CHALLENGES OF CO-OPERATIVE FEDERALISM IN INDIA

By Rishabh Sinha
LLM (Business Law)
From Symbiosis Law School, Hyderabad

Chapter 1

1.1. Introduction

This research paper affords a temporal framework to disclose challenges of co-operative federalism in the Centralized Indian federalism by outlining the countries' federal shape records in unique periods. The paper highlights the unique styles of Indian federal reaction through diverse political and legislative aspects over time and later gives solution to the research questions and provides a pathway for strengthening the federal structure of India. Federalism refers to the division of powers between different stages of government in the nation. In India's federal structure, we have one government at the national level and the other at the provincial, state, or local level.

The prominent facet of the federal form of government is that both national and state-level functions are limited to their personal jurisdictions with co-operative independence from one another. Along with India, other significant countries like the U.S.A., Canada, Switzerland, and Australia have a federal form of governance. When several provincial states unite to form a strong trade union, a federation is found. There is another type of federal structure in which geographically and culturally diverse states grant independence to their territory for administrative convince and represent their regional interests. In the Indian federal structure, governance has been divided into two levels, one known as the central government and the other known as the state government. "Political scientist, Philip Mahwood, has argued that in culturally diverse, developing countries like India, federalism is not only merely chosen for administrative requirements but the very survival of the nation."1 (Mawhood, 1984) Nevertheless, despite having an in-depth knowledge of the multidimensional nature, the creators confined themselves from creating a complete federal constitution for India at the verge of independence to prevent further division and the tendency of secession country already subjected to division. The Indian Constitution has a slant towards the central government, which overpower India’s political structure.

The central government is a higher authority than the states in different ways. Article one of the Indian Constitution describes India as a union of India, and not as a federation of states, for two reasons stated by Ambedkar in the constituent assembly debate that, firstly, the establishment of the federation was not established at that time due to an agreement between the Federated States. Secondly, the states did not have the right to secede. As said by K C Wheare, the Constitution of India is "Quasi-federal.” He also said that "Indian Union is a unitary state with subsidiary federal features rather than a federal state with subsidiary unitary features.

"Indian federalism is biased for the Union Government; even in the Constitution under Schedule 7, the three lists have the essential matters on which law must be made. Unlike the United States and Australia, in India, the division of powers occurs according to the
three lists contained in the 7th schedule of the Constitution. In contrast, the authorities listed in the concurrent list are enjoyed both by the state and the central government. The general principle behind power sharing is that all national interest matters are left to the union government.

In contrast, matters of regional interest, as mentioned in the directive principles of state policies of the Constitution, are left to the local governments. Co-operative federalism is the best suitable for a plural country like India. This kind of federalism facilitates socio-political cooperation between the center and state via different mechanisms. Federalism blooms best when democracy attenuates the Centralizing power-sharing between the center and the state.

Unlike a successful federation, the Constitution of India does not provide provisions for the separation of states from the Union of India. However, this uniquely Indian deal stifled growing demands from secession from the Union of India. The union government’s tenacious effort and repeated declarations that Andhra Pradesh will be divided regardless of legislators; views pose a serious threat to India’s federalism and unity.

An ideal Oriel federal gadget is one wherein the federal authorities have extensive jurisdiction to manipulate and push aside the states. As defined in the sooner sections, the Indian charter depicts a unitary bias and creates middle primacy over legislative autonomy; the Indian countrywide gadget may be characterized as pre factorial. Furthermore, beneath Article 201, the president has the power to accede to a bill reserved through manner of way of the governor at any time. Moving far from legislative dominance, articles 355 and 356, which authorize the essential authorities to intrude in a nation’s affair, erode a nation’s autonomy. However, the necessities lay out the situations for the essential authorities to intrude in nation-associated matters, including instances of outside aggression, inner disturbances, or while a nation's authorities fail to behave according to the charter. As the sarkaria fee factors out, relying upon the situations of the case, the nature, timing, and gravity of inner disturbance, the union can take lots of actions. The energy of the president’s rule has been exploited via way of means of the middle on diverse occasions. This provision stifles energy because all the necessities are owed to the Indian authorities, implying that the charter makes the union’s main subject a compulsory requirement for today’s loans from in the country. A perfect Oriel federal device is one in which the federal government has good-sized jurisdiction to govern and disregard the states. As described in the earlier sections, the Indian Constitution depicts a unitary bias and creates center primacy over legislative autonomy; the Indian national device can be characterized as pre factorial.

Furthermore, beneath Article 201, the president has the power to accede to a bill reserved through manner of way of the governor at any time. Moving far from legislative dominance, the article, which incorporates articles 355 and 356, authorizing the crucial government to interfere in a country’s affair, erodes a country’s autonomy. However, the requirements lay out the conditions for the crucial government to interfere in country-related matters, which incorporates outdoor aggression, internal disturbances, or while a country government fails to act as per the Constitution. As the sarkaria charge elements out, depending on
the conditions of the case, the nature, timing, and gravity of internal disturbance, the union can take plenty of actions. The power of the president’s rule has been exploited through the manner of way of the center on various occasions. This provision stifles power because of the reality that all of the requirements are owed to the Indian government, implying that the Constitution makes the union’s most important

The research objective is primarily focused on finding the solution for the research questions and ways to minimize the challenges related to co-operative federalism. The research mainly wants to bring a significant change in society through this research paper. However, this research paper has some research limitations. Research limitations are the nature of the methodology that influences or influences the interpretation of research results. A study constraint is a constraint on the generalizability of a result, which in practice further describes its application and relates to the usefulness of the result resulting from the method by which the study or method design was initially chosen. In this research paper, the use of doctrinal research is found limited because current data expresses current problems, and old research material found in the doctrinal research acts as a barrier in the research when it cannot answer the research question. Since this research paper is restrictive by word limit, it restricts and limits the author to express all the points’ problems present under this research topic.

In this research paper, when the reader proceeds to read the paper further then the reader will find the research paper divided into different chapters; some chapters are the core heart of this research dealing on the genus of the research question, like how centralization is acting as a barrier to the co-operative federalism under Co-operative federalism or can regionalism act as a challenge for co-operative federalism. The answers to these questions will help us reach a conclusion that will help us provide suggestions to the public through our research paper, and thus this will help build a good center state relationship with equal distribution of power between every citizen of India and set a precedence for the world.

1.2. Statement of the research problem

A perfect Oriel federal system is one in which the federal government has broad jurisdiction to manage and dismiss the states. As described in the earlier sections, the Indian Constitution depicts a unitary bias and creates center primacy over legislative autonomy; the Indian national system can be characterized as pre factorial. Furthermore, under Article 201, the president has the power to accede to a bill reserved by the governor at any time. Moving away from legislative dominance, articles such as articles 355 and 356, which authorize the central government to intervene in a state’s affair, erode a state’s autonomy. However, the requirements lay out the conditions for the central government to intervene in state-related matters, such as external aggression, internal disturbances, or when a state government fails to act according to the Constitution. As the sarkaria commission points out, depending on the circumstances of the case, the nature, timing, and gravity of internal disturbance, the union can take various actions. The center has exploited the power of the president’s rule on various occasions. This provision stifles power because all of the requirements are owed to the Indian government, implying that the Constitution makes the union’s principal
concern an obligatory requirement for today’s loans from within the country.

1.3. Research Questions

- Is Centralization a barrier for co-operative federalism under quasi federalism?
- Is regionalism a challenge for co-operative federalism?

1.4. Research Methodology

For conducting research, there are two methods doctrinal and non-doctrinal techniques of study. The doctrinal method is appropriate for this study since it entails a theoretical examination of many concerns that provide a barrier to co-operative federalism.

1.5. The objective of the study

The research is primarily focused on finding the solution for the research questions and ways to minimize the challenges related to co-operative federalism. The research mainly wants to bring a significant change in society through this research paper.

1.6. Research Gap

- Lack of detailed analysis on the need to shift from the present form of federalism to co-operative federalism.
- Not covering the negative side of the co-operative federalism.
- Not discussing the benefits of cooperative federalism in a nutshell or in detail in some literature.

1.7. Literature Review

1.1 “Robert L. Fischman, Cooperative Federalism and Natural Resources Law, 14 N.Y.U. ENVTL. L.J. 179 (2005).”

In this article, the author has talked about how American federalism became an administrative "co-operative federalism." He said that local and state governments handle federal programs in his paper. Co-operative federalism, at the horizontal level, substitutes the rivalry of dual federalism with a public policy cartel and a uniform regulatory framework. Co-operative federalism undermines political transparency and accountability, increasing civil dissatisfaction and cynicism. Reduce political competition between states. It undermines autonomy and freedom. Dual and federalism are unstable. This is mainly because it undermines interest groups' political needs and demands. In the real world, dual federalism's legal and institutional framework will collapse and the anti-competitive ties associated with cooperation will crumble. It provides an opportunity for organized groups to participate in the system by satisfying the political needs and demands of interest groups that are collapsing in dual federalism. "Stable" doesn't mean static. Cooperative federalism meets new demands at regularly higher levels of total government spending. By "stable" we simply mean that fundamental institutional problems, especially attempts to reconstruct the competitive structure, are usually based on the political economy of co-operative federalism. We don't have any political theory to explain how market-preserving dual federalism can sustain itself or how it can be reborn in a pool of cooperation. As
his article explains, he tend to think that there is indeed a possibility of non-cooperation, and it was only few years ago that he came close to the theory of the recovery of competitive federalism. A critique of the status quo of co-operatives would be useful if competitive federalism could be restored. In the U. S., co-operative federalism isn't just an outgrowth of the constitutional provision and organizational logic. The author has state about the co-operative federalism from the German context and then moved to explain the history of co-operative federalism from the American angle and later explained why co-operative federalism is not an efficient way offederalism.


In this article the author uses no concise but valid comparisons of competition theory in the current literature. This article compares the three central competing family’s federalist theory: dualism, co-operative, and dynamism. The author uses the Shapiro's regulatory framework to analyze these three models regarding their instrumental usefulness. This evaluation shows that the theory of dynamic federalism is not a panacea for the ills of federalism. Instead, the analysis shows that cooperative federalism contributes to the actual federalist system. First, within the framework of general regulatory sovereignty, co-operative federalism optimally allocates parts of the legislature, allowing the central government to set basic general rules and allowing states to develop further regulation within these boundaries. Second, recent research suggests that co-operative federalism may go beyond the outdated realm of wars of sovereignty. Co-operative federalism thus allows states to pursue political goals even in the absence of strong regulatory autonomy. The author has however not provided any view on how to disintegrate the influence of federal over the state legislature.

1.3 “Ava Ayers, Discriminatory Cooperative Federalism, 65 VILL. L. REV. 1 (2020).”

In this article the author has said that the states are not allowed to: Discriminate against foreigners under the Equal Protection Regulation but have some exception. But the Congress has the power to discriminate the authority. Congress has expressed a desire to share its authority to discriminate against states on occasion. Any particular piece Consider instances where Congress has endorsed national discrimination. Federalism in the term "co-operative federalism" refers to legislation passed by Congress that promotes or permits states to participate in federally established regulatory schemes. Several provisions of the Social Security Reform Act of 1996, for example. The state attempts to persuade non-citizens to refuse public benefits. In the following ways, the Reform Act aims to evade equal protection provisions: It shares the authority to treat noncitizens with the state legislature. As a result, it is a type of co-operative federalism that tries to discriminate. A co-operative federalist strategy necessitates the participation of two people. Federal and sub-federal governments each have their own set of legal constraints. In the realm of immigration discrimination, co-operative federalism is lacking. Federal actions are subject to appeal.
taking action. Identifying the difference between federation and federation, the analysis will become clear if you examine the components of these calls. In this article, the author has shown very minimum effort to discuss the benefits of the co-operative federalism so that we can get a clear picture


In this article, the author discusses the arbitrariness caused by the federal and state laws, which leads various cooperation to threaten the constitutional rights of individual criminal defendants by allowing executives to circumvent local juries, judges, and laws. Although these executive agreements to pool prosecutorial resources might be seen as expedient in curbing violent crime, they erode the ability of city voters (and their representatives) to craft their policies in an area of traditional state police power. Furthermore, they also concentrate the executive power of local, state, and federal officials in a way that undermines the ability of local communities to protect the most vulnerable populations in a democratic society: criminal defendants. Although there are unlikely judicial solutions to these constitutional concerns, they can serve as the basis for a renewed concept of local (or, in this case, city) control over policy formulation. In particular, an increase in local control would help protect the rights of individual criminal defendants while also allowing context-specific experimentation with street crime solutions beyond harsh punishment and mass incarceration. Later, the author has talked about only two methods for the solution of this problem: a judicial approach and a local political approach, but some other possible ways can be used to solve these critical problems that seem to be overlooked by the author.

1.5 “Shani M. King & Nicole Silvestri Hall, Cooperative Federalism and SIJS, 61 B.C. L. R.E.V. 2869 (2020).”

In this article the author has dealt with the issues faced by the migrant people due to the co-operative federalism in the United States of America. Individuals who did qualify for Special Immigrant Juvenile Status were granted by Congress (SIJS). SIJS has paved the way for them to obtain permanent residency and, eventually, citizenship. The statutory framework that Congress designed is unique in that it requires each applicant to get a country court’s docket order determining that they fulfill the requirements for SIJS before the U.S.A. Citizenship and Immigration Service decides whether or not to bestow that title on them. Throughout this Article, we examine the SIJS legislative scheme's design as well as the roles of national and federal players contemplated within it. We believe that this method can accept the SIJS laws as a criminal hybrid that handles the challenges of immigration in the places where they exist: both on the outside and within federal boundaries. This article is very focused in respect to migrant people but is silent on the point where there are people present in their own country but are suffering due to these policies framed by the state and federal government, this vividly shows that the overpowering federal is creating a problem for state peoples as they are distributing the indigenous rights to migrants too.

The authors offer a functional theory of cooperative federalism in this article to define the proper bounds of federal authorities to ensure that state and local governments implement federal programs. He contended that the suggested inter-governmental financial structure serves a good purpose. In other words, it preserves the powers of state and municipal governments while maintaining the federal government's primacy. The theory contends that state and local governments should be granted "autonomy" and be immune from federal regulatory requirements, beginning with extensive empirical studies on intergovernmental financial ties. Because confiscation or conscription is economically unsuccessful and inequitably distributed, relying on voluntary agreements rather than conscription or confiscation is more logical. According to the text, the federal government should not take property or employ non-federal government services due to the same grounds. The paper contends that requiring central governments to acquire regulated services rather than relying on non-federal governments will not stymie good intergovernmental collaboration. The courts ruled in these cases that the federal government could not force state and local legislative or executive officials to comply with federal law by regulating persons in accordance with federal standards. The Court avoided any empirical investigation of intergovernmental interactions, instead relying on the abstract concepts of dual sovereignty and political responsibility to uphold the proposition that gov'ts can't subjugate regulatory procedures.


In this article the author says that the Congress clearly possesses authority under the financial Clause to direct the President and federal administrative agencies to disburse or withhold funds based on state regulatory actions that Congress itself could impose. Within the scope of such power, Congress may direct federal agencies to impose requirements that pre-empt even traditional state regulatory prerogatives under the Supremacy Clause. Until recently, the Supreme Court had not resolved whether Congress may direct state legislatures to implement federal programs enacted under the Interstate Commerce Clause. The Court in New York provided three reasons why it believed the Constitution imposed federalism limits on congressional power to direct state regulatory actions.

By negative implication, the Supremacy Clause expresses a limit on federal power to direct state legislative officials Mandates will not, therefore, necessarily conceal from citizens the branch of government accountable for In contrast to directives, the transfer of federal authority to states raises more serious questions about accountability. By delegating power beyond the federal government, Congress may lift structural constraints in the Constitution that assure accountability for official actions. Federal
administrative officials are unlikely to blame Congress, on which they rely for funds, for requiring delegation to states that fail fully to implement federal policies.

Therefore, the Supreme Court should find that delegations to states of overbroad federal regulatory powers violate the Constitution as a matter of political rights or to assure that officials imposing federal policies can be held accountable to all federal citizens and thus will adopt better policies. Alternately, federal legislators may believe that state regulation and implementation are more efficient than their federal equivalents, resulting in better policies or making the government more accountable. The Constitution allows Senate to rely on states to carry out federal regulatory programs, but it does not encourage. Finally, the author proposes why the Constitutional Court should rule that the delegation or effective delegation of federal legislative power to states violates the Constitution. Congress does not require to assign legislative authority to states to carry out federal programs since Congress can delegate significant policymaking authority to federal agencies. Further, the author provides a solution by proposing that the Supreme Court should require Congress and the President to more fully justify the form of and reliance on states to implement federal policies within the bounds of power delimited by Congress.


In this article, the author talks about cooperative federalism applied to the telecommunications industry. It says the telecommunications industry will never give up the opportunistic use of federalist arguments. It was important for the F.C.C. to allow this at the state's discretion. In the wars over telecommunications policies that dominate federalism, the development of segregation rules rather than the approval of national codes of practice often accompanies them. The arguments given by the author, in this case, were results-oriented primarily. It goes against the state's discretion when developing new methodologies for cost calculation. The same organization entered the local telecommunications market. We defended these freedoms when developing our segregation policy. Against the backdrop of the opportunistic use of claims based on federalism, it is difficult for regulators to understand the possible structures of regulatory federalism fully. During his long reign, the Regulatory Authority, the Communications Act of 1934, operated as a dual federal system. Model communication is based on the division of jurisdiction between countries and states. The Telecommunications Act of 1996 (Telecommunication Act or 1996 Act) requires regulatory bodies to conceptualize and enforce this. The strategy of cooperative federalism, not the separation of federation and sovereignty. So far, opportunism prevails—arguments related to familiarity with federalism and the old duality.

The federalist model made life difficult for industry workers. Evaluate yourself for a more subtle and practical approach. This could be the result of a co-regulatory strategy for the federal system.” This essay explains the nature of co-operative federalism in law. Strategies and how the F.C.C. and government can help develop solutions to vexing regulatory challenges. In particular, as denotes the fulfilment of the
interconnection contract governing the relationship. Remuneration reform debate between incumbent local phone operators and new entrants continued remuneration reform between market and telecom operator’s appropriate policies to separate local phones from existing provider networks.

In conclusion, it will depend on what the regulators do at the federal and state levels. However, to fully understand and accept the framework of cooperative federalism contributes to continuing. The author has only showed the challenges faced by the implementation of the co-operative federalism but has provided the co-operative as a solution to the development too, so it seems that the author is trying to portray that the co-operative federalism is a better way of development than dual federalism.

1.9 “Robert L. Fischman, Cooperative Federalism and Natural Resources Law, 14 N.Y.U. ENVTL. L.J. 179 (2005).”

In this article the author talks about the co-operative federalism with respect to Natural resources Law, he says that the two sides of the environmental law field, pollution control and resource management, share a common focus on the natural materials and services that sustain healthy lives and productive livelihoods. However, they differ in their constitutional authority, conceptual frameworks, legislative tools, and administrative strategies. Co-operative federalism, a term describing an arrangement under which a national government induces coordination from subordinate jurisdictions, highlights this divide in environmental law. It takes a broad, conceptual route to explore how natural resources law can contribute to pollution control. The limited pollution control approach calls for state administrative programs authorized to customize and execute federal regulations. Later in this piece, we will look at how the importation of the cooperative federalism concept's restricted pollution control approach might develop natural resources legislation. The extent to which the E.S.A. may be adapted to co-operative federalism's restricted pollution control paradigm implies prospects for altering natural resource legislation more broadly. However, the issue of insufficient inducements shows significant limitations to the efficacy of unilateral borrowing, which ranges from pollution control to resource management via co-operative federalism.


In this article in his book talks in general that whether the structure is dual or integrated, most federations provide some form of adaptive governance, institutional sharing, and some form of co-operative activity. One aspect to discuss is how government agencies and levels interact with each other and with others outside the jurisdiction to manage legal conflicts and tensions, methods and structures of participation, and responsibilities and transparency. The actual function of the Indian Federation should not be classified as a rigid structure for the separation of powers but rather as a process of co-operative federal system. Separation of powers, cooperation, and coordination, are more efficient, cheaper,
and more durable coordination methods for developing a pluralistic society, as is the case in India. They become the meeting point of hostile groups and seemingly irreconcilable positions. In his book, the author has shown that Co-operative federalism has been embedded in the Constitution itself but has kept the union superior to the state; and this sometimes benefits and sometimes acts as a hurdle.


In this article, the author portrays how co-operative federalism is restricting the growth of the states. However, compared to nations like the United States of America and Australia, they practice federalism stringently. The equivalent is not true with India, which has frequently been alluded to as a semi government arrangement of administration attributable to the way it has a unitary Centre. However, specific fundamental capacities and autonomies have additionally been designated to its States. The strategy through which federalism endeavors to accommodate the conflicting cases of public sway and state sway includes the development of a constitution under which the standard forces of power are split between the local government and the different states or areas. This division powers me, notwithstanding, fluctuate under each unique government constitution; however, to a great extent, the general and center rule on which it should rest stays as beforehand purposes a solitary country, yet ought not to wish to give up the singular presence of each man’s state. As indicated by Dr. Ambedkar, "The Indian Constitution is a Federal Constitution while it builds up what might be known as a Dual Polity which will comprise of the Union at the Centre and the States at the fringe each supplied with sovereign forcest to be practiced in the field allocated to them separately by the Constitution. It is so extraordinarily adjusted in the connection between the Union and the States that the Indian Constitution isn’t qualified for be known for. The author has only portrayed the problems faced due to the co-operative federalism but has not provided solutions to it.


In the United States, the legal position of medicinal marijuana is akin to a conundrum. On one hand, the federal government has outright prohibited the substance. In contrast, 40 percent of states have allowed the production, distribution, and consumption of marijuana for therapeutic purposes. As a consequence, medicinal marijuana use is both prohibited and promoted. This article explains the significant ambiguity of both lawful and criminal acts. The researcher is attempting to shed some light on some aspects of the aggravated problem resulting from the 2012 election when two states legalized recreational (quasi) marijuana. This article examines the issue from a federalist standpoint. It begins by stating that the erratic enforcement of federal agencies in states that have authorized medicinal marijuana jeopardizes the state’s drug
legislation and the efficacy of federal regulation. This argument is predicated on the idea that the federal drug ban results from a collaborative effort between the states and the federal government. Consider the reality that state agents perform 99 percent of narcotic inquiries and arrests. Governmental harassment in places where medicinal marijuana is authorized causes state officials to become challenging to work with to impose a dual prohibition on narcotics like narcotics. As the author of this article recommends, one answer to this dilemma is Congress granting federal tax exemptions to states that have legalized narcotics.

This paper examines the extent to which varied assertions regarding whether and how the federal government implements the prohibition endanger co-operative federalism. Rather, this paper examines the extent to which varied assertions regarding whether and how the federal government implements the prohibition endanger co-operative federalism. The idea emphasizes the central govt's respect for state drug policy, restores "co-operative federalism" between federal and state governments, and permits federal agencies to thrive indefinitely with limited resources. Rather, this paper examines the extent to which varied assertions regarding whether and how the federal government implements the prohibition endanger co-operative federalism.


This Article demonstrates how private plaintiffs can utilize the pre-emption theory to enforce the federal standards of co-operative federalist regulatory systems while preserving the national supremacy that Congress intended those programs to retain. Therefore, it is difficult to think that Congress intended to suspend the application of the pre-emption concept and enable state regulatory programs to deviate from national aims to the harm of public health and welfare. This Article indicates that state activities that contradict federal requirements are not necessarily a genuine impediment to achieving the "full goals and objectives" of the federal regulatory programs that imposes the mandates. Conflicts develop when state acts clash with federal mandates on a systemic level and are not susceptible to powerful federal remedial mechanisms. This essay also demonstrates that state activity may be conflicting with a single federal duty without constituting a genuine impediment to the overall federal regulatory objective. The remainder of this article will go over the fundamentals of co-operative federalism in antipollution law, emphasizing Congress's three major goals for the approach: (1) achieving national standards to protect public health and welfare, (2) overcoming bureaucratic inertia, and (3) preserving state primacy. It demonstrates that courts should enable members of the general public and the governed community to use pre-emption arguments to prevent only state activities that obstruct the whole federal regulatory purpose from being accomplished and executed. The article's focus is on pointing out the challenges that occur rather than giving a remedy for the state serving as an obstacle for the federal govt.

The author's main goal in this essay is to outline and describe recent developments in federalism and intergovernmental relations in Canada at the beginning of the twenty-first century. With the blend of federalism with Westminster-style governance, executive federalism or "federal-provincial diplomacy" has long been seen as the distinguishing element of Canadian intergovernmental exaltation. There've been significant changes in the practise of federalism and intergovernmental relations in Canada in recent years. Executive federalism has become significantly influenced by a set of practices known as "collaborative federalism," which is characterized mainly by the co-determination of federal public priorities rather than by the co-operative federalism of Ottawa since World War II or by the extra competitive federalism of later phases. In a Canadian setting, defining the code normally requires two governments or agencies cooperating in just the same way, but in the lack of a federal government to establish federal policy, provincial and territory governments may be forced to make their own. Initiatives and actions are taken collectively Collective federalists (mainly local governments and their supporters) view Canadian governance as a collaboration between two egalitarian, independent, and interconnected governing institutions that collectively establish national policy. The federal government has been involved in a procedure similar to this one in some of the following circumstances. We present an evolving paradigm and explain its origins, functions, and practices, summarising the growth of Canadian federalism following World War II. Finally, the author said that the Canadian government concludes its review and has discovered how this co-operative/collaborative model varies from previous intergovernmental relations.

This article compares two sorts of governing methodologies to determine which will be advantageous to the nation's improvement.

1.15“Aiwer, S. P. “INDIA’S EMERGING CO-OPERATIVE FEDERALISM.”


The Constitution of India nowhere uses the word ‘federal’, but the principle is nevertheless embodied in the Centre-State relations envisaged by it. Article 249 of India's emerging co-operative federalism states that when the Council of State declares by a resolution supported by two-thirds of its members present and voting that it is necessary or expedient in the national interest for Parliament to make a law on a subject enumerated in the State list, Parliament may enact the law, which will be in force for a maximum of one year and renewable for another year. Obviously, failure to comply with these directives can bring on the wrath of the Union executive through the operation of Article 356 - the emergency power. Partly, it is a hang-over from the past and is in keeping with the tendency towards centralisation, running through-out Indian constitutional development from the Regulating Act of 1773 to the Government of India Act of 1935 that centralisation is implicit in the evolution of modern societies. There is another aspect of the question of Centre-State relations that might be briefly
mentioned here. There has been hardly any real trial of strength in the field of Centre-State relations.

On the contrary, planning has been instrumental in forging greater co-operation Centre-State Relations in Theory and Practice. India’s emerging co-operative federalism between different levels of government thus providing the basis for co-operative federalism. The Plans call for a high degree of co-ordination both horizontal and vertical - horizontal with regard to work done by ministries at the same level. Since the inception of the Community Development Programmes in October 1952 the Centre-State relations have been changing rapidly in the direction of co-operative federalism.

But as it is, Community Development is an important factor in India’s emerging co-operative federalism. The States have virtual autonomy in the administration of health, education, agriculture, co-operatives, and rural industries and therefore have to plan their own co-ordination in community development, as well as co-operating with the Centre in these fields". The paper focuses on the development of the co-operative federalism in India and has shown the path through Constitution but the whole paper has not dealt with the practical problems faced due to co-operative federalism.


In this article, the author discussed how, as a result of recent wartime needs, one important technique of intergovernmental cooperation was given a new impetus: the "adoption" and enforcement within its jurisdiction by one sovereignty of the laws or regulations of another sovereignty on a given subject matter. Following some prodding from the O.P.A., a few states and dozens of municipalities adopted the enforcement of federal pricing, rent, and rationing laws by introducing legislation imposing local penalties for violations of federal regulations. The justifying decisions are of specific importance because efforts by a town or region to chastise the violation of a statutory requirement, while the latter may be amended from time to time, have commonly been considered an inadequate delegation of power to the federal govt; and there is potent authority for that view. Furthermore, there are regard to the issue as to whether the constitutional provisions of some states prohibiting the incorporation of other laws by reference would be a barrier; whether differences in the size of the penalty or the scope of the prohibition (e.g., the governmental omission of a federal or state requirement that there be wilfulness before the penalty is applicable) constitute such a conflicts to if Congress "occupied the field" by enacting federal acts governing price and rent control and rationing in such a way that any local legislation on the subject is rendered null and void; and, finally, whether the police power or any other power of states and cities is sufficient to regulate in such a way. The study focuses mostly on the necessity for co-operative federalism, but it also speculates on whether it will cause any future problems. The study just states that co-operative federalism is required, but it is not a comprehensive research work on why it is required.
Chapter 2.

2.1. What is federalism?

Federalism is a method of political organization that unites individual states or other states within an overall political system so that each maintains its integrity. The federal system does this by requiring that basic policies be formulated and implemented through some kind of negotiation so that all members can participate in making and implementing decisions. The political principles underlying the federal system emphasize negotiating priorities and coordinating coordination among the various power centers. They emphasize the virtue of a decentralized power center as a means of safeguarding individual and local freedoms.

2.2. Centralization a problem for cooperative federalism.

In India's power distribution is based on three lists included in the seventh list of the Constitution. The powers of both the central and state governments are listed explicitly in the federation list or the state list, but the powers on the simultaneous list belong to the two governments. The remaining authority rests with the central government. The general principle of separation of powers is that all nationally important issues such as defense, diplomacy, railroads, currency, etc. are assigned to the central government, mainly local or regional important issues such as criminal law, forestry, and economic. Some matters that require center and state involvement, such as social planning, are on the 3rd list. However, if there is a conflict over the law on any of the subjects on the 3rd list, the center will take the place of the state.

The presence of Article 200 which lays provision of Reservation of State Law by the Governor for Presidential assent, which acts as a hurdle for the state to function in its full capacity. This becomes a barrier to the federalism when the center and state both are having different ruling parties then it becomes difficult for the state to pass any legislation because the president appoints a governor and thus it can be presumed that the governor is a person of benefit for the center and less beneficial for the state. Rather the appointment of governor should have been done from the particular state itself then this would have justified the whole idea to equality; but the makers of the Constitution made the Constitution which gives superiority to the center. Moving forward we can see that under Article 352, which states the emergency provision, it gives the union cabinet a superior position for deciding the state emergency. This superiority acts as a barrier in cooperative federalism because the involvement of state council of ministers is absent for the discussion and thus when an emergency is to be imposed in any part of the country, there can be a situation of conflict between the center and state. Article 356, and 360, and State Administrative Authority under Articles 256 and 257 Obligatory compliance was the state's primary concern for power. Therefore, centralization is troublesome to India's federalism.

The Constitution of India explicitly gives the center greater tax authority, but it also provides an institutional mechanism (Finance Commission) to determine the state share of central government tax revenues to correct this imbalance. I am. In deciding on tax and grant transfers, the Finance Commission must address both the
vertical imbalance between the center and the state and the horizontal imbalance between the states. Currently, about 40% of federal income (tax and non-tax) is paid to the state, including grants received from planning committees and central ministries. Despite the expansion of the shareable pool as part of the 80th amendment, which includes all central taxes, center and state revenues have not changed significantly. Asymmetric distribution of income and lack of surrounding resources lead to uneven development across the country. Many states fear that current taxes on goods and services violate India's tax federalism. Combine the various taxes into one tax and divide the procurement between states at a given ratio, thus distribution of funds for the states by union leads to decrease in growth of the states, and makes the state dependent on the center for monetary support at some point of time. This leads to delay in the growth of the state, in a normal case where the state is having the control over its state money and had minimal involvement of union then the surplus fund can be used at those point, it can also be concluded for the point 10.11.08 of the Sarkaria Commission Report\(^1\) and many states in India are demanding more financial autonomy in India.

In a typical federation, the power to amend the Federal Constitution is a common foundation between the federation and its substance. In India, the center has the authority to amend the Constitution under Article 368 and other provisions. Ratification by half of the state is sought in some limited areas, but the states of the India have virtually no power in this important area of government. In contrast to the successful federation, the Constitution of India does not provide for the separation of states from the Indian Union. The coalition was made indestructible to protect the unity and integrity of a country like India. However, this typical Indian regulation is curbing rising demand for withdrawal from the Indian Union. The boiling demand for "Dravida Nadu", consisting of the voices of the separation of the southern states and the eastern and western parts of India, poses a great threat to India's unity and sovereignty. Even if the content appeared to be anti-federal, if the state had the power to determine the geographic territory, there would be a lot of confusion and impasse, which caused serious problems for the country's legal system. It proved to be a blessing. The constitutions of all major federal democracies provide that a state cannot be divided or merged with another state without prior consent. That is the essence of federalism. But the power to form and reshape the state lies with Union. The builders of our country were wise to draft a constitution to meet our needs. The Constitution did not require prior state approval, but in reality each state was formed with prior approval and, in most cases, after a thorough and impartial review by an independent committee. However, in some cases, the federal government often ignores affected states when dividing geographic areas. The recent formation of Telangana is the recent example. The decisive efforts of the federal government

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\(^1\) Substantial expenditure is incurred by both the Union and the State Governments on schemes which have come to be known as populist measures. It will be in the best interests of the concerned Governments to take explicitly
and the frequent declaration that Andhra Pradesh will be divided regardless of the legislature's views pose a serious threat to India's federalism and unity. On sensitive issues such as the reorganization of the territory of the Indian state, the views of the countries concerned are fully considered by the center. A solution that the center arbitrarily decided without the state's consent and negotiated on this effect would effectively transform the state into a local government and India into a unitary state. Neither the members nor the builder of the state intended such a result. If efforts are made to unify the country at this stage effectively, India's future will be at stake.

The Governor's Office of any state of India is a delicate matter as it can threaten the federal nature of the Dominion of India. Article 154 means that the Governor may appoint the state's chief minister attorney general and the state electoral commission members. Centres often abuse this to please local political parties part of national structures or coalitions. The centre’s visible arbitrariness in abusing such constitutional offices has been the subject of intense debate and disagreement within the country. The imposition of presidential rule in the state of Arunachal Pradesh in January 2016 caused a strange incident in India's constitutional history when the state was under an elected government. On July 13, the Supreme Court ruled that the governor's decision was unconstitutional and ordered the reconstruction of the parliamentary government of Arunachal Pradesh. Public support for the central government's governor on this critical issue speaks a lot about the weaknesses inherent in India's quasi-federal structure.

Even economic and social planning has been included in the 7th schedule of the Constitution, the federal gov. has unlimited powers over central and provincial planning in India. The center appoints centralized planning through the planning committee, now NITI Aayog, the significant preponderance of the federal legislature, the state's financial dependence relies on the center, and the state's administrative inferiority soften and weaken the state. There is no special planning committee for the state in India. It also exacerbates the state's plight and ensures the smooth functioning of the federal spirit across the country.

2.3. Regionalism a hurdle for cooperative federalism.

“Regionalism is rooted in India’s manifold diversity of languages, cultures, tribes, communities, religions and so on, and encouraged by the regional concentration of those identity markers, and fuelled by a sense of regional deprivation.”\(^2\) The British colonial division of Indian territory complicated India's regionalism between the directly governing states and some 60 (indirectly administered) autocratic monarchical kingdoms of varying sizes, religions, tribes and languages. Regionalism is often expressed in terms that contradict the unity and integrity of the country and challenge the legitimacy of the country. The point I want to emphasize in this regard is that the internal self-determination of communities, whether linguistic, tribal,
religious, regional, or a combination thereof, remains the dominant form of which Indian regionalism seeks to express. Historically, at the same time. Demographically, India is the 2nd largest country after China, with a population of over 1 billion, and is the most culturally & socially diverse in world. Today, over 1 billion people live in India in 28 states (federal units) (which has doubled since the 1950 Constitution came into force) and 7 federal territories (central administration). Formed as a land of immigrants who brought their culture and traditions over thousands of years, India's diversity is now common knowledge. Despite the fact that India is dominated by Hindus (over 80%), they are geographically unique, plural in beliefs and customs, and divided into castes and languages, although India is home to a significant proportion of Muslims (about 13%) scattered in various states.

Demographically, India is the second-largest country after China, with a population of over 1 billion, and is the most socially and culturally diverse in the world. Today, over more than 1 billion people live in India in 29 states federal units; which has doubled since the 1950 Constitution came into force and 7 federal territories. Formed as a land of immigrants who brought their culture and traditions over thousands of years, India's diversity is now common knowledge. Despite the fact that Hindus dominate India, they are geographically unique, plural in beliefs and customs, and divided into castes and languages, although India is home to a significant proportion of Muslims (about 13%) scattered in the country with a population of more than 1 billion, including Sikhs, Buddhists, Christians, Jains, etc. India’s linguistic diversity is widely recognized. It is estimated that 1,632 languages are spoken in India (Basu 1997: 187). 18 languages have been "officially recognized" and listed in Appendix VIII of the Constitution as a symbolic recognition of identity. Today, people who speak these 18 languages make up about 91% of the population. Many languages in India have very ancient and strong literary traditions. Some of the so-called regional languages, especially Tamil (South Indian), are actually older than Hindi and are spoken by most (if not most) Indians. During British colonial rule, languages and regions were not always the same. Thus, the British-made provinces in India were not linguistically homogeneous. Many provinces, as well as royal dictatorships, were bilingual or even trilingual. As a result of the national liberation movement in India, many language groups living in the area became self-conscious and demanded self-determination. (Bhattacharyya 1989; Chatterjee 1986 and 1993). The Language Provincial Committee, commonly known as the Dar Committee, established on 17 June 1948 to advise the Constituent Assembly (1946-49), rectified the local language situation; Indian patriotism is aggressively bound to the province's borders (Bhattacharyya 2001: 100). The most powerful tool for politically acknowledging ethnic-ethnic identity in the post-liberation era is the combination of regional and tribal identity. Although there have been successive waves of federal restructuring since the 1950s, a number of numerically

https://censusindia.gov.in/census_and_you/religion.asp
significant minorities exist in states and federal territories (Indian Census Report 1991). Thus, the question of regionalism based on language, tribal ethnicity or region, tribal ethnicity and/or combination of languages remains open. For example, when creating the last three states in 2000, Uttarakhand, Chhattisgarh and Jharkhand, language did not play a dominant role (Bhattacharyya 2001), but in the constitution assembly debate the issue of language was a clearly evident. The complexity of tribal ethnicity, language, regional deprivation and ecology became the basis of intense regionalism and demanded statehood (Bhattacharyya 2001). The Tripura Tribal Autonomous Regional Council (TTADC), located in Tripura, north-eastern India, was formed in accordance with the 6th Addendum to the Indian Constitution in 1983 and has autonomy covering about two-thirds of the state's territory, mainly inhabited by indigenous peoples. State is a successful example of adopting regionalism to vanish tribal identity (Bhattacharyya 2003). Another successful example is the Darjeeling Gorkha Hill Council (DGHC) in the northernmost district of West Bengal. In Assam, north-eastern India, the proposed Bodoland Regional Parliament will be created under the 6th annex to the Indian Constitution, where the Assam minority Bodo will not have a majority in Bodoland, but will protect their identity in the area in which they live try to do. Three distinct patterns can be distinguished in the stages of adaptation of regional identities through states after independence (1947). First, intense (ethnic) mass mobilization, often violent in the 1950s and 1960s, was a major force behind the state's response to institutional packages for the state. Andhra Pradesh in southern India showed the way. In 1952, when the legendary (Telugu) Gandhi leader Poti Sriramouli died for the Telegu speaker nation in the presidency of Madras compound president, Jawaharlal Nehru, the supreme nationalist leader and first Prime Minister of India, reluctantly splits Andhra Pradesh... The federal government also established the National Reorganization Commission (S.R.C.) in 1953 to redraw the political map of India and, following the Commission's recommendations, passed the famous 1956 National Reorganization Act. Interestingly, the S.R.C. report (1955) resonates with local reasons. Likewise, local consciousness can contribute to satisfaction in the sense of a negative perception of the absence of oppression or exploitation, as well as the possibility of a positive expression of the collective character of the people living in a country or region, and the well-being of the community. A common language not only promotes the growth of such local consciousness, but can also contribute to administrative convenience (cited in Majumdar and Singh 1997: 104). Thus, in the 1950s and 1960s, there was a major reorganization of the Indian territories based primarily on language. In the Constitution of India (1950), the 27 states of categories A, B and C were reduced to 15 with equal status and powers. The 7th Amendment (1956) included it in the Constitution. Founded in 1963, the state of Nagaland in north-eastern India was probably the only exception to the pattern of the 1950s and 1960s. The Naga tribe was created after a long struggle against the Indian state for a sovereign land independent of India to recognize their tribal identity. For Punjab (1966), the union of language and religion (Sikhs) provided the foundation of the state. Second, in the 1970s
and 1980s, north-eastern India focused on restructuring. The basis of the reorganization was a tribal uprising for secession and state establishment. The main institutional response of the federal government was the complete sovereignty of the combined territories of the sub-states of Manipur, Tripura, and Meghalaya under the Northeast States Reorganization Act of 1971, and Mizoram and Arunachal Pradesh (then tribal districts) - as a united territory. The latter became a state in 1986. The only exception was Goa (based on the Kokani language (8th timetable)), which became a state in 1987. As northeast India remains a permanent base for separatism and political extremism of all kinds, a negotiated settlement is being pursued between the Indian government, affected states and ethnic leaders. These inter-ethnic peace agreements served as the basis for subsequent legislation at federal and state legislative conferences to create new or auxiliary states. Tribal ethnicity, based on region rather than language, was the principle of appropriate national or sub-ethnicity in the Northeast. Interestingly, given the predominance of Christianity (Baptist missionary) in some parts of the Northeast, there was a movement in the late 1960s to use religion as the basis of national demands. However, realizing that religion was not recognized as a basis, they quickly moved to tribal allegiance (Weiner and Kazenstein 1981). Third, the movement for three new states, created in 2000 - Chhattisgarh, Jharkhand of Madhya Pradesh and Uttaranchal of Uttar Pradesh have been attracted for a long time, but they started working in the 1990s. However, as I have shown at length elsewhere (Bhattacharyya, 2001), the underlying underpinnings are complex with a combination of tribal ethnicity, language, regional deprivation, and ecology. However, language did not play a major role in creating these countries. When these states were created in 2000, the legislative process was respected and no committees or national peace agreements prescribed in the Constitution were followed in creating these states in 2000.

2.4 Conclusion

Form the above stated statements it can be concluded that regionalism has a deep impact on the creation of new states in India, in the above mention statement it can be expressed that the importance of regionalism in the form of language played an important role in the creation of separate states. This kind of event can be very dangerous for the co-operative federalism, because of the flexible nature of Constitution under article 2 and article 3, if the demand for separate states keeps on rising then the time is not far when every tribal or regional language will demand their own statehood and if not granted then will create a tough situation for the central government to deal if the state is having an opposing party government, because it is in the hand of the central to pass the bills related to change in the formation of geographical territory. Thus a challenging situation will rise for the efficient functioning of the co-operative federalism and will create a strained relation between the center and state, thus remaining like a splinter in the federal structure of this country. More problems will come like this because of the separation of the powers between the union and provincial states. Problems like regionalism can be suppressed or addressed at the initial point only. However, if there is strained relation between the state and union concerning its
division of powers, the state might use it as a political advantage and try to create pressure on the union and thus the essence of the Constitution, i.e., co-operative federalism will suffer in the end.

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