Government that have accelerated the trend of centralization.

A. Disaster Management Act, 2005:

The act was enacted by the Union Government under Entry 23 of Concurrent List. The act creates three-tier structure: National Disaster Management Authority (NDMA), State Disaster Management Authority (SDMA), and District Authorities. Though there is SDMA, the act vests ultimate control in the Union Government through the NDMA chaired by the Prime Minister (Section 3). The Union had the power to issue binding directions to the States under Section 6. During COVID - 19 pandemic the Union Government used the power under this act and imposed nationwide lockdown and directed the state government to take certain steps relating to health, policing and labour which were primarily state subjects. The main aim of the act was to ensure coordination at the time of disaster, but it effectively reduced the role of the state as implementing agencies.

B. National Investigation Agency (NIA) Act, 2008:

Public order and police are items in Entry 1 and 2 of the State list. The NIA Act empowers the Union to establish national agency to investigate offences affecting the sovereignty, security, and integrity of India (e.g., terrorism). The act suo moto allows the government to take up a case for investigation without the state's consent. Thus the state's role in criminal law enforcement is significantly curtailed.

C. Centrally Sponsored Schemes (CSS) and Fiscal Dependence:

There are many centrally sponsored schemes like National Health Mission for Helath, Samagra Shiksha for education , and Pradhan Mantri Awas Yojana for Hoousing and are implemented by the States. The CSS are designed with conditional drafts - States must follow the guidelines to get grants . This undermines the fiscal autonomy of the states.

D. 14th and 15th Finance Commission:

Finance Commission was created based article 280 of Indian Constitution to recommend the

distribution of taxes between the Union and the States.

14th Finance Commission increased the state's share in the tax pool from 32% to 42%. It abolished the planning commission. While tax devolution increased the centrally sponsored grants decreased. Thus there was no positive growth in Fiscal federalism.

15th Finance Commission reduced the share to the state as 41%. This commission introduced performance - based incentive, giving the Union indirect leverage over state policies.

These changes have disrupted cooperative federalism in India and has led to conditional federalism in India.

E. Article 293(3): Borrowing Powers and Fiscal Constraints:

Article 293 (3) of the Indian Constitution mandates the state to get prior assent from the union government for borrowing when there is outstanding loans unpaid from the centre. The Union Government in this regard enacted the Fiscal Responsibility and Budget Management (FRBM) Act, 2003) to cap state borrowings. In 2020, during COVID - 19 the Union allowed only limited borrowing which was conditional upon reforms in power distribution, GST compliance, and business regulation. The act has converted the provision of fiscal assistance to a tool of policy coercion deeply affecting the state's autonomy.

F. National Education Policy (NEP), 2020:

Education is in the Entry 25 of the Concurrent list, allowing both Union and the State to legislate. However, the Union government tend to dominate more. The National Education Policy 2020 was enacted by the union government to provide a uniform national curricular framework through NCERT, central entrance systems (like CUET), and central oversight over higher education institutions.. It also aimed at the creation of National Higher Education Regulatory Council (NHERC)—a single regulator for all higher education institutions. It also creates a national aptitude testing framework and teacher training standards. NEP is criticised by many states including Tamil Nadu, Kerala, and West Bengal, as the three-language formula introduced by the NEP 2020 has the tendency to undermine the linguistic and cultural diversity. By the enacting NEP the Union Government has taken a huge step towards policy centralisation.

G. Establishment of NITI Aayog:

The NITI Aayog which replaced the Planning commission in 2015, is a body that operates without statutory status or federal veto powers. While it is considered as form of cooperative federalism, it actually is controlled by the Union Government. The decisions made by the NITI

Aayog are powerful instruments of centralisation.

Thus we can understand that after 2000 many legislations that were enacted by the Parliament including Disaster Management Act and NIA Act legally enable Union intervention in State domains. Other policies that were framed by the Union Government including Centrally Sponsored Schemes, Finance Commissions, borrowing restrictions and National Education Policy, 2020 tries to promoter coerevive federalism rather that cooperative federalism.

VII. COMPARATIVE ANALYSIS OF OTHER FEDERALISM

Federal system arround the world allocate powers differently between central and regional governments. This section provides a comparative analysis of Federal structures like United States, Canada and Germany and how India as a quasi - federal stands apart from all the other models.

A. United States: Classical Federalism:

United States Constitution is an example for classical federalism. The tenth amendment established federalism by reserving powers not delegated to the federal government, nor prohibited to the states, to the states respectively or to the people. In US, each states have their own constitution, legislature, executive and judiciary. The residuary power remains with the state. The states retain extensive fiscal and administrative autonomy. Thus, the American model exemplifies a coming together federalism, where the union is the creation of the constituent units.

B. Canada: Quasi-Federal with Central Dominance:

The Canadian Constitution Act, 1867, is a federal constitution with a strong central bias. The residuary power under Section 91 is vested with the federal government and not with the state government. The central government had power to legislate in areas of national concern. Over time, the judicial decisions in Canada expanded provincial powers, giving Canada a more balanced form of federalism. Thus, Canada tries to balance between state autonomy and national unity.

C. Germany: Coordinate Federalism:

Australia's Constitution of 1901 drew its inspiration from both American and Canadian Models. It combines both US type of federalism with Canada's parliamentary form of government. Legislative power is divided between commonwealth and state and the residuary power is with the States. However, over time,, judicial decisions were in favour off union holding more power that the state government. Fiscal centralization is another feature of Australian federalism, the

Commonwealth uses conditional grants to influence State policies. Thus the Australian federalism exhibits more centrally controlled federalism.

D. India in Comparative Perspective

India’s federal design was inspired by the Canadian model with strong unitary bias to preserve national integrity after Partition. The residuary power lies with the union. Parliament had the power to reorganize state boundaries without their consent — a feature absent in the U.S. or Australia. The powerful role played by the Governor and the Union’s fiscal dominance have further increased the Central authority. Unlike US and Australia, India’s structure is quasi-federal or centripetal, federalism with strong unitary bias. While the type of federalism in India has preserved unity in India it has also created continuous tension between national coherence and state autonomy.’

Feature	United States	Canada	Australia	India
Origin of Federation	Formed by agreement among sovereign States (“bottom-up” federation).	Created by an Act of the British Parliament (“top-down” federation).	Voluntary union of colonies under British Crown.	Union created by the Constitution; States not sovereign entities.
Residuary Powers	Vested with the States (10th Amendment).	Vested with the Federal Parliament (Section 91).	Vested with the States.	Vested with the Union (Article 248, List I, Entry 97).
Ability to Alter State Boundaries	Federal Government cannot alter State boundaries without consent.	Federal Parliament may not alter provinces without constitutional amendment.	Alteration requires consent of State Parliaments.	Parliament can unilaterally create, alter, or dissolve States (Article 3).
Nature of Legislature	Bicameral – Senate represents States equally.	Bicameral – Senate represents provinces, but	Bicameral – Senate represents States equally.	Bicameral – Rajya Sabha represents States, but powers

Feature	United States	Canada	Australia	India
		less powerful than in U.S.		limited compared to Lok Sabha.
Fiscal Relations	States have significant taxation powers; limited federal grants.	Federal dominance through taxation and equalisation payments.	Commonwealth controls taxation and influences policy via conditional grants (Sec. 96).	Union has dominant taxing power; States depend on central transfers and Finance Commission.
Judicial Interpretation Trend	Generally protective of State rights (early era); expanded federal power later.	Initially favoured provinces, later balanced approach.	Expanded Commonwealth power (e.g., Engineers' Case).	Favours Union supremacy, though recent cases show mild shift towards cooperative federalism.
Nature of Federalism	Coordinate and Dual Federalism.	Quasi-Federal, with pragmatic cooperation.	Coordinate but Fiscally Centralized.	Quasi-Federal with Strong Unitary Bias.

VIII. CONTEMPORARY CASE STUDIES

In recent years, there has been an inherent tension relating to quasi-federal design in several high-profile disputes between the Union and State governments. This section will deal with some important contemporary cases relating to Federalism:

A. GST Council Disputes:

The introduction of the Goods and Services Tax (GST) in 2017 through the 101st Constitutional Amendment, was celebrated as a landmark in cooperative federalism. But GST centralized most indirect taxes under a single national regime. The GST Council which comprises of the Union Finance Minister and State Finance Ministers was designed to a joint decision-making body. Yet, many states have increasingly raised concerns over declining fiscal autonomy. This was

very much evident in COVID-19 where the Union declined to compensate for revenue shortfalls. Moreover, the Supreme Court's ruling in *Union of India v. Mohit Minerals (2022)* proves that the GST Council's recommendations are not binding proved that the India's federalism is not based on cooperation but on the basis of subordination.

B. Tamil Nadu and the Governor – A Constitutional Deadlock:

In Tamil Nadu, the Governor withheld several bill that were passed by the State Legislative Assembly, including those related to university appointments and anti-NEET measures. The matter came before the Supreme Court in *Governor of Tamil Nadu v. State of Tamil Nadu (2025)*, where the Supreme court held that under Article 200, the Governor cannot use his discretionary power and has to act according to the aid and advice of the Council of Ministers and cannot indefinitely withhold assent. This judgment reinforced the primacy of the elected government over gubernatorial discretion.

C. Centre–State Tussles: Karnataka and Delhi:

Several opposition ruled states like Karnataka and Delhi, have also faced friction with the Centre. In Delhi, disputes arose over control of services, police, and land and this led to judicial dispute in *NCT of Delhi v. Union of India (2018, 2023)*. The Supreme Court reiterated that the Lieutenant Governor must ordinarily act on the aid and advice of the elected government. Similarly, in Karnataka, the use of central investigative agencies such as the CBI and ED against political leaders has raised questions about federal neutrality and misuse of central power.

D. The Farm Laws Controversy (2020–2021):

The three farm laws enacted by Parliament in 2020 was one of the controversial laws that sparked a lot of protest. Agriculture is a state subject under Entry 14 of the State List. Union does not have the legislative competence to enact farm laws. Many states including Punjab and Kerala, passed resolutions opposing the laws. The eventual repeal of the farm laws serves as testimony for federal democracy.

These recent development reveal that while Indian federalism has been developed over the years. However, there are still political and fiscal asymmetry that prevails between Union and State Government. The challenge is to prevent union domination in a federal democracy.

IX. CONCLUSION AND FINDINGS

The evolution of Indian federalism from 1950 shows creeping centralization shaped by the constitutional provisions, political dominance, fiscal policies and judicial decisions. Though the founding fathers envisaged federal polity, they created a strong unitary government to preserve

nation unity after partition.

Findings

The structure of the Indian Constitution namely Articles 245–254 and 352–360, vests overriding powers in the Union, leaving States with limited autonomy. Political inference specially the single party dominance and the use of Governor and central agencies to undermine federalism in India. Fiscal dependence, through conditional grants and centrally sponsored schemes, continue to limit the states autonomy. The introduction of GST led to fiscal centralization rather than cooperative federalism.

Judicial decisions tries to balances between union control and state autonomy. While cases like *Kesavananda Bharati* (1973) and *S.R. Bommai* (1994) upheld the federal principle, cases such as *Pradeep Jain* (1984) and *Prakash Singh* (2006) undermined it to a large extent. However, the Recent rulings like *Mohit Minerals* (2022) and *Governor of Tamil Nadu* (2025) show renewed judicial effort to protect State autonomy and to preserve federalism in India. Contemporary cases like *GST Compensation to the Governor–State* issue reveal the persistent tension between centre and states and undermines cooperative federalism.

A brief comparative analysis with other federations show that India’s federalism is structurally closest to Canada’s but also resembles Australia’s fiscally centralized model. Unlike United States which embodies dual federalism with strong state sovereignty, India states are not entirely sovereign and there is constitutional centralization. Thus Indian federalism is centripetal and adaptive with dominant Centre.

Conclusion

India is a assymetrical federalism. Excessive centralization will undermine democratic accountability. Thus some reforms like empowering and developing the Inter-State Council, reforming the GST Council for equitable participation, and restricting gubernatorial discretion should be made. As held in *SR Bommai*, federalism is the basic structure of the Indian Constitution and it can be sustained only if there is some political maturity and mutual benefit. The health of India’s democracy ultimately depends on the strength of its States.
