

## **COOPERATIVE FEDERALISM: THE INDIAN WAY**

*By Kirti Singh Chauhan\* & Arryan Mohanty\*\**

### **ABSTRACT**

*India takes tremendous satisfaction in calling itself the world's largest democracy. However, this democracy is crucial since it is embedded in a federal system. While democracy reflects the majority view, federalism accommodates and connects it to the voice of the minority, adding a sense of social fairness. This guarantees that the entire system runs smoothly and efficiently. Our country's diversity and pluralism gave our constitution a federal veneer while maintaining a unitary character. For the efficient running of federalism in India, emphasis is being placed on cooperative federalism, in which political dispensations at the central and state levels belong to different ruling parties. The core of cooperative federalism is that the central and state governments should be led by more significant or national concerns about how best to use existing resources to benefit the people. The central government makes several promises to preserve cordial relations with states where other parties are in control, but the situation is different. In a federal state, power is legally split between the central, state, and provincial administrations, each operating independently. The Indian Constitution establishes a federal government structure with a significant emphasis on the Centre. Federalism might be executive, cooperative, collaborative, or competitive. According to the Supreme Court in the *State of Rajasthan v. Union of India*, the Indian form of federalism is 'cooperative.' Cooperative federalism indicates that, while there is a constitutional framework for power distribution, the Centre and the states would implement these functions together. M.P. Jain, a famous jurist, remarked that these governments are interconnected rather than independent. Our paper examines the Indian legislative framework for cooperative federalism and determines if it is effective for governance. The author examined cooperative federalism in the context of the Indian Constitution and political practice.*

**Keywords-** Federalism, Indian Constitution, Government, Governance etc.

---

---

\* Student of City Law College, Lucknow.

\*\* Student of Symbiosis Law School, Nagpur.

## I. INTRODUCTION

Professor K.C. Wheare, through his scholarly works, articulated that the “*federal principle*” constitutes a methodology for dividing powers, ensuring that central and regional governments occupy distinct, coordinated, and independent spheres. Federalism is etymologically derived from the Latin word “*Foedus*,” which signifies a treaty, agreement, or covenant. Consequently, federalism can be understood as a formal accord between the Union and State-level authorities concerning allocating and distributing legislative and executive powers. The national and local governments obtain their authority from the sovereign power, with the national government and the federating entities possessing autonomous domains delineated by the Constitution. Each governmental tier operates within its designated jurisdiction with significant independence from the others. This arrangement engenders a lack of absolute concentration of authority within a singular government entity. A federal framework thus guarantees the decentralisation of power across various governmental levels, fostering collaboration within the decision-making process. Federal unions can be formed through voluntary agreements between sovereign and independent states, such as the USA and Australia, or by transforming various provinces of a Union State into a federal union, as seen in Canada and India.<sup>1</sup>

The Constitution delineates a fundamentally federal governance framework. All the essential characteristics of a federation, namely dual levels of government, separation of powers, a codified constitution, constitutional supremacy and rigidity, and an independent and impartial judiciary, are appropriately manifested in the Indian context. Nevertheless, it also encompasses a considerable array of unitary or non-federal attributes, including a robust central authority, a singular constitution, unified citizenship, constitutional flexibility, a consolidated judiciary, the appointment of governors by the central government, All India services, and provisions for presidential emergencies, among others. Furthermore, the central government possesses the authority to administer states under presidential rule concerning national security or the failure of constitutional governance within the state.<sup>2</sup> Article 1 of the Constitution characterises India as a “*union of states*,” which conveys two principal notions: firstly, that the Indian Federation is not a consequence of a compact among the states; secondly, that no state possesses the

---

<sup>1</sup> Sonkusare, Yojana, Model of Cooperative and Competitive Federalism in India: The Goods and Services Tax Law, Challenges in the 21st Century and the Way Forward (August 26, 2022). Available at SSRN: <https://ssrn.com/abstract=4201328> or <http://dx.doi.org/10.2139/ssrn.4201328>

<sup>2</sup> DK Singh, “*Division of powers between centre and states*” in VM Shukla’s constitution of India, Delhi, Eastern Book Company, 1982, PP 696-705

prerogative to withdraw from the federation.<sup>3</sup> Consequently, the Indian Constitution has been variously characterised as “*federal in form but unitary in spirit*,” “*quasi-federation*,” “*semi-federation*,” “*pragmatic federation*,” or a “*federation with pronounced unitary characteristics*.” Thus, within this foundational framework of federalism, the Constitution confers predominant authority upon the central government.<sup>4</sup>

Cooperative federalism is a concept that depicts the relationship between the Centre and the states, in which they collaborate to address common challenges. The many levels of government cooperate and collaborate to contribute to the country's progress. It represents the union's horizontal connection with the states, emphasising that neither is superior. The interstate council, zonal council, and 7th schedule are among the structures included in the Indian constitution to allow this engagement between the Centre and states.<sup>5</sup> Whether it is the VII Schedule and Article 249<sup>6</sup> or the All India Services that offer unifying forces under Article 312.<sup>7</sup> Another example is the 1956 States Reorganisation Act, which established five Zonal Councils.<sup>8</sup> It is also encouraged by establishing an inter-state council under Article 263 to draw a parallel between the shared interests of the union and the states.<sup>9</sup> Article 261 emphasises the principle of collaboration by requiring full faith and credit for public acts, documents, and judicial processes of both the Union and the States.<sup>10</sup>

In light of the preeminent authority vested in the central government, the ethos of cooperative federalism has become imperative for effectively managing the interactions between the central authority and the individual states, among various states and between the states and local self-governments. Both the central and state governments ought to be directed by overarching national concerns while employing the available resources for the collective welfare of the populace, which should constitute the fundamental principle of cooperative federalism. Furthermore, this necessitates a spirit of collaboration and harmony between the central

<sup>3</sup> The Constitution of India, 1949, Art.1

<sup>4</sup> Dr.Umakanta Sahu, Cooperative Federalism in India, Vol.7 Issue 3, IJCRT, 207-208 (2019) <https://www.ijcrt.org/papers/IJCRT1135182.pdf>

<sup>5</sup> Aakshi gupta & Prof.(Dr.) Rajesh Bahuguna, Cooperative & Competitive Federalism in India: An Analysis, ResearchGate (January 1, 2024, 10:42 AM) [https://www.researchgate.net/publication/362634199\\_COOPERATIVE\\_AND\\_COMPETITIVE\\_FEDERALISM\\_IN\\_INDIA\\_AN\\_ANALYSIS](https://www.researchgate.net/publication/362634199_COOPERATIVE_AND_COMPETITIVE_FEDERALISM_IN_INDIA_AN_ANALYSIS)

<sup>6</sup> The Constitution of India, 1949, Art.249

<sup>7</sup> The Constitution of India, 1949, Art.312

<sup>8</sup> The States Reorganisation Act, 1956, § 15, No.37, Acts of Parliament, 1956 (India)

<sup>9</sup> The Constitution of India, 1949, Art.263

<sup>10</sup> The Constitution of India, 1949, Art.261

governmental body and the state administrations, as well as among the diverse state governments. The foundation of cooperative federalism is predicated on the notion that a robust central authority is indispensable for the strength of the states. Conversely, the potency of the states reinforces the central government.

The Seventh Schedule of the Constitution of India delineates the legislative and executive competencies allocated between the Union and the States. The Central government possesses exclusive authority over the subjects enumerated in the Union List, while the State holds sovereignty over the subjects specified in the State List. Both entities, namely the Centre and the States, share jurisdiction over the subjects detailed in the Concurrent List. Public health and sanitation are categorised within the State List. The Union List encompasses railways, shipping and navigation, and airways, all of which significantly influence economic activities, including the transit of individuals across State lines. In domains such as education and training, both the Centre and the States/Union Territories (UTs) are empowered to legislate.<sup>11</sup>

Nevertheless, in instances of legal discord, the legislation promulgated by the Centre shall take precedence over that of the States. The Centre for Disease Control and the Indian Council of Medical Research are pivotal central institutions undertaking significant responsibilities in this context. Several legislative measures, notably the colonial-era Epidemic Disease Act 1897 and the National Disaster Management Act 2005 empower the Central government during periods of crisis. Concerning epidemics, numerous subjects across the three lists may hold pertinence. These encompass subjects within the Union List regarding port quarantine and interstate migration and quarantine, the State List subject on public health, and the Concurrent List subject addressing the dissemination of infectious diseases from one State to another.<sup>12</sup>

## **II. HISTORICAL DEVELOPMENT & EVOLUTION OF COOPERATIVE FEDERALISM**

Federalism is a fundamental aspect of our economy, with the separation of powers guiding Central and State policy. While discussing the present, it is vital to go back in history to see how this notion arose and how cooperative and competitive federalism have grown in importance over time. However, since ancient times, kingdoms or empires that controlled the

---

<sup>11</sup> Prakash Chandra Jha, India's Cooperative Federalism during COVID-19 Pandemic, Vol.68 Issue 2, IJPA, 245, 246-247 (2022) <https://journals.sagepub.com/doi/epub/10.1177/00195561211072568>

<sup>12</sup> Ibid

Indian subcontinent have implemented federal principles since, in all internal issues, the chieftain and his vassal state were left entirely alone. This policy of non-intervention in local matters was a practical requirement since the subcontinent's inherent diversities were so enormous that they could only be integrated into a single empire if no or little attempt was made to enforce a standard set of beliefs.<sup>13</sup> The dissolution of the Mauryan and Mughal empires can be, in part, ascribed to the neglect of essential governance principles by rulers such as Jehangir and Aurangzeb, who endeavoured to enforce behavioural codes that alienated a substantial portion of their populace.

Consequently, following the Indian Rebellion of 1857, the British authorities opted to refrain from interfering with the Indian princely states. They rescinded their interventionist policies, such as the Doctrine of Lapse and the prohibition on using greased cartridges composed of animal fat, thereby merely adhering to a governance model that had been entrenched for centuries. Moreover, the ethos of cooperative federalism emerged as a pivotal element in Sir Vallabhai Patel's strategy of political mobilisation, enabling him to adeptly persuade and negotiate with approximately 492 princely states to integrate into the Indian Union while concurrently preserving national cohesion.

The principles underpinning cooperative federalism can be traced back to the Regulating Act of 1773, which established a framework wherein the British Government exercised oversight over the operations of the East India Company without usurping authority for itself. The Government of India Act of 1919 ostensibly provided a federal structure for India, albeit superficially, by proposing a dual governance model called 'dyarchy.' The Indian Statutory Commission's Report of 1929 advocated for a federal resolution by suggesting the introduction of dyarchy at the central level, progressing from a diarchy to a fully accountable governmental system in the provinces. This objective was similarly pursued by the Government of India Act of 1935. In 1937, following considerable conflict, the implementation of Provincial Autonomy was initiated. From that juncture until the outbreak of war in 1939, Lord Linlithgow exerted relentless efforts to secure the accession of a sufficient number of princes to establish the Federation. The Cabinet Mission of 1946 stipulated that the Union of India would be

---

<sup>13</sup> Anusha Singh, Development of Cooperative Federalism in India, Legal Service India (February 10, 2024, 05:35 PM) <https://www.legalserviceindia.com/article/I441-Cooperative-Federalism-In-India.html>

responsible for Foreign Affairs, Defence, and Communication, while all subjects not classified as Union subjects and all residual powers would be allocated to the Provinces.

On 13 December 1946, while presenting his Objectives Resolution, Jawaharlal Nehru emphasised the necessity for a degree of uniformity concerning the governmental apparatus and machinery at the central level to be addressed in collaboration and consultation with the states, asserting that all power and authority of a Sovereign Independent India, along with its constituent components and governmental organs, are derived from the populace.

The Indian state's post-independence experiences, including one-party rule, regional parties, coalition governments, and judicial activism, have influenced the evolution of federalism from cooperative to confrontationist. The collaborative framework functioned successfully in India as long as the same political party controlled the federal and state governments. However, when different political parties are in power in both the centre and the states, and a coalition government is formed, there is conflict and friction between the centre and the states. During the first 15 years of independence, Nehru's democratically elected rule was characterised by a comfortable majority, idealism, and a sense of optimism. Institutions such as the zonal council, planning commission, and national development council were established to foster cooperative working habits.

The centre's dominance disrupts state power and creates an imbalance. Indira Gandhi's personality cult led Congress to become a clique party. The formation of new political parties, such as the DMK in Tamil Nadu, Telugu Desam in Andhra Pradesh, and the Communist Party in Bengal, proved to be a double-edged weapon in the interests of India's federalism. Policies such as centralisation, politicisation, corruption, and tyranny weakened the country's federal and democratic structures. During the decade, a coalition government of national and regional parties operated together. The restoration of Congress control from 1991 to 1995 under P.V. Narasimha Rao signalled a yearning for stability among the people, and they realised that federalism can only exist if the government is strong and competent.

The prevailing trends accentuate the significance of collaboration and coordination, as opposed to the delineation of authority among various strata. At the same time, interdependence among these levels constitutes the fundamental theme of contemporary federalism, particularly within coalition politics. Regional political entities have articulated the aspirations of the populace and underscored the necessity for democratic decentralisation and the devolution of powers

objectives enshrined within the constitution's preamble.<sup>14</sup> In pursuit of this direction, numerous recommendations proposed by the Sarkaria Commission have been actualised. The National Commission to Review the Working of the Constitution, instituted by the NDA government, devoted considerable attention to the dynamics of center-state relations. In April 2007, the UPA government inaugurated an additional commission under the stewardship of Justice M. M. Punchhi to re-evaluate the roles and responsibilities of the central government in conjunction with various state governments.

The commission, which proffered its report in 2010, determined that 'cooperative federalism' would serve as the cornerstone for perpetuating India's unity integrity and social and economic development in the foreseeable future. Furthermore, it noted, "*The principles of cooperative federalism may thus function as a pragmatic guide for Indian polity and governance.*"<sup>15</sup> The commission, in its recommendations, concentrated on delineating the role, responsibilities, and jurisdiction of the centre concerning the states as follows:

- During significant and protracted episodes of communal discord, caste-based violence, or any other social conflict that leads to sustained and escalated violence.
- In the planning and execution of mega-projects, such as the interlinking of rivers, which are projected to require 15 to 20 years for completion and are critically dependent on the support of the states.
- To ensure, within a designated timeframe, effective devolution of powers and autonomy to Panchayati Raj institutions and local bodies under the sixth schedule of the constitution.
- To foster the concept and practice of independent planning and budgeting at the district level.
- In correlating central assistance of various forms with the performance of the states.

### III. CONSTITUTIONAL FRAMEWORK SUPPORTING THE MODEL OF COOPERATIVE FEDERALISM

The Constitution of India is the nation's ultimate legislation. India's Constitution is written and rigorous, making it impossible to vary from its provisions, including the division of powers

---

<sup>14</sup> Das Deepan & Doley Raju, "Cooperative Federalism in India" Third concept, Vol-29, March 2016, New Delhi, p8

<sup>15</sup> Government of India, Report of the Commission on Centre-State Relations, Vol-1, New Delhi, Ministry of Home Affairs, 2010 p 90

between the Centre and States. Because of the rigidity, the amendment process becomes challenging and complicated, ensuring the adherence to the sovereign power, i.e. the Constitution. Federalism can only exist if there is a written constitution. Because of this, federalism is a fundamental component of the Indian Constitution.

The paradigm of federalism is fundamentally anchored in the inaugural Federal Constitution of the World, which serves as the archetype for the United States established in 1787. This framework instituted the terminology of “federation” and the notion of dual polity or bifurcated governmental structures. Within the context of the United States federation, there exists a singular enumerated list that allocates powers to the Central government. At the same time, all remaining authorities are reserved for the State governments. Although the United States Constitution does not explicitly delineate a federation, it establishes a historical benchmark and has significantly influenced the drafting of subsequent federal Constitutions globally. The Indian federal model, in contrast to its American counterpart, exhibits several notable discrepancies.

Regarding the process of constitutional amendments within the American Federation, the States have conferred relatively minor roles in contrast to the Union. In contrast, in India, except for issues that may impact the federal framework, States are not required to be consulted concerning amendments. Another salient distinction is manifested in the Union's authority to govern the administration and legislative functions of the States within India. Article 201 of the Indian Constitution empowers the President to veto State legislation.<sup>16</sup> Furthermore, Articles 155<sup>17</sup> and 156<sup>18</sup> stipulate that the President appoints the Governor of a State and serves at the President's discretion. This situation underscores the preponderance of power vested in the Central government and the executive officials representing the Union. Such characteristics are antithetical to the constitutional frameworks of the United States and Australia. Additionally, the United States accommodates the principle of dual citizenship, whereas the Indian Constitution does not recognise such a construct, conferring citizenship solely under Article 5.<sup>19</sup>

---

<sup>16</sup> The Constitution of India, 1949, Art.201

<sup>17</sup> The Constitution of India, 1949, Art.155

<sup>18</sup> The Constitution of India, 1949, Art.156

<sup>19</sup> The Constitution of India, 1949, Art.5



Article 248 of the Constitution allocates exclusive authority to the Parliament to legislate on residuary subjects.<sup>20</sup> The Parliament is mandated to adhere to the procedural framework established under Article 368 of the Constitution of India.<sup>21</sup> According to this Article, when the lists are modified or augmented, the legislation must be enacted by the Parliament with endorsement from a majority of the States. The existence of residuary powers, coupled with the preeminence of the Centre over the States in instances of conflict concerning concurrent powers, renders the Indian governmental system both federal and unitary, imparting a “unitary” inclination to federalism within India. In some respects, this phenomenon has fostered a competitive variant of federalism within the country. A troubling trend that has emerged since 1950 indicates that while the Union and Concurrent Lists have increased, the State List appears to have diminished. This development has prompted considerable scrutiny regarding the framework of Indian federalism and instigated calls for reconfiguration. Consequently, this has facilitated an expansion of perspectives and paved the way for adopting a cooperative federalism model within India.

The Indian Constitution encompasses many characteristics that facilitate the implementation of a cooperative and competitive federalism model within the nation. These characteristics are articulated in various articles as delineated below:

1. Article 200 stipulates that states must adhere to central legislation, and it mandates that any state bills reserved by the Governor must be forwarded to the President for deliberation, who retains the discretion to either approve or reject such bills.<sup>22</sup>
2. Articles 245<sup>23</sup> through 255<sup>24</sup> address the allocation of legislative authority, while the delegation of administrative powers is delineated within Articles 256 to 261 of the Constitution. The decentralisation of authority between the central and state governments constitutes a fundamental tenet of federalism. However, the enactment of the 73rd and 74th Constitutional Amendments in December 1992 instituted a tertiary level of governance, specifically the Panchayati Raj institutions and Municipalities. These local governance entities are enshrined in Part IX and IXA of the Constitution. Consequently, these amendments facilitated the emergence of local self-governance

---

<sup>20</sup> The Constitution of India, 1949, Art.248

<sup>21</sup> The Constitution of India, 1949, Art.368

<sup>22</sup> The Constitution of India, 1949, Art.200

<sup>23</sup> The Constitution of India, 1949, Art.245

<sup>24</sup> The Constitution of India, 1949, Art.255

across both rural and urban contexts in India. Thus, the nation now operates under a tripartite governmental structure, representing a distinctive form of federation not observed in other nations adhering to federalism.

3. Article 246, in conjunction with Schedule VII of the Indian Constitution, establishes guidelines for the distribution of legislative powers between the Union and the States.<sup>25</sup> It confers upon the Union the exclusive jurisdiction to legislate on matters enumerated in List 1 and concurrent powers to legislate on subjects specified in List 3 of the Schedule. Defence and diplomacy are reserved as exclusive prerogatives of the Central government, with the States lacking the authority to intervene in such affairs and in the subjects explicitly listed in the Union List. Conversely, the Union can engage in matters concerning the States.
4. Article 250 of the Constitution confers authority upon the Parliament regarding any issue encompassed within the State list while a proclamation of emergency is in effect.<sup>26</sup>
5. Under Article 252, the Parliament possesses the authority to enact legislation applicable to two or more States, contingent upon their concurrence.<sup>27</sup>
6. Articles 256<sup>28</sup> and 257<sup>29</sup> mandate that the States adhere to the executive directives of the Centre. This stipulation engenders a centralisation of authority, which has emerged as a significant apprehension among the States and poses a potential threat to the framework of Indian federalism.
7. In the Indian context, the union government operates independently of the constituent units and retains the capacity to impose direct taxes and implement federal statutes. Articles 268<sup>30</sup> through 281<sup>31</sup> of Schedule VII delineate the distribution of taxation responsibilities between the central and state governments.
8. The Union government acquires augmented authority during states of emergency. The provisions governing emergencies are enshrined in Articles 352,<sup>32</sup> 353,<sup>33</sup> 356,<sup>34</sup> and 360.<sup>35</sup> Articles 352 and 353 articulate the stipulations for the declaration of emergency

<sup>25</sup> The Constitution of India, 1949, Art.246

<sup>26</sup> The Constitution of India, 1949, Art.250

<sup>27</sup> The Constitution of India, 1949, Art.252

<sup>28</sup> The Constitution of India, 1949, Art.256

<sup>29</sup> The Constitution of India, 1949, Art.257

<sup>30</sup> The Constitution of India, 1949, Art.268

<sup>31</sup> The Constitution of India, 1949, Art.281

<sup>32</sup> The Constitution of India, 1949, Art.352

<sup>33</sup> The Constitution of India, 1949, Art.353

<sup>34</sup> The Constitution of India, 1949, Art.356

<sup>35</sup> The Constitution of India, 1949, Art.360

and the ramifications thereof. Under all the provisions above, the Parliament can legislate on any matter specified in the State list. The federal framework instituted within our Constitution establishes a system that ostensibly operates as federal; however, certain provisions effectively transform it into a quasi-federal system. A succession of developments, including the S.R. Bommai case ruling that curtailed the misuse of Article 356, successive Finance Commission reports addressing resource allocation, the cessation of the license raj, the reduction of discretionary public sector investments, the ascendance of regional political parties, and the dissolution of the Planning Commission, has contributed to the emergence of a more equitable form of federalism in India.

9. In the context of India, the authority to amend the Constitution is exclusively conferred upon the Union, and there exists no requirement for ratification by the constituent States. However, provisions articulated in Article 368(a) to (e) delineate specific categories of amendments necessitating the ratification by a majority of the States.<sup>36</sup> The concept of federalism is an intrinsic component of the foundational framework of the Indian Constitution. This fundamental principle is impervious to alteration or abolition through constitutional amendments by the Parliament without the requisite process of judicial scrutiny by the Supreme Court.
10. Regarding the executive powers of the government, both the Central and State governments maintain their distinct civil services, which their respective representatives govern. The Central government cannot interfere in State affairs unless a Presidential rule is invoked within the State.
11. It is incumbent upon the Central government to ensure that the operations of the State governments are aligned with the stipulations outlined in Articles 355 and 256 of the Constitution.
12. The state governments are prohibited from contravening central legislation for administrative and executive functions. Should they engage in such infringement and act in opposition to constitutional mandates, the imposition of Presidential Rule may be executed under Article 356, thereby allowing the President to assume control over the administration of the State.

---

<sup>36</sup> The Constitution of India, 1949, Art.368(a), (b), (c), (d) & (e)

According to Dr B.R Ambedkar's speeches and opinions, the Indian Constitution can be unitary or federal, depending on the time and circumstances. This has contributed to the development of a competitive and cooperative federalism paradigm. He said the system is meant to function as a federal system in standard times but as a unitary government during wartime. He clarified that Articles 250, 352, and 353 of the Indian constitution may only be exercised by the President with the permission of both houses of parliament. Based on the Constitutional provisions, Indian federalism is unique and may address many issues. It has been modified to meet the country's particular demands.

#### **IV. MEASURES TO PROMOTE COOPERATIVE FEDERALISM IN INDIA**

##### **NITI Aayog**

The primary aim of NITI Aayog is to promote exemplary governance within India and to achieve the pivotal goal of cooperative federalism. The Governing Council of NITI Aayog comprises administrators or Lieutenant Governors of Union Territories alongside the Chief Ministers of the respective states. NITI Aayog functions as the principal platform for the Government of India, integrating the States into a unified entity termed “Team India” to advance the nation’s developmental aspirations. The Center-state partnership framework encompasses the Development Support Services to States and Union Territories (DSSS) and the Sustainable Action for Transforming Human Capital (SATH) initiative, which exemplifies the models and programs it has instituted for infrastructure development, as well as for revitalising and establishing public-private partnerships. Furthermore, the Aspirational Districts Program is being initiated while simultaneously enhancing the capacity of State/UT officials and providing policy assistance. In pursuit of establishing three exemplary “role model” states in school education, the “Sustainable Action for Transforming Human Capital-Education” project, abbreviated as SATH-E, was launched in 2017. Madhya Pradesh, Jharkhand, and Odisha were selected following a comprehensive selection process. The inaugural phase of SATH-E was concluded in March 2020. The following domains experienced notable advancements: school consolidation, IT-enabled monitoring of schools, remedial initiatives aimed at enhancing student learning, reforms in governance, training of teachers,

recruitment processes, assessment and accountability measures, and the coaching of academic coordinators (BRCs/CRCs).<sup>37</sup> Some of the notable accomplishments include:

- (a) Implementing a learning enhancement program/remedial teaching initiative accompanied by workbook support for approximately 2.3 crore students.
- (b) The academic monitoring of schools and students has been systematically streamlined, with nearly 1.5 lakh inspections conducted monthly.
- (c) As the COVID-19 pandemic emerged, SATH-E transitioned into “Digi-SATH” to persist in delivering support through digital mediums.
- (d) The Digi-SATH program has facilitated online education and teacher training through initiatives such as MP's “Hamara Ghar Hamara Vidyalaya” and “Digi-LEP” (or Digital Learning Enhancement Programme), Odisha's “Shiksha Sanjog” and “Shiksha Sampark,” as well as Jharkhand's ‘Hamara Doordarshan Hamara Vidyalaya.’”

### Inter-State Council

Article 263 stipulates that the President has the authority to establish an Inter-State Council through an order if it is determined that such an establishment would enhance the public interest. The President is also empowered to delineate the council's structure, procedural norms, and responsibilities. Typically, the council may be tasked with the following duties:

- ❖ Investigating and providing counsel regarding disputes that may have emerged between states.
- ❖ Examining and deliberating on issues wherein some or all of the states, or the Union and one or more of the states, share a mutual interest.
- ❖ Offer recommendations on any matter, particularly suggestions to improve the coordination of policies and actions.

The Prime Minister, chief ministers from each state, and administrators from select Union territories convene within the ISC. This assembly fosters an environment conducive to open dialogue and exchanging ideas on national importance. The ISC is pivotal in promoting consensus on national policy by facilitating communication and understanding between the central government and the states. The ISC also aids in examining inter-state matters through

<sup>37</sup> Akanksha Tonage & Aditi Mishra, India's Cooperative Federalism, Vol.5 No.4, IJRPR, 1751, 1752-1753 (2024) <https://ijrpr.com/uploads/V5ISSUE4/IJRPR24779.pdf>

Zonal Councils, which focus on regional concerns. This framework ensures a cohesive strategy in addressing challenges that affect multiple states. The Council guarantees the execution of decisions by monitoring the implementation of its recommendations and those of the Zonal Councils. The ISC champions genuine federalism, wherein the central government and the states engage collaboratively for the nation's progress. It empowers states by providing a platform to articulate their concerns and formulate national policy. Through its role as an intermediary between the federal government and the states, the Inter-State Council effectively enhances coordination, communication, and a more unified approach to national governance within the paradigm of cooperative federalism.

### **Goods and Service Tax**

The Goods and Services Tax (GST) substantially alters our nation's tax framework. The enactment of the 101st Constitutional Amendment Act in 2016 eliminated various taxes and cesses at both the national and state tiers of governance. This legislative shift has facilitated the potential for states to design and implement their taxation systems more effectively. The Act garnered approval from most states and mandates a two-thirds majority in the Parliament for its passage. The provisions that eliminate customs duties reinforce the federal principles enshrined in the Constitution. The phrase “*One India, One Tax*” encapsulates the essence of federalism.<sup>38</sup>

### **All India Service Commission**

The All India Service Commission exemplifies the principles of cooperative federalism. Even though the All India Service represents a unitary characteristic, its administration is conducted by the federal government in consultation with state governments. A unified judicial framework has been instituted to uphold the legal statutes at both state and federal levels. Individuals are recruited by the Union government, which then allocates them across various states. The state governments possess authority over minor employment-related decisions, such as transfers and promotions.

In contrast, the Union government retains jurisdiction over significant matters such as retirement age, termination, and dismissal. Consequently, although the states hold immediate administrative power, the central government maintains ultimate authority. The case of Jaora

---

<sup>38</sup> The Constitution of India, 1949, Art.279A

*Sugar Mills v Madhya Pradesh*<sup>39</sup> serves as a quintessential illustration of federal-state collaboration. A sugarcane cess, mandated by the provisions of the relevant Act, was instituted following the Madhya Pradesh government's passage of the Madhya Pradesh Sugarcane (Regulation of Supply and Purchase) Act, 1958. Ultimately, this Act was deemed unconstitutional due to the Center's legislative supremacy over the subject matter delineated in the Union list. It was consequently invalidated.

Nevertheless, the Parliament recognised this Act and several other state statutes exhibited analogous constitutional deficiencies and inconsistencies. In response, the Sugarcane Cess (Validation) Act of 1961 was enacted. The appellants were issued a cess payment order for two years. After the High Court dismissed their petition, the appellants challenged the constitutionality of the Act, asserting that it constituted “colourable legislation.” Although the intent of the legislation is subject to scrutiny, the Supreme Court ultimately concluded that the Act is constitutionally valid.

### **Policies Addressing COVID-19**

Implementing an array of legislative measures, regulatory frameworks, guidelines, and executive orders, a comprehensive national lockdown was instituted to mitigate the transmission of the novel coronavirus. Notably, the Disaster Management Act of 2005 was activated on March 24, 2020, to enforce a universal lockdown to ensure “*uniformity in the execution and enforcement of diverse measures throughout the nation.*” Nevertheless, before the invocation of this Act, numerous State Governments had exercised their authority under the Epidemic Diseases Act of 1897 to address this public health crisis. Although public order and public health domains are designated State subjects under the Indian Constitution, the Central Government has utilised the Disaster Management Act to circumvent State authority and assume total control effectively. Subsequently, discrepancies have emerged in funding policies, as the Central Government announced that corporations contributing to the PM-CARES Fund would be eligible for Corporate Social Responsibility exemptions, while those donating to any Chief Minister's Relief Fund would not. This policy directly disincentivises contributions to any Chief Minister's Relief Fund; it diverts substantial potential revenue from the States to the

---

<sup>39</sup> 1966 AIR 416, 1966 SCR (1) 573

PM-CARES Fund, resulting in a significant dependency of the States on the Central Government.<sup>40</sup>

## V. JUDICIAL TRENDS

India's government is organised under a quasi-federal framework. In addition to distributing legislative authority, federalism emphasises the independence of the judiciary. The Indian federation has built a system to confine executive authority to the provisions of the Constitution. The Courts will interpret each phrase in a divergence and render their ruling. The Supreme Court has issued various decisions on federalism throughout the years, but its position has remained inconsistent.

In the 1962 decision of *Automobile Transport v. the State of Rajasthan*,<sup>41</sup> in which the Supreme Court assessed the impact of Article 301,<sup>42</sup> it stated that the structure of federalism is an essential factor to consider while reading the Constitution. In *State of West Bengal v. Union of India*,<sup>43</sup> the majority judgement adopted a disappointing approach to federalism by not finding the Indian Constitution to be federal. Later, in the 1973 *Kesavananda Bharati* judgement,<sup>44</sup> federalism was declared a fundamental aspect of our constitution. However, given the country's progress and development and the Union's uneven allocation of powers, several judgements did not favour the Indian constitution's federal structure.

Again, in the case of *Kuldip Nayar v. Union of India*,<sup>45</sup> which included a 2003 revision to the Representation of the People Act 1951, the Court determined that India is a federal state. In 2010, federalism was challenged because the CBI, as a central agency, cannot probe without the state's agreement, notwithstanding the High Court's decision for an inquiry. It was determined that any power exerted under Article 226<sup>46</sup> to enforce the legislation cannot breach the federal framework. The Court emphasised the need for coordination and cooperation between the Union and the states in adjudicating the Delhi pollution matter. In *State Bank of India v. Santosh Gupta*,<sup>47</sup> the Court concluded that Part XI primarily reflects the Indian

---

<sup>40</sup> Prajiwal Singh, Cooperative Federalism, Legal Services India (April 30, 2024, 08:24 PM) <https://www.legalserviceindia.com/legal/article-4882-cooperative-federalism.html>

<sup>41</sup> AIR 1962 SUPREME COURT 1406

<sup>42</sup> The Constitution of India, 1949, Art.301

<sup>43</sup> 1963 AIR 1241

<sup>44</sup> *Kesavananda Bharati Sripadagalvaru and Ors v. State of Kerala and Anr*, 1973 4 SCC 225

<sup>45</sup> AIR 2006 SC 3127

<sup>46</sup> The Constitution of India, 1949, Art.226

<sup>47</sup> 2017 (2) SCC 538



Constitution's federal structure. Other statements on the necessity to preserve the federal character of the Indian constitution were made in *UCO Bank v. Dipak Debbarma*.<sup>48</sup>

The Judiciary has used several terms and judgements to define cooperative federalism. Granville Austin's comment was cited in the *State of Rajasthan v. Union of India* case.<sup>49</sup> The Indian Constitution was one of the first to incorporate cooperative federalism, as A.H. Birch and others noted. According to Chief Justice Beg, the Indian Constitution establishes an “amphibian” Central government that can operate on a federal or unitary basis depending on the scenario.

In *S.R. Bommai v. Union of India*, Justice Ahmadi used the term “pragmatic federalism” to describe the Indian Constitution's distribution of legislative powers and governmental spheres. However, it also includes unitary solid features. The nine-judge court stated that while the Constitution gives more power to the central government, the state is equally paramount within its jurisdiction. The constitution is better defined as quasi-federal, emphasising the Union more vigorously, thereby supporting the cooperative and competitive federalism paradigm. It all hinges on the direction, interpretation, and consequence of several Constitutional clauses to establish such a federalism model in India.<sup>50</sup>

In the *State of West Bengal v. The Committee for Protection of Democratic Rights, West Bengal*,<sup>51</sup> the High Court, exercising its authority under Article 226, delegated the investigation to the Central Bureau of Investigation (CBI). In response to this decision, the State government lodged a Special Leave Petition (SLP) in the Supreme Court, challenging the jurisdictional legitimacy of the High Court's ruling because it constituted an infringement of the federal structure. The State argued that the CBI, as a Central investigative agency, lacked the legal authority to probe a cognisable offence occurring within the State's territorial jurisdiction without prior consent from the State government. Nevertheless, this argument was dismissed, with the court asserting that the powers conferred by Article 32<sup>52</sup> and Article 226 to the Supreme Court and High Court, respectively, do not contradict the federal structure when they are exercised in a manner that upholds the Constitution and sustains the rule of law.

---

<sup>48</sup> 2017 (2) SCC 585

<sup>49</sup> AIR 1977 SC 1361

<sup>50</sup> AIR 1994 SC 1918

<sup>51</sup> AIR 2010 SC 1476

<sup>52</sup> The Constitution of India, Art.32

In *M.C. Mehta v. Union of India*,<sup>53</sup> the Supreme Court considered a petition about the problems Delhi residents face due to pollution. The Supreme Court asked the Central Pollution Control Board to establish control rooms to monitor the amount of air pollution efficiently. The Centre and State governments were encouraged to work together to create a "common minimum program" to address environmental issues. It was repeated that the Centre and States must work together and collaboratively, as well as with the local corporation, to save people's lives by implementing adequate pollution control measures.

In *Govt. (NCT of Delhi) v. Union of India*, the Court emphasised the "constitutional statesmanship between the two levels of governance." Both governments should guarantee political maturity and administrative expertise when resolving disagreements. The constitutional vision calls on the central and state governments to build a comprehensive structure. It was noticed that the Union and the States must adopt a collaborative federal architecture<sup>39</sup>, which is made feasible by demonstrating peaceful cohabitation and interdependence, which is vital to the cooperative and competitive federalism model. This is critical to avoiding potential constitutional conflicts, preserving the constitutional substance, and allowing realistic federalism to emerge.<sup>54</sup>

In *DC Wadhwa v State of Bihar*,<sup>55</sup> the Court sustained the writ petitions challenging the constitutional legality of the Governor of Bihar's practice of continually promulgating the same ordinances without caring to replace them with legislative Acts. According to Justice Bhagwati, the authority to publish an ordinance is fundamentally power to be utilised to confront an unusual emergency. It cannot be permitted to be 'perverted to achieve political goals.' In *Dabur India Ltd v State of Uttar Pradesh*,<sup>56</sup> the Supreme Court suggested that the government investigate the viability of establishing a Council under Article 263 to adjudicate and settle the various governments' dues.

---

<sup>53</sup> (2015) SCC Online SC 1327

<sup>54</sup> (2018) 8 SCC 501

<sup>55</sup> 1987 (1) SCC 378

<sup>56</sup> 1990 (4) SCC 113

## VI. CONCLUSION

The relationship between the centre, the states, and the local levels is important to India's feeling of nationhood and is necessary for the country's success. However, there is a robust political undercurrent running through everything. Every center-state and inter-state disagreement is fundamentally political. This is the underlying source of the problematic character of center-state relations. Such a conflict gradually develops into an economic one. Terrible politics cause terrible economics. Integration and solidarity in the federal setup will remain incomplete unless economic stagnation and unequal regional growth are addressed. Both the central and state governments must focus on safeguarding our nationhood via constructive, cooperative federalism, which requires high dedication.

Thus, there may be various reasons for the steady transition from cooperative federalism to coercive federalism, including ideological differences, the presence of Union government machinery in a region, the strategic location of states such as West Bengal and the Northeast, and a region's societal development status. When situations escalate, the Centre frequently intervenes. This may be advantageous for the short being but may harm Centre-State relations in the long run. As a result, effective renegotiation is required to ensure that the fabric of cooperative federalism remains intact.<sup>57</sup>

The legal architecture enshrined within the Constitution of India, alongside its implementation by both central and state authorities, suggests that although the ideal of cooperative federalism has yet to be fully actualised, it cannot be dismissed as a mere illusion. The framework governing the allocation of powers, the representation of states in legislative and policy formulation, and the creation of entities such as Inter-State Councils, Zonal Councils, and the Governing Council of the NITI Aayog collectively underscore the government's commitment to forging a cohesive paradigm of cooperative federalism.

Nonetheless, it is imperative to acknowledge the evident power imbalance between the central government and the states. Furthermore, it is crucial to reflect on the insufficient levels of collaboration among the states, which can be attributed to regional and political interests. These elements have collectively obstructed the realisation of a genuinely cooperative federation in

---

<sup>57</sup> Raslin Saluja, The change in the underlying conditions of cooperative federalism and the rise of coercive federalism, iPleaders (August 2, 2024, 08:29 PM) <https://blog.iplayers.in/change-underlying-conditions-cooperative-federalism-rise-coercive-federalism/>

India. In a country such as India, characterised by divergent interests, it is essential to incentivise state governments to engage collaboratively in policy formulation, governance, and conflict resolution to attain favourable outcomes.

Regarding centre-state relations, the Sarkaria Commission and the Punchhi Commission proffered numerous recommendations to nurture cooperative federalism and proposed actionable measures. Certain constitutional amendments could enhance federalism and facilitate its realisation. To enumerate a few:

- the position of the Governor ought to be non-partisan, and the conditions governing their removal should be revised;
- the invocation of President's Rule under Article 356 should be restricted to mitigate excessive exploitation by the central authority;
- the mandate of the Inter-State Council should be expanded beyond mere advisory functions;
- establishing guidelines to curtail the misuse of the President's veto over legislation and
- finally, it is only equitable to involve states when the central government engages in any international agreements.

In addition to the aforementioned considerations, fostering collaboration between the central and state governments, particularly regarding matters listed in the Concurrent List, would also prove beneficial. When distinct political factions govern at both the national and state levels, their interests frequently diverge. In such scenarios, it is paramount to effectively leverage the constitutional and statutory mechanisms designed to mediate such disputes and promote the welfare of the populace, which remains the quintessential objective of governance.

It is also vital to reflect on the foundational principles of our Constitution and the aspirations articulated by the Constituent Assembly for the nation. The Assembly purposefully conferred greater powers upon the Central Government, as its members believed that a robust central authority was essential to unify and harmonize the interests of all states and territories within a nation characterized by a multitude of populations and interests.

Simultaneously, the Constituent Assembly also granted a degree of autonomy to the states, as exemplified by permitting them to levy taxes to address specific requirements. Thus, while India does not wholly embody a cooperative federal structure, it adheres to a quasi-federal system of governance. A spirit of cooperation and collaboration is indispensable for a

federation to function smoothly. However, it is equally critical that the central government refrains from encroaching upon the powers of the states.<sup>58</sup>

\*\*\*\*\*



---

<sup>58</sup> Aradhana Swanand, Analysing the Meaning of Cooperative Federalism in India: Idealistic or Pragmatic?, LawOctopus (September 1, 2024, 08:34 PM) <https://www.lawctopus.com/academike/cooperative-federalism-in-india/?amp=1>