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FEDERALISM AND THE CHANGING DYNAMICS OF CENTRE-STATE RELATIONS IN INDIA: A DOCTRINAL ANALYSIS OF CONSTITUTIONAL AND JUDICIAL DEVELOPMENTS

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INTRODUCTION:

The idea and meaning of federalism

In its most basic sense, federalism is a system in which government powers are split between a central authority and regional units. The distinguishing characteristic of such a system is that both tiers of government obtain their authority from the Constitution and are not subordinate to each other within their designated domains.

K.C. Wheare defines federalism as a framework of "coordinate authorities." This formulation, however, presupposes a level of separation that is seldom observed in practice. Most constitutional systems show some overlap in practice. India is not an exception.

In India, the Constitution lays out how power is divided. However, it would be incorrect to assert that the Union and the States function in entirely isolated compartments. Some rules allow the Union to step in, and others require cooperation. So, the plan is not one of strict separation.

In *S.R. Bommai v. Union of India*, the Supreme Court said, "The Constitution of India has adopted a federal structure... the States have an independent constitutional existence."¹ This observation is

significant, yet it does not resolve the issue. The question is not just whether India is a federation, but what kind of federation the Constitution sets up. In this regard, the Constitution's text implies a preference for a robust Centre.

Federalism as a Constitutional Principle

The emergence of the basic structure doctrine brought about a major change in the role of federalism within the constitutional framework. Before this, the way powers were divided could mostly be seen as part of the constitution's design, which could be changed by adding new amendments.

This interpretation is no longer valid following *Kesavananda Bharati v. State of Kerala*. The Supreme Court said, "An amendment under Article 368 cannot destroy the Constitution's basic structure."²

The ruling doesn't give a full list of what makes up the "basic structure." That has been left to future interpretation. However, over time, some features have always been seen as part of this core, and one of them is federalism.

In *S.R. Bommai*, the Court made it clear that "Federalism is a basic feature of the Constitution."³

This has big effects, but they are sometimes talked about in a way that is too broad. At the very least, this means that Parliament can't change the Constitution in a way that destroys the federal character when it uses its power to make changes. Of course, what exactly "destruction" means will depend on the facts of each case.

Another thing that needs to be looked at is this. If federalism is a part of the basic structure, then actions that seriously upset the balance between the Union and the States, whether they are legislative or executive, may be able to be reviewed by the courts.

¹ *S.R. Bommai v. Union of India*, (1994) 3 SCC 1.

² *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.

³ *S.R. Bommai v. Union of India*, (1994) 3 SCC 1.



This does not mean that every time the government steps in, it is against the law. The Constitution allows this kind of intervention in some cases.

The challenge is determining the threshold at which allowable intervention transitions into unacceptable encroachment. The Court, especially in *Bommai*, tried to deal with this in relation to Article 356. In that case, it did not set a strict rule, but instead stressed the need for constitutional limits.

So, it is safe to say that federalism acts as a limit. Not a complete one, but a real one. It restricts constitutional amendments and executive actions, although the precise parameters of this limitation are still being defined through judicial rulings.

What Indian Federalism Is: "Union of States"

Article 1 of the Constitution is the best place to start when trying to understand Indian federalism. It says, "India, that is Bharat, shall be a Union of States."⁴ A lot of people have noticed that the word "Union" is used instead of "Federation." Most people agree that this choice was made on purpose. The goal was to show that the Indian federation is not the result of an agreement between independent units. So the States don't have the right to leave.

The Supreme Court said in *State of West Bengal v. Union of India* that "The Constitution of India is not truly federal in form but is a quasi-federal Constitution...the constituent units have no right to secede."⁵ This supports this position.

The term "quasi-federal" has been used a lot to describe the Constitution, but not always in a clear way. That doesn't mean the Constitution doesn't have any federal parts. Instead, it shows that those features are there along with provisions that make the Union stronger.

Parliament, for example, has residual powers. "The

Union can make laws about State issues under certain conditions." Emergency provisions allow for a temporary but important change in the balance of power between the states and the federal government. These things suggest that the center is the most important.

It would also be wrong to say that the system is only unitary. The States are legally recognized groups with specific areas of law-making power. They do not depend on regular laws to exist. This sets them apart from administrative divisions in a unitary system.

So, there is a double character. The Constitution sets up a federal system, but the Center is in charge of it. The balance is not equal, and it may have never been meant to be.

Later court cases, like *S.R. Bommai v. Union of India* and *Nabam Rebia v. Deputy Speaker*, show a trend, though not a full change, toward protecting State autonomy within this framework. In *Nabam Rebia*, the Court said, "The Governor can't use his discretionary powers in an arbitrary way...the use of such power must be in line with the constitutional scheme."⁶

This means that the structure stays the same, but the way it works is up to the courts.

It might be more accurate to say that Indian federalism has changed over time. The Constitution still says that there should be a strong center. Judicial interpretation has, in some cases, set limits on that power at the same time.

So, it is not possible to say exactly where things stand. It is, to a certain degree, influenced by constitutional language, judicial rulings, and political customs. The next chapters will look at how this balance has been reached in certain areas.

⁴ *INDIA CONST. art. 1.*

⁵ *State of West Bengal v. Union of India, AIR 1963 SC 1241.*

⁶ *Nabam Rebia v. Deputy Speaker, (2016) 8 SCC 1.*



THE FEDERAL VIEW OF THE CONSTITUENT ASSEMBLY:

Federal Discussions in the Constituent Assembly

It was clear what kind of constitution India would have, whether it would be federal or not. There was a lot of debate about it in the Constituent Assembly. The members knew that they were not just writing a document about how to run the government; they were also deciding how the State would be structured.

On one level, most people agreed that India needed a system that would divide power between the Centre and the Provinces. Indian leaders were already used to this kind of system because of their experience with the Government of India Act 1935. But there was disagreement about the exact balance between the two.

Some members wanted a more traditional federal system with more freedom for the provinces. Others said that India's situation, with Partition, communal tensions, and economic dislocation, called for a strong Center.

Dr. B.R. Ambedkar made a clear statement when he introduced the Draft Constitution. This statement is often quoted, but not always in full. He said that the Constitution was "federal in form but unitary in spirit." However, this formulation must be read carefully. It doesn't mean that there is no federalism; instead, it means that the Constitution allows for some central control that isn't usually found in classical federations.

There were also worries about the chance of fragmentation. The memory of Partition was fresh. It had an effect on the debates that can't be ignored. So, federalism wasn't seen as an abstract idea, but as something that had to be done in India.

The debates show, if anything, a careful approach. The Assembly didn't say no to federalism, but it also didn't accept it in its purest form.

The Use of the Term "Union of States"

The phrase "Union of States" in Article 1 is not just a description. It shows a deliberate choice made in the Constitution.

Article 1 says: "India, which is Bharat, will be a Union of States."⁷

Dr. Ambedkar talked about how important this formulation was during the debates. He made it clear that the word "Union" was better because the federation was not the result of an agreement between independent States. Because of this, the States can't leave.

This stance sets India apart from federations established by compact, like the United States. The federation in India is established constitutionally rather than contractually.

In *State of West Bengal v. Union of India*, the Supreme Court said the same thing: "The Constitution of India is not truly federal in form but is a quasi-federal Constitution..."⁸

The word "Union" makes it clear that the Union cannot be broken, even though the States are still constitutional entities.

But this wording makes one wonder. What is the status of the States if the Union cannot be broken? Article 3 of the Constitution says that State lines can be changed. This means that the Union will always be there, but the States can change in their current form.

So, the position is not symmetrical. The Union cannot be broken; the States can.

⁷ *INDIA CONST. art. 1.*

⁸ *State of West Bengal v. Union of India, AIR 1963 SC 1241.*



The Constitution's Federal Parts

Even though the Constitution stresses unity, it has a lot of features that are typical of a federal system.

The Seventh Schedule lays out the first division of legislative powers between the Union and the States. This is a key part of federalism.

Second, the Constitution is written and the highest law. It gives power to both the Union and the States. Neither can do anything that is not allowed by its rules.

Third, there is a separate court system, and the Supreme Court is the last word on what the Constitution means. This is very important in a federal system, where there will always be disagreements between different levels of government.

Fourth, the Central government has a bicameral legislature, and the Rajya Sabha represents the States. Even though its role may be limited in some ways, its existence shows the federal principle.

In *S.R. Bommai v. Union of India*, the Supreme Court acknowledged these characteristics and stated, "The States have an independent constitutional existence."⁹

These factors collectively substantiate the conclusion that the Constitution possesses a federal structure.

The Constitution's Unitary Aspects

The Constitution also has a number of provisions that are clearly unitary in nature.

The most common reason is that the Union has the power to make decisions about what happens to property after death. This goes against traditional federal models and gives more power to the central government.

The Constitution also has emergency provisions that allow changes to the federal structure. For example,

Article 356 says: "If the President... is sure that the government of the State can't be run according to the rules of this Constitution..."¹⁰

In this case, the Union takes over the State's administration.

There are also rules that let Parliament make laws about State matters in certain situations, like during a national emergency or with the Rajya Sabha's approval.

The President also appoints the Governor, which adds a central element to the administration of the states.

These characteristics suggest that the Constitution does not uphold a rigid division between Union and State authorities. Instead, it allows the central government to step in in certain situations.

2.5 Finding a balance between unity and state independence

The Constitution tries to find a middle ground between two important needs: the need for national unity and the need for regional independence.

It can be hard to keep this balance. Some rules help the Center and others protect the States. Political practice and judicial interpretation play a big role in how these rules work.

The Supreme Court, especially in *S.R. Bommai v. Union of India*, tried to put limits on what the central government could do. The Court said that the power in Article 356 can be reviewed by the courts.¹¹

⁹ *S.R. Bommai v. Union of India*, (1994) 3 SCC 1.

¹⁰ *INDIA CONST. art. 356.*

¹¹ *S.R. Bommai v. Union of India*, (1994) 3 SCC 1.



This shows that the Constitution allows the central government to act, but not to use that power in an arbitrary way.

So, it can be said that the Constitution does not settle the conflict between unity and independence. It takes care of it. A mix of constitutional rules, institutional practices, and judicial oversight keeps the balance.

The exact position is not fixed. It has changed over time and is still changing. The next chapters will look at how this balance has been understood and used in different situations.

LEGISLATIVE RELATIONS BETWEEN THE UNION AND THE STATES:

How Articles 245-246 divide up legislative powers

Articles 245 and 246 of the Constitution mainly control how legislative powers are shared between the Union and the States. These rules are what make Indian federalism work in practice.

Article 245 says, "Parliament may make laws for the whole or any part of the territory of India, and the Legislature of a State may make laws for the whole or any part of the State."¹²

This provision defines the geographical scope of legislative authority, yet it does not, in isolation, dictate the content of legislation. Article 246 does that job.

Article 246 sets out a clear hierarchy for how things should be distributed. It says:

- Clause (1): "Notwithstanding anything in clauses (2) and (3), Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I..."

- Clause (2): Both the Parliament and the State Legislatures can make laws about things in List III.

- Clause (3): States have full control over things in List II, but only if clauses (1) and (2) are followed.

The word "notwithstanding" in clause (1) is important. It makes the Union List the most important list in case of overlap.

At this point, it is important to note that the distribution is not just a way to sort things. It is also in order of importance. Union power wins in a fight.

In *State of West Bengal v. Union of India*, the Supreme Court made it clear that the Constitution sets up a system where these lists, not ideas about the sovereignty of States, decide who can make laws.¹³

So, the plan is organized, but not fair. The Union is in charge.

The Union List, the State List, and the Concurrent List

The Constitution's Seventh Schedule breaks down legislative topics into three groups.

List I, the Union List, has things that are important to the whole country, like defense, foreign affairs, atomic energy, and money. These things are only in the hands of Parliament.

The State List (List II) has things that are important to the local or regional level, like police, public health, public order, and agriculture. These belong solely to the States, in principle.

The Concurrent List (List III) has topics that both Parliament and State Legislatures can make laws about, like marriage, education, and criminal law.

¹² *INDIA CONST. art. 245.*

¹³ *State of West Bengal v. Union of India, AIR 1963 SC 1241.*



But this seeming clarity doesn't always show in practice. The entries are written in a general way, so there is often overlap. This raises issues of legislative competence.

So, the Court has come up with rules for how to interpret things, like the doctrine of pith and substance (which isn't listed separately in your headings, but it still applies here). This doctrine looks at the true nature of a law to see if the legislature that made it had the power to do so.

One should also read the three lists in light of Article 246(1), which says that the Union List takes precedence. This supports the idea that the Constitution is federal but favors central authority.

Parliament's Residual Powers under Article 248

Article 248 gives Parliament the power to make laws that are not already covered by other laws. It says, "Parliament has the only power to make any law about anything that isn't on the Concurrent List or the State List."¹⁴

This is a big change from classical federal systems, where the States usually have the residual powers.

Union of India v. H.S. Dhillon looked at how far this power could go. The Court said, "If a subject doesn't fit into List II or List III, it must fit into the remaining powers of Parliament."¹⁵

The Court's reasoning is very important. It tackled the issue by eliminating options. If a subject is not found in the State or Concurrent Lists, Parliament has the authority to legislate.

This interpretation makes the Union much stronger. It makes it less likely that there will be gaps in the law and makes sure that Parliament still has power over new or unclear topics.

But the situation isn't completely easy. The wide range of residual power makes people worry about how it might affect the independence of the states. The Court has generally dealt with this by stressing the need to carefully read the lists before using residual power.

The Doctrine of Territorial Nexus

Article 245 sets out the limits of a territory, but it doesn't completely limit legislative power to those limits. The doctrine of territorial nexus allows a legislature to pass laws that apply outside of its own territory, as long as there is a strong link between the subject matter and the territory.

The principle was acknowledged in early rulings, including *State of Bombay v. R.M.D. Chamarbaugwala*, where the Court upheld legislation with extraterritorial effects, citing the existence of a genuine and significant connection.¹⁶

It is necessary that the connection is not fake. A mere remote or incidental connection is not enough.

This doctrine is especially pertinent in a federal system where economic and commercial activities frequently surpass territorial boundaries. If there weren't such a principle, legislative competence would be too limited.

It is important to be careful when using the doctrine at the same time. If it is used too broadly, it could weaken the territorial basis of legislative power.

Article 254's Doctrine of Repugnancy

Article 254 talks about what to do when laws made by Parliament and those made by State Legislatures on things in the Concurrent List are not the same.

Article 254(1) says: "If any part of a law made by the Legislature of a State goes against any part of a law

¹⁴ *INDIA CONST. art. 248.*

¹⁵ *Union of India v. H.S. Dhillon, (1972) 2 SCC 779.*

¹⁶ *State of Bombay v. R.M.D. Chamarbaugwala, AIR 1957 SC 699.*



made by Parliament, the law made by Parliament shall prevail..."¹⁷

But Article 254(2) makes an exception. A State law may be enacted within that State if it has obtained Presidential approval.

Several decisions, including *M. Karunanidhi v. Union of India*, have explained the idea of repugnancy. In this case, the Court set up tests to figure out what repugnancy is.

The Court said that repugnancy happens when:

- there is a direct disagreement between two rules,
- The whole field is what Parliament wants to take over, or
- The two laws can't work at the same time.¹⁸

This doctrine makes sure that things are the same when they need to be, but it also gives the States some room to be different.

The Power of Parliament in a National Emergency

During a national emergency, the way powers are shared between the federal government and the states changes a lot.

Article 250 says: "Even though this Chapter says otherwise, Parliament can make laws for all or part of India while a Proclamation of Emergency is in effect about any of the things on the State List."¹⁹

This provision gives Parliament the power to make laws about State matters in an emergency.

Article 356 also lets the Union take over the administration of a state. The provision says: "If the President... is satisfied that a situation has

arisen in which the government of the State cannot be carried on..."²⁰

In *S.R. Bommai v. Union of India*, the Court looked at the power's scope and limits and said that the use of power under Article 356 is open to judicial review.²¹

These provisions show that the Constitution allows for a temporary move toward a more unitary system in certain situations.

FINANCIAL FEDERALISM WITHIN THE INDIAN CONSTITUTIONAL CONTEXT:

How Tax Powers Are Shared

The Constitution, through Articles 246 and 265 and the Seventh Schedule, explains how the Union and the States share the power to tax.

Article 265 says: "No tax shall be levied or collected except by authority of law."²²

This sets the basic rule that taxes must have the support of the law. Legislative lists then decide who has the power to impose these taxes.

The Union List has taxes that are important to the whole country, like customs duties, income tax (not on agricultural income), and corporation tax. The State List has taxes like land revenue, taxes on agricultural income, and excise on alcoholic beverages.

At first glance, the division seems clear. But there are two things that need to be looked at. First, the Union gets the more stable and flexible sources of income, like income tax and customs. States have fewer and less productive sources to work

¹⁷ INDIA CONST. art. 254.

¹⁸ *M. Karunanidhi v. Union of India*, (1979) 3 SCC 431.

¹⁹ INDIA CONST. art. 250.

²⁰ INDIA CONST. art. 356.

²¹ *S.R. Bommai v. Union of India*, (1994) 3 SCC 1.

²² INDIA CONST. art. 265.



with.

Grants-in-Aid under Article 275

Second, even when states have the power to tax, their ability to bring in money is very different. This causes an imbalance in the structure.

Article 275 says that the Union can give grants-in-aid to the States.

The Constitution tries to fix this problem by using tax sharing and grants. Without these, it would be hard to keep the federal structure going in real life.

It says: "Parliament may by law provide for the payment of such sums as grants-in-aid of the revenues of such States as Parliament may determine..."²⁴

Articles 268–272: How the Union and the States Share Taxes

These grants have more than one use.

Articles 268 to 272 say how some taxes will be split between the Union and the States.

First, they help states that can't meet their spending needs because they don't have enough money coming in.

Article 268 talks about duties that the Union sets but the States collect and use. Article 269 says that the Union can collect taxes and give them to the States.

Second, they are used to help reach certain goals, such as the welfare of Scheduled Tribes and the growth of certain areas.

Article 270 is very important. It says: "All taxes and duties mentioned in the Union List... will be shared between the Union and the States..."²³

Third, they work to make the tax system more fair by trying to close the gaps between states.

This provision is the basis for tax devolution, which means that some of the Union's taxes are shared with the States.

But the system of grants isn't perfect. Because the Union decides how to divide things up, there is a chance (at least in theory) that political factors will affect how things are divided.

The scheme shows that the Union has the most control over major sources of tax revenue, but it is required by the Constitution to share that revenue.

The Constitution does not set strict rules. Instead, it leaves the decision up to institutional mechanisms, especially the Finance Commission.

But the Constitution doesn't say how much sharing should happen. The Finance Commission mostly decides when it should be done.

Finance Commission as per Article 280

Article 272, which used to talk about how to divide up some excise duties, has changed. This shows how fiscal arrangements are changing over time.

Article 280 says that a Finance Commission should be set up.

The overall plan shows that the Constitution doesn't just depend on how taxes are first divided up. It adds ways to redistribute wealth to it.

It says: "The President shall, within two years from the commencement of this Constitution and thereafter

²³ INDIA CONST. art. 270.

²⁴ INDIA CONST. art. 275.



at the expiration of every fifth year, establish a Finance Commission..."²⁵

The Commission's job is to:

- suggesting how taxes should be split between the Union and the States
- figuring out the rules for grants-in-aid, and
- dealing with other money issues that are brought to it.

So, the Finance Commission is an important part of keeping the budget balanced.

While its recommendations are only suggestions, they have a lot of weight in practice. They decide how much tax devolution there will be and how grants will be given out.

It's important to remember that the Commission only works at certain times. This lets you make changes based on how the economy is doing.

The fact that the President makes it up, on the other hand, raises questions about independence. In practice, though, Finance Commissions have usually worked with a lot of independence.

States' Fiscal Autonomy

A key part of any talk about federalism is the issue of fiscal autonomy.

States in India do not have full financial independence. They can't make a lot of money on their own, so they rely on transfers from the Union a lot.

This reliance has both practical and legal aspects.

From a practical point of view, states often need money for things like development, welfare programs,

and running the government, and they can't always get it all from their own resources.

From a constitutional point of view, giving the Union most of the power to tax creates an imbalance.

So, the question is not if States have autonomy, but how much autonomy they have.

The situation has gotten even more complicated with the addition of new fiscal arrangements, such as changes to indirect taxes. These kinds of changes are meant to make things more fair and efficient, but they could also have an effect on the States' ability to manage their own finances.

It would be wrong to say that States are completely independent. They still have some power to tax and can choose how to spend their money. But their independence is limited by the overall constitutional framework.

The role of finance commissions in making the federal balance stronger

The Finance Commission is very important for fixing the problem with the uneven distribution of financial powers.

- It decides what to do through its suggestions:
- the percentage of central taxes that each state gets,
 - standards for dividing things up between States, and
 - the way grants-in-aid are set up.

In doing so, it tries to find a middle ground between two things:

- the need for the country's economy to be stable, and
- the need for autonomy and growth at the state level.

The Commission often uses things like population, income levels, and fiscal performance as standards.

²⁵ INDIA CONST. art. 280.



These criteria are not set in stone; they have changed over time.

It can be seen that the Finance Commission's job is more than just dividing money. It helps shape the financial relationship between the Union and the States.

Its effectiveness is contingent upon implementation. The Constitution does not require that its recommendations be fully embraced.

So, even though the Finance Commission is an important part of cooperative federalism, it doesn't solve all the problems that come up when there is a fiscal imbalance.

EMERGENCY PROVISIONS AND THEIR EFFECT ON FEDERALISM:

National Emergency as per Article 352

Article 352 says that a national emergency can be declared. It says:

"If the President believes that a serious emergency exists that threatens the safety of India or any part of it, he may make a statement to that effect by Proclamation."²⁶

The reasons include war, outside aggression, or armed rebellion.

From a federal point of view, Article 352 is important because of how it changes the balance of power. While a Proclamation of Emergency is in effect:

- Article 250 gives Parliament the power to make laws about things on the State List.²⁷
- The Union's executive power also grows.

- Changes can also be made to the financial arrangements.

In practice, the Constitution allows for a temporary transition from a federal to a more centralized system of governance.

But this change isn't permanent. The Constitution requires certain steps to be taken, such as getting the Proclamation approved by Parliament. After the 1975 Emergency, changes were made to make these protections stronger.

It is still possible to see that Article 352 gives the Union a lot of power. The reason is that we need to be able to respond well to unusual situations.

Article 356: President's Rule

Article 356 talks about when the constitutional machinery in a state fails. It says: "If the President is satisfied that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of this Constitution..."²⁸

In this case, the President may take over the duties of the State government.

This part of the Constitution has been one of the most talked-about parts. It has been used many times in the past, sometimes in ways that have been questioned.

The Supreme Court made things clear about the constitution in S.R. Bommai v. Union of India, "Federalism is a fundamental aspect of the Constitution."²⁹

The Court also said that the use of power under Article 356 can be reviewed by the courts.

The judgment put important restrictions in place:

²⁶ INDIA CONST. art. 352.

²⁷ INDIA CONST. art. 250.

²⁸ INDIA CONST. art. 356.

²⁹ S.R. Bommai v. Union of India, (1994) 3 SCC 1.



- You can look at the information that the Proclamation is based on.
- If the Proclamation is found to be bad faith or based on things that don't matter, the Court can throw it out.
- People may be able to challenge the dissolution of the Legislative Assembly before it gets approval from Parliament.

This choice marked a change. Article 356 is still part of the Constitution, but it can only be used in certain ways that are allowed by the Constitution.

Financial Crisis under Article 360

Article 360 says that a financial emergency can be declared. It says: "If the President is sure that a situation has come up that threatens India's or any part of India's financial stability or credit..."³⁰

What will happen because of this Proclamation is:

- the Union's ability to tell States what to do with their money,
- lowering the pay of government workers, like judges, and
- States must follow Union rules when making financial decisions.

Article 360 has not been used in practice, unlike Articles 352 and 356. This makes it a little risky to run.

But from a constitutional point of view, it has a lot of potential for central control. It allows the Union to directly intervene in State finances, which is usually a key part of State autonomy.

Not using it doesn't make it less important. It is still a part of the Constitution and can change the balance of

power between the states and the federal government if it is used.

Centralization of Authority in Times of Crisis

In times of emergency, Articles 352, 356, and 360 all work together to give the government a lot of power.

When there is a national emergency, the Union takes over more of the legislative and executive powers. When the President is in charge, state governments may not be able to do their jobs. In a financial crisis, fiscal autonomy may be limited.

This brings up a very important question. Does the Constitution's provision for such centralization weaken federalism?

It's not easy to answer. The Constitution itself thinks about these situations. So, the centralization is allowed by the Constitution.

We can't ignore the chance that it could be used wrong, though. The history of Article 356, in particular, shows that emergency provisions can be used for reasons that aren't strictly constitutional.

So, the system relies on both procedural and judicial protections.

Judicial Review of Emergency Declaration

The role of the judiciary in reviewing emergency proclamations has changed over time. The Court took a more respectful stance in earlier cases, like ADM Jabalpur. But this position has not been upheld.

The Supreme Court made it clear in *S.R. Bommai v. Union of India* that proclamations made under Article 356 can be reviewed by the courts.³¹

³⁰ *INDIA CONST. art. 360.*

³¹ *S.R. Bommai v. Union of India, (1994) 3 SCC 1.*



The Court made it clear that:

- The President's satisfaction is not absolute;
- it is possible to look into the existence of relevant material, and
- The action must meet the requirements of the Constitution.

This is a big step forward. It makes sure that emergency powers are not used in a random way.

The acknowledgement that "federalism is a fundamental characteristic of the Constitution" serves as a constraint. Emergency provisions must not be employed in a way that undermines the federal structure.

It is important to note, though, that judicial review happens after the fact. It does not stop a Proclamation from being made. It works best when decisions are made quickly.

Still, it is an important constitutional protection.

FEDERALISM ACCORDING TO THE BASIC STRUCTURE DOCTRINE:

The Basic Structure Doctrine Comes to Light

The introduction of the basic structure doctrine signifies a pivotal transformation in Indian constitutional law. Before it was said, most people thought that Article 368 gave Parliament full power to change the Constitution.

A number of cases, the last of which was *Kesavananda Bharati v. State of Kerala*, looked into this position. In that case, the Supreme Court said: "The basic structure of the Constitution cannot be changed by amendment."³²

This formulation is now widely recognized. What is less clear is what it actually says. The Court did not give a full list of what makes up the "basic structure." Different judges, on the other hand, picked out different parts.

But the reasoning shows that there is a common concern. Even though the Constitution can be changed, it is not completely up to Parliament. Some features can't be changed in a way that makes them lose their identity.

It is also important to remember that the doctrine did not come about on its own. Before it, there were other decisions that tried to figure out how far the amending power could go. *Kesavananda Bharati* signifies the juncture at which the Court established a boundary.

Since then, the doctrine has been used in other cases, and its shape has become clearer over time.

Restrictions on Constitutional Amendments Pertaining to Federalism

Because federalism is a basic part of the system, Parliament's power to change the law must be limited.

Article 368 gives the authority to change the Constitution. But after *Kesavananda Bharati*, this power is limited by the fact that the basic structure cannot be destroyed.

The challenge resides in defining what constitutes "destruction" or "damage" to federalism. The Court has not set a strict standard.

The Court looks at the following in practice:

- the kind of change,
- how it changes the balance of power, and
- if it changes the Constitution's identity.

³² *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.



An amendment that only changes the balance might be allowed. An amendment that takes away the federal character would not be.

It can be hard to use this difference, though. A lot depends on how the courts interpret things. It is also important to note that some changes to the way the Centre and the States work together have been upheld. This indicates that not all modifications are unconstitutional.

The doctrine also serves as a limit. It stops Parliament from making the Constitution a purely unitary system.

Parliament has a lot of power to make changes, but that power isn't unlimited. Federalism is one of the things that limits it.

CONSTITUTIONAL AMENDMENTS THAT CHANGE THE DYNAMICS:

Centralization during the 42nd Amendment to the Constitution

The Constitution (Forty-Second Amendment) Act, 1976 is often called one of the most important changes to the Constitution. It was passed during the Emergency and made a number of changes that made the Union stronger.

One of its most important changes was that it gave Parliament more power and made judicial review less important. Some topics were moved from the State List to the Concurrent List, which gave Parliament the power to make laws about things that were once only the States' business.

The Amendment also wanted to limit the courts' ability to look over changes to the Constitution. This part was looked at again later, but it still shows the general trend toward centralization at this time.

It would not be completely true to say that the Amendment got rid of federalism. But it changed the balance in a way that clearly favoured the Centre.

So, this phase marks a time when the constitutional structure moved closer to a unitary model, at least in how it worked.

Changes that restore things under the 44th Amendment

The Constitution (Forty-Fourth Amendment) Act, 1978 was passed after the Emergency and aimed to bring back some constitutional protections.

In the context of federalism, the Amendment is important because it makes procedural protections for emergency provisions stronger. It made it harder to declare a national emergency and put in place protections against abuse.

For example, it was stressed that the Council of Ministers had to give written advice and that Parliament had to approve it.

The Amendment didn't change the way legislative powers were divided, but it did help restore the balance that had been upset during the Emergency.

Some people might see it as a way to fix things. The Constitution was changed after a time of centralization to make sure that people were more responsible.

The 73rd and 74th Amendments made things less centralized.

The Constitution (Seventy-Third Amendment) Act, 1992 and the Constitution (Seventy-Fourth Amendment) Act, 1992 added a new level to federalism by recognizing local self-government.

Part IX, which is about Panchayats, was added by the 73rd Amendment. Part IX-A, which is about Municipalities, was added by the 74th Amendment. These changes made it possible for:

- setting up local governments,
- elections on a regular basis,



- reserving seats, and
- giving up powers and duties.

These changes are a form of decentralization on one level. They take the idea of federalism further down, past the relationship between the Union and the states.

But the amount of real devolution depends on the laws of the state. The Constitution gives a framework, but how it is put into action is different.

So, these changes could be seen as adding a third level of government, but how well it works depends on how the states decide to use it.

The Constitution (One Hundred and First Amendment) Act 2016 and Fiscal Federalism

The Constitution (One Hundred and First Amendment) Act, 2016 brought in the Goods and Services Tax (GST), which changed the way money is handled in a big way.

The Amendment added Article 246A, which says that both Parliament and State Legislatures can make laws about GST. It also added Article 269A, which is about inter-State supply.

This is different from the old plan, which had clearer divisions of tax powers.

The GST framework gives the Union and the States the power to tax together, which means they have to work together.

It also involves some centralization at the same time. GST's uniform structure makes it hard for states to make their own rules about indirect taxes.

So, the Amendment shows a mixed view. It encourages consistency and coordination, but it also

makes people wonder about fiscal independence.

The GST Council's Role and How It Was Made

Article 279A of the Constitution says that the GST Council can be set up.

Article 279A says: "Within sixty days of the Constitution (One Hundred and First Amendment) Act, 2016, the President shall, by order, create a Council to be known as the Goods and Services Tax Council."³³

The Council is made up of:

- the Minister of Finance for the Union,
- the Union Minister of State for Finance, and
- State Ministers of Finance.

One of its jobs is to suggest tax rates, exemptions, and model laws.

The way the Council makes decisions is interesting. The Union gets one-third of the total votes, and the States together get two-thirds.

The courts have looked into the nature of the Council's recommendations. The Supreme Court said in *Union of India v. Mohit Minerals Pvt. Ltd.*: "The Union and the States do not have to follow what the GST Council says."³⁴

This observation is important. It implies that the Council functions as a mechanism of cooperative federalism, rather than as an entity wielding binding authority.

In practice, though, the recommendations have a lot of weight. There may be deviations, but they aren't always common.

So, the GST Council is a new type of institution that

³³ INDIA CONST. art. 279A

³⁴ *Union of India v. Mohit Minerals Pvt. Ltd.*, (2022) 4 SCC 481.



needs different levels of government to work together and talk to each other.

JUDICIAL ADVANCEMENTS IN MODERN FEDERALISM:

The Court's View on Center-State Relations

The way the courts have dealt with Centre-State relations has not always been the same. It has changed over time, starting with a belief in central dominance and moving toward a more balanced, and sometimes corrective, position.

In the early years, decisions like *State of West Bengal v. Union of India* showed a tendency to support the Union's power. In that case, the Court stressed that the Constitution was not an agreement between independent states and that the Union was in a strong position.

This method, while in line with the Constitution, didn't fully consider what it meant for federalism to be a limiting principle.

A change is clear in later decisions, especially after *Kesavananda Bharati v. State of Kerala* and *S.R. Bommai v. Union of India*. The Court had to go beyond just reading the text because it had to recognize federalism as part of the basic structure.

The Court started to look into whether the Union's actions were in line with the constitutional balance, even if they were technically within its power.

Not everyone uses this approach in the same way all the time. There are times when the Court has put the Union first, especially when it comes to national policy. The Court has set limits on cases involving State autonomy at the same time.

So, the position is not one of strict neutrality. It shows

a slow effort to find a balance between central authority and constitutional limits.

The principle of cooperative federalism

The term "cooperative federalism" is not found in the Constitution. It is a legal term that describes how the Union and the States are supposed to work together.

The Supreme Court said in *State (NCT of Delhi) v. Union of India*:

"The Constitution has adopted a notion of cooperative federalism."³⁵

This statement is important, but it needs to be understood in context. The case was about how the Lieutenant Governor and the elected government of Delhi shared power.

The Court stressed that constitutional officials should act in ways that encourage cooperation instead of conflict.

The Court made this point again in *Government of NCT of Delhi v. Union of India*, where it made the limits of executive power in the National Capital Territory even clearer.

The idea of cooperative federalism means that the Constitution doesn't have strict limits. It wants both levels of government to work together instead.

But the idea does have some problems. For cooperation to work, there has to be some level of mutual respect and political will. In the absence of such conditions, the concept may exhibit restricted practical efficacy.

It is also important to remember that "cooperative federalism" does not stop conflicts from happening. The Constitution still has ways to settle

³⁵ *State (NCT of Delhi) v. Union of India*, (2018) 8 SCC 501



disagreements, such as judicial review.

So, the doctrine is more like a guiding principle than a strict rule.

The Constitutional Status of the Federal Balance

The question that comes up is whether the federal balance has a unique constitutional status that goes beyond the individual provisions.

The answer, to some extent, can be found in how the basic structure doctrine and judicial interpretation work together.

The Court said in *S.R. Bommai v. Union of India*: "Federalism is a fundamental characteristic of the Constitution."³⁶

This acknowledgment indicates that the equilibrium between the Union and the States transcends mere legislative organization, constituting a constitutional principle.

The Constitution, on the other hand, allows for changes to this balance. For example, emergency provisions make it possible to temporarily centralize

The Court has tried to make sense of these things by saying that the balance can change, but it can't be broken.

Recent rulings, particularly those concerning the governance of Delhi, indicate that the Court is prepared to scrutinize the substance of Centre-State relations, rather than solely their formal aspects.

It would be wrong to say that a clear doctrine of "federal balance" has been fully developed, though. The Court has not provided a complete test.

The position is still a little open-ended. People know that the federal balance exists, but they figure out

exactly what it means on a case-by-case basis. Some people might see this as a problem. It may also be seen as a necessary flexibility because the relationship between the center and the states is so complicated.

MODERN INSTITUTIONAL MECHANISMS OF FEDERAL GOVERNANCE:

It is not enough to look at the Constitution or court decisions to understand how Indian federalism works today. More and more, the balance between the Union and the States is maintained by institutional mechanisms that work within the constitutional framework and sometimes alongside it. These institutions show a change from a formal distribution of powers to a negotiated form of governance, where coordination, consultation, and sometimes contestation shape federal relations.

Inter-State Council

The Inter-State Council, which is mentioned in Article 263, is one of the first constitutional attempts to make it easier for the Union and the States to talk to each other. The provision itself is enabling, which means that the executive has the power to set it up and run it. This design is very important. It shows that the framers didn't want the Council to be a strict or permanent group. Instead, they wanted it to be a flexible place that could be used when it was needed for the public good.

The Council is meant to be a place where governments can talk about issues that affect more than one country, such as disagreements between countries and issues that affect everyone. It gives advice, but it doesn't decide. This difference is important because it makes the Council a choice instead of going to court, which encourages political solutions instead of court decisions.

But in practice, the Inter-State Council's potential has not been fully realized. Its meetings have not

³⁶ *S.R. Bommai v. Union of India*, (1994) 3 SCC 1.



happened very often, and its suggestions have not always led to changes in policy. This brings up a bigger question about what cooperative federalism is all about. Just having an institution doesn't mean that people will work together; it needs ongoing political involvement to work.

Still, the Council is still important in terms of the Constitution. It shows that federalism isn't just about dividing powers; it also includes processes for consulting and coordinating.

The Finance Commission

The Finance Commission, which was set up by Article 280, is more important in the federal system. It is a constitutional body that must be formed at regular intervals, unlike the Inter-State Council.

Its main job is to suggest how to split up money between the Union and the States. In doing so, it solves one of the biggest problems with Indian federalism: the difference between how much money it can raise and how much it has to spend.

The Commission has a clear mandate, but it has a lot of freedom when it comes to making recommendations. It has to figure out not only how much power to give to the states, but also how to divide it up between them. These criteria have changed over time to reflect changes in political and economic priorities.

The Finance Commission is important because it tries to make fiscal federalism more fair. It limits the ability to randomly give out resources by acting as a semi-independent body.

Its suggestions, on the other hand, are not binding. The Union still has the power to accept, change, or turn them down. This brings up a structural problem. The Commission makes the federal balance stronger, but it does so in a system where final control is still centralized.

This leads to a type of mediated federalism, where institutional processes shape autonomy instead of guaranteeing it in absolute terms.

NITI Aayog and Federalism in Cooperation

NITI Aayog is different from other planning groups that came before it. It doesn't get its power from the Constitution, but it does have a big impact on how the Centre and the states work together.

The change from the Planning Commission to NITI Aayog shows a change in how things are done. In the past model, planning and resource allocation were done in a central way. NITI Aayog, on the other hand, stresses the importance of consultation, policy coordination, and States being involved in making decisions.

Chief Ministers and other State representatives are part of its governing structure. This makes it possible for people to talk about policy issues together.

But not having constitutional status has effects. The institution works through the power of the executive, and its suggestions are not legally binding. So, its success depends on both the Union and the States being willing to have real conversations with each other.

This makes a bigger point. There is no legal requirement for cooperative federalism, as seen in organizations like NITI Aayog. It depends on how politics works.

So, even though NITI Aayog is a step toward working together, it also shows how non-constitutional methods can't always keep the federal balance.

The GST Council as a Federal Fiscal Institution

The GST Council, which was set up by Article 279A, is a more structured way for states to work together. It has a clear constitutional basis and a defined structure,



which is not the case with NITI Aayog.

The Council is a group of people from both the Union and the States who make decisions together. It is in charge of suggesting tax rates, exemptions, and the overall structure of the Goods and Services Tax.

The way the Council is set up shows that they are trying to find a balance between different interests. The Union and the States talk things over, and most of the time, decisions are made by consensus. This makes it so that everyone has a say in how fiscal policy is made.

In *Union of India v. Mohit Minerals Pvt. Ltd.*, the Supreme Court made it clear what the Council's constitutional role was.

"The GST Council's suggestions are not required..."³⁷

This is an important observation. It keeps Parliament and State Legislatures free to make their own laws.

At the same time, the way the Council works in practice shows that its recommendations are very persuasive. You can go against them, but there will be consequences.

So, the GST framework is a mix of different models. It combines parts of shared sovereignty with ways to coordinate. It also shows how hard it is to balance autonomy and uniformity.

New Trends in Competitive Federalism

There has been a growing focus on competitive federalism in addition to cooperative mechanisms. This method pushes states to compete with each other to get more investment, make government work better, and boost the economy.

Institutions like NITI Aayog have helped this trend by making indices and benchmarks that rank how well states do in different areas.

The idea is that competition can make things work better and lead to new ideas. In order to move up in the rankings, states might make their policies and administrative practices better.

But this model makes things more complicated. Competition assumes that the starting conditions are fairly equal, which may not be the case. Weaker states may be at a disadvantage.

There may also be a conflict between competition and cooperation. Competition can make things run more smoothly, but some things, like public health or environmental rules, need everyone to work together.

The Constitution does not directly address competitive federalism. It comes from decisions made about policy and how things are run.

It can thus be perceived as a developing aspect of Indian federalism, functioning concurrently with, and occasionally in conflict with, cooperative mechanisms.

CONCLUSION AND RESULTS

The previous chapters have analyzed Indian federalism through constitutional design, historical development, judicial interpretation, and current institutional practice. What we see is not a fixed model, but a structure that has been shaped over time by opposing forces like centralization and autonomy, rigidity and flexibility, constitutional text and political practice.

A summary of changes to the Constitution

The Constitution of India sets up a federal system, but it is different in how it focuses on structure. The way legislative, administrative, and financial powers are

³⁷ *Union of India v. Mohit Minerals Pvt. Ltd.*, (2022) 4 SCC 481.



divided shows that the Union made a conscious choice to give itself a lot of power.

The Seventh Schedule and Articles 245–246 are examples of formal divisions of power. But this split isn't even. The Constitution does not follow a classical federal model because the Union List is the most important list, Article 248 gives Parliament the power to make decisions, and there are ways for the Union to intervene.³⁸

The historical progression from the Government of India Act 1935 to the Constitution illustrates a continuity in structural design. The Constitution also adds protections like judicial review and fundamental rights, which change how the government works.

More changes to this balance have been made by later amendments to the Constitution. The Constitution (Forty-Second Amendment) Act, 1976 was a time of centralization, and the Constitution (Forty-Fourth Amendment) Act, 1978 added protections to fix problems. Later changes, like the Constitution (One Hundred and First Amendment) Act, 2016, have changed how money is handled, especially with the introduction of the GST framework.

These changes show that the constitutional scheme is not set in stone. It allows for some changes, but only to a point.

The Courts' Changes to Federal Principles

Judicial interpretation has been very important in deciding how federalism works.

The early approach, as seen in cases like *State of West Bengal v. Union of India*, stressed the power of the Union and turned down the idea of State sovereignty.

Kesavananda Bharati v. State of Kerala was a big change because the Supreme Court said: "Amending the Constitution cannot destroy its basic structure."³⁹

This doctrine imposed a significant constraint on constitutional authority.

In *S.R. Bommai v. Union of India*, the Court made the situation even clearer by saying: "Federalism is an important part of the Constitution."⁴⁰

This acknowledgment changed federalism from a structural arrangement to a constitutional guarantee.

Later decisions, like *State (NCT of Delhi) v. Union of India* and *Government of NCT of Delhi v. Union of India*, have stressed the idea of cooperative federalism, which shows that the interpretation is becoming more balanced.

The Court has not changed the most important parts of the Constitution, though. Instead, it has set limits, especially in cases of abuse of power.

The judicial function can thus be characterized as corrective rather than fundamentally transformative.

Current Characteristics of Indian Federalism

A single descriptive label cannot fully describe the current state of Indian federalism. It has been characterized as "quasi-federal," "cooperative," and, more recently, as integrating aspects of "competitive federalism."

Each of these descriptions is true in some way.

The Constitution still works within a strong center framework. This is clear from how legislative powers

³⁸ *INDIA CONST.* art. 248.

³⁹ *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.

⁴⁰ *S.R. Bommai v. Union of India*, (1994) 3 SCC 1.



are divided, how money is handled, and how emergency provisions are in place.

At the same time, the GST Council and NITI Aayog show that institutions are moving toward consultation and shared decision-making.

Judicial decisions have strengthened this trend by stressing cooperation and allowing for review of central action.

It would be wrong to say that the system has reached a point where the Union and the States are equal. The structural imbalance is still there.

So, the best way to understand the situation is as a dynamic federal system with a strong central government and more cooperation between institutions.

General Doctrinal Conclusions

From a doctrinal standpoint, specific conclusions can be articulated with considerable clarity. The Constitution establishes a federal structure, but it differs from classical models by granting more power to the Union.

Secondly, federalism isn't just about how powers are divided up in writing. It has become a fundamental characteristic, thereby restricting constitutional amendments and executive actions.

Third, federalism works through institutions and practices that aren't always clearly spelled out in the Constitution. For example, the GST Council and NITI Aayog are groups that help people work together.

Fourth, judicial interpretation has been very important in keeping the balance. The acknowledgment of federalism as an integral component of the foundational structure guarantees that the constitutional framework cannot be fundamentally modified in a way that undermines its federal nature.

Finally, the Indian model of federalism is not fixed. It keeps changing in response to changes in politics, the economy, and the way things are run. The tension between centralization and autonomy persists, yet it is regulated through a blend of constitutional stipulations, institutional frameworks, and judicial supervision.

So, the general situation can be summed up like this: Indian federalism is not completely federal or completely unitary. It is a system that is set up by the Constitution, protected by the courts, and mediated by institutions. The balance between the Union and the States is always being negotiated, not set in stone.

