ARTICLE

Creeping Centralisation in India Since 1950

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Abstract

This research critically analyses the phenomenon of creeping centralization in the federal setup of India since the year 1950. This issue is central to the development of federalism in India because of the persisting state of centralization versus state autonomy, particularly with regard to legislative and policy measures taken on matters of governance, education, and economic development. This research utilizes the method of doctrinal study because of its need to analyse the trends of centralization and decentralization based on the amendments of the constitution of India and the various judgments that have emerged over the years with respect to federal issues. Other methods used include the study of the different themes on federal issues. These critical analyses may encompass the issue of dominance and the changes occurring at the university administration levels. This research issue bears significance because of the implications that the centralization tendencies may have regarding the development of a morally pristine democracy with cooperative federalism that might enable integral handling of development with diversity at the federal levels of administration of India.

Keywords - Centralisation, State Autonomy, Decentralisation, Democracy, Cooperative Federalism, Diversity

I. INTRODUCTION

'The distribution of powers is an essential feature of federalism.'[304] The object for which a federal state is formed involves a division of authority between the Central Government and separate states. A Federal Constitution establishes the dual polity with the union at the centre and the states at a periphery, each endowed with sovereign powers to be exercised in the field assigned to them respectively by the constitution. *"The one is not subordinate to the other in its own field; the authority of one is co-ordinate with that of other."*[305]

The 1950 Constitution entrenched a federalism by apportioning legislative powers between Parliament and state legislatures. India's founders were not inspired by the communists or the leadership of Soviet or communist China, but by the principles of liberal democracy. Some of them, particularly Jawaharlal Nehru, was also inspired by an agenda of state-planned economic growth, land reform, and democratic socialism. He felt these goals needed plenty of central planning. In doing so, however, India's huge dimensions and its enormous diversity made an impossible task out of establishing a unitary system, as in the United Kingdom. So, a substantial cluster of topics-industry, agriculture, land revenue, law and order, policing, health, education, and social welfare, a total of sixty-six items were handed over to the states but the chief ministers ruling these units were largely conservative leaders ruling highly rural and stratified societies. As

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304 K. C. (Kenneth Clinton) Wheare, Federal Government,157 with Internet Archive (London, New York, Oxford University Press, 1963), http://archive.org/details/federalgovernmen0000whea.

305 Dicey A. V., Law Of The Constitution (1885), http://archive.org/details/in.ernet.dli.2015.211254.

a result, across the majority of regions, resistance to the dominant social arrangements took the shape of revolutionary socialism. Therefore, from the beginning itself India's experiment with centralised federalism, which in appearance was liberal-democratic in inspiration, had to function in tension with a humongous traditional rural hinterland alongside multiple socialist movements.

Centralization Bias

The constitutional structure itself demonstrated the bias towards centralization in several respects. Article 246[306] has a *non obstante* clause which serves to confirm this superiority. It not only spells out the Union-State classification of subjects, but it makes hierarchical openness of pre-eminence of Union powers clear as well. The wording of Article 246(1) *"notwithstanding anything in clauses (2) and (3)"* and of clause (3*)"subject to clauses (1) and (2)"* had made it evident that the Union List prevailed over the State as well as over the Concurrent Lists, and the Concurrent List over the State List. So, in the case of overlapping between the Union List and the Concurrent Lists, the Union List will override; and in the case of inconsistency between the Concurrent List and the State List, the Concurrent List will override. The residuary powers were reserved with Parliament.

Article 248[307] reserves the residuary legislative powers for the Parliament, which is the only institution that can pass a law on matters not listed in the State List or in the Concurrent List. This is also supported by Entry 97 in the Union List[308], which also reads that Parliament will have the exclusive power to enact legislation on matters outside both the State and Concurrent Lists and the power to levy taxation not covered by those lists. These provisions clearly reflect that the framers of the Constitution intended to entrust overriding powers in the Union in view of giving a strong central government.

In *Union of India v. H.S. Dhillon*[309], the question that arose before the Court was whether Parliament had the authority to pass the Wealth Tax Act to the extent that it taxed property lying in agricultural land. The Court made it clear that the correct test for deciding whether a Central law is valid is to examine whether the subject matter involved comes under the State List (List II) or the Concurrent List (List III). If it is made clear that the matter is beyond the purview of the State List, Parliament can legislate on the matter under its residuary power under Entry 97 of the Union List. In such a case, whether the matter comes specifically within Entries 1–96 of the Union List or not, makes no difference. This reading brings out to what degree the constitutional structure of legislative distribution is weighted towards the Centre.

Wherever there is any repugnancy between law enacted by the union and state regarding subject matter of concurrent list, Article 254(1) states that *"if any provision of the law made by the legislature of the state is repugnant to any provision of a law made by parliament competent to enact or to any provision of the existing law with respect to one of the matters enumerated in the Concurrent List, then the law made by the parliament, whether passed before or after the law made by the legislature of such stage or, as the case may be, the existing law shall prevail and the law made by the legislature of the state shall, to the extent of the repugnancy be void."*[310]

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[306] Constitution of India 1950, art. 246.
[307] Constitution of India 1950, art. 248.
[308] Constitution of India 1950, Seventh Schedule, List I (Union List), Entry 97
[309] Union of India v. H.S. Dhillon, MANU/SC/0194/1971
[310] Constitution of India 1950, art. 254(1)

Article 254(1) is only applicable where there is conflict between a Central Law and a State Law regarding a matter included in the Concurrent List.
'Repugnancy Test': The Supreme Court in *Deep Chand v. State of Uttar Pradesh*[311], established the following tests for testing the repugnancy between the Union Law and a State Law: (a) There can be contradiction between the actual words of the two Statutes, i.e., when one enunciates "do" and the other "do not".(b) When both the State and the Union Laws attempt to exercise their powers on the same subject-matter.(c) Although, there is no express conflict, a State Law will be ineffective because the Union Law purports to be a comprehensive, exhaustive code.
In *M. Karunanidhi v. union of India*[312] the court summarized the test of repugnancy. In his view a repugnancy would occur between the two enactments in the following scenario:

- It should be established that there exists direct and unequivocal inconsistency between the two enactments (Central Act and State Act) which is impossible to reconcile, so they can neither co-exist nor function in the same area.
- Repeal by implication is not possible unless the repugnancy is on the face of the two statutes.
- Where the two statutes cover a given field but there is space or scope for both the statutes to apply the same field without colliding with each other, no repugnancy arises.
- Where there is no repugnancy but a statute covering the same field aims to bring about specific and separate offences, no issue of repugnancy arises and both the statutes remain operative in the same field.

Parliament itself even had powers to redesign the federal structure through the formation of new states, the alteration of boundaries, or even the dissolution of ones in existence. It also possessed the power to modify the Constitution. Above everything, it can impose "President's Rule" on a state and place its elected government in suspense to be replaced by direct central rule.
By centralizing decision-making, the Indian government was able to maintain a firm grip on economic policy. This was mainly accomplished by two organizations: the Planning Commission, which was in charge of the nation's five-year development plans, and the Finance Commission, which was established every five years to decide how national revenues should be distributed to the states. State governments continued to rely on New Delhi for financial support as a result. Administrative power was centralized in tandem with this economic dominance. While the Indian Police Service was still under central control even though policing was listed as a state subject, senior officials of the Indian Administrative Service oversaw a significant chunk of the public sector. Some scholars argue that India operated more like a unitary system than a federation as a result of this concentration of power. In fact, the Constitution itself refers to India as a "Union of States" rather than a "federal."
The terms "federalism" and "federation" are still hardly ever used in official reports in India. For instance, the 'Venkatachaliah Commission' referred to the topic more specifically as "Union-State Relations", whereas the Sarkaria Commission referred to it as "Centre-State Relations."
The Constitution's language, which states in Article 1[313] that "India, that is Bharat, shall be a Union of States," contributes to this hesitancy. The chair of the Constituent Assembly's Drafting

[311]Deep Chand v. State of U.P., MANU/SC/0014/1959
[312]M. Karunanidhi v. Union of India, MANU/SC/0159/1979
[313]Constitution of India 1950, art.1.

Committee, B. R. Ambedkar, highlighted two important aspects of India's constitution: its ease of amendment and its ability to change into a unitary system in times of emergency, even though he contrasted it with those of other federations like Canada. Similarly, its president, Rajendra Prasad, downplayed the significance of labels in his farewell address to the Constituent Assembly, saying that it didn't really matter if India's Constitution was referred to as federal, unitary, or something else.

> *"I do not attach any importance to the label, whether you call it a federal Constitution or a unitary Constitution or by any other name."*[314]

Consequently, Indian federalism has mainly operated as a highly centralized federation. As a result, the term "the Center" has long been used to refer to the central government.

II. UNDERSTANDING ONE-PARTY DOMINANCE: CHALLENGES TO INSTITUTIONS

'One-party-dominance is a competitive (multi)party system wherein one party dominates government, the policy agenda, political competition and discourse and determines public opinion for a considerable amount of time and without any use of governmental repression, but, wherein opposition parties and societal forces do have a vital function as concerns the shaping of patterns of interaction within the party system,'[315] In other words, Single-Party Dominance is a scenario in which one political party dominates for an unbroken period of time. This occurs through the party's historical background, the ability of the party to mobilize significant portions of the electorate, and the rational mastery that the party is able to exert over the political system as a whole.[316] Unlike the typical two- or multiparty systems of most democracies, dominant party systems position one party at the center of power. The party occupies the main channels of decision-making and resource allocation in such systems, with little or no space for other parties to make their mark on what transpires.

A healthy democracy is not just when governments are switched from time to time, but also the strength of its institutions. A legislature which publicly holds the executive accountable, an independent judiciary, and due regard for the separation of power among the different organs of government. Equally crucial are the freedoms of citizens at their disposal, their obedience to the rule of law, and the existence of a healthy civic culture manifested in association and communal activity outside of politics. The supremacy of the Constitution also roots this system. These, all together, constitute the vibrancy of democratic life. Democratic practice may differ with local political tradition, but these basic requisites hold. However, in the one-party regimes, the integrity of such democratic norms cannot be assured. In the view of Samuel Huntington, there is always a risk of democratic regression, for institutional safeguards designed to curb state power are feeble and vulnerable. Lord Acton's classic warning that *"power tends to corrupt, and absolute power corrupts absolutely*" is a warning against taking so readily to a political system in which decision-making can so easily be taken over in the hands of a few.

[314]Constituent Assembly Debates, Book V, Vols. X-XII, p. 987

[315] Clemens Spieß, "One-Party-Dominance in Changing Societies : The African National Congress and Indian National Congress in Comparative Perspective : A Study in Party Systems and Agency in Post-Colonial India and Post-Apartheid South Africa," Dissertation, 2004, https://doi.org/10.11588/heidok.00004956.

[316]Pempel, T. J., ed. Uncommon Democracies: The One-Party Dominant Regimes. Cornell University Press, 1990.p.4. http://www.jstor.org/stable/10.7591/j.ctvr7f8kn.

It is possible to argue that dominance inevitably changes the very character of political competition. Even where free and open elections are conducted with frequency, opposition movements rarely get into a position to capture executive office due to the entrenched dominance of the hegemonic party. Consequently, opposition parties are left with a largely marginal role in the legislative sphere: they can hold to account the actions of the ruling government and seek to criticize them, but are more likely to do so from the sidelines, as opposed to being proactive decision-makers. Moreover, the classical democratic dream of "throwing the rascals out" would seem to be appallingly lacking from regimes of Single-Party Dominance. This is so since, even when there has been misgovernance or abuse by the government, there appears little likelihood that the ruling party's grip on power would be meaningfully challenged or overturned.[317] The Indian National Congress dominated politics until the 1990s, a time that is frequently referred to as "one-party dominance."

a. The Indian National Congress (1947-1977)

"The Congress is the country and the country is Congress"

-Jawaharlal Nehru[318]

No political party perhaps better exemplifies the phenomenon of long-term dominance than the Indian National Congress (INC). From 1947 to 1977, the Congress enjoyed what can only be characterized as de facto near-unchecked national electoral dominance, effectively gaining the government control for thirty uninterrupted years. It can be argued that such continuity of governance is the exception in any democratic environment and as Harold Wilson, quoted *"a week is a long time in politics."*[319] Thirty years of virtual hegemony of rule by that yardstick is not merely long, but what may reasonably be considered political eternity. The party's top leadership, known as the "high command", held a significant amount of authority because the organization was so hierarchical, the Congress leadership in Delhi usually decided who would be the chief minister of a state and this point becomes even more evident after considering the example below-

- High Command Politics and the Erosion of State Autonomy: The Case of Uttar Pradesh[320]

A deeper view of Congress politics in Uttar Pradesh would explain how the central leadership of the party pinched states units and perpetuated a culture of centralisation. From the beginning, Govind Ballabh Pant was put on the defensive by Prime Minister Nehru and Sardar Patel during the developments in Ayodhya in 1949 which demonstrated that even a powerful state premier had little leeway in dealing with sensitive matters. When Pant was transferred to the Union Cabinet in 1955, It did not leave the choice of his successor to state Legislature instead Delhi decided Dr Sampurnanand as new chief minister, his resignation in 1960 prompted direct participation of Nehru and Congress president Neelam Sanjiva Reddy, to appoint Chandra Bhanu Gupta as chief minister.

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[317] Rajni Kothari, "The Congress 'System' in India," University of California Press Vol. 4, (December 1964): p. 1161.https://www.jstor.org/stable/2642550

[318] Clemens Spieß, One Party Dominance in Changing Societies: The ANC and INC in Comparative Perspective, n.d., p.21, https://doi.org/10.11588/heidok.00004120.

[319] Henry Irving, "The Birth of a Politician: Harold Wilson and the Bonfires of Controls, 1948–9," Twentieth Century British History 25, no. 1 (2014): 87–107, https://doi.org/10.1093/tcbh/hws044.

[320] Express News Service, "Those 'King Cong'ress Years," The New Indian Express, June 8, 2024, https://www.newindianexpress.com/magazine/2024/Jun/08/those-king-congress-years.

The pattern persisted. Under the Kamaraj Plan (1963), Gupta was removed and replaced with Sucheta Kripalani, though not so much by state party processes as by a decision indirectly informed from above by the Congress Parliamentary Board and then ratified from Delhi by the high command.

Later, despite having a large following, especially among Muslims, H. N. Bahuguna's tenure was tense due to persistent meddling from Indira Gandhi and her son Sanjay Gandhi, whose efforts to consolidate power in Delhi weakened his hold on Lucknow. Similar to this, N. D. Tiwari, who was regarded as accommodating and obedient, was frequently promoted to chief minister during the Emergency years due to his alignment with central priorities; in fact, his deference to Delhi earned him the moniker "Nothing Doing Tiwari."

When combined, these instances show how local legislative parties and independent state-level dynamics rarely influenced the selection, term, and removal of Congress chief ministers in India's most politically important state.

Rather, they were mediated by the Congress "high command" in New Delhi, which continuously gave central authority over federal balance precedence. Thus, Uttar Pradesh offers a microcosm of the broader phenomenon Rajni Kothari identified in his analysis of the "Congress system": a party of consensus that operated through internal factionalism and centralised dominance, wherein the Centre determined state government leadership, leaving little room for true state autonomy.[321]

b. Tentative State Autonomy: Post One Party Rule

Where before 1989, India's political landscape was dominated by single-party majority governments, most notably the Congress Party as in the first eight general elections from 1952 to 1984, majority rule was largely assumed, with Congress securing over 300 seats in seven out of these eight contests. The only exception was the 1967 election, in which Congress won 283 seats and in 1977, when Congress suffered its first national defeat, the Janata Party achieved a majority with 298 seats. During this period, national parties strongly supported a centralized federal system.

However, the stability of majority governments began to decline in 1989 with the election of the minority National Front, which favoured a less centralized federation. The Congress government of 1991 even though temporarily restored majority rule after assembling a parliamentary majority but the subsequent elections in 1996, 1998, and 1999 ushered in coalition governments, highlighting the rising influence of state-level parties.

By May 2004, the BJP held only 138 seats, Congress 145, while state parties collectively controlled over 160 seats, marking a significant shift in India's political balance. This rise of complex federal coalitions, driven by the increasing number of political parties in India, combined with timely judicial interventions, reshaped the country's traditionally centralized federation. The historical practice of major national parties particularly the Congress, having the authority to decide the chief minister of a state following an election victory was stumbled by

[321]Kothari, supra note 12, at 6.

the state-level parties which operated autonomously, and the central leadership could not exert the same degree of control over their internal decisions.[322]

Thus, in the late 1980s and early 1990s, India's federal structure underwent significant decentralization, largely as a result of two significant developments. The first was the rise of coalition governments, which gave states more authority after Congress lost its one-party hegemony. The President's Rule was not applied often during this time, and when it was, it was only for brief periods of time. At the same time, the Supreme Court began to keep a closer eye on its implementation, most notably with the landmark *Bommai*[323] ruling. The second development that occurred at the same time as these political changes was the liberalization of the Indian economy.

Economic reforms gave states more power to control local economies and attract investment. Nonetheless, the Union government retained authority over certain fiscal matters, particularly monitoring state deficits. Furthermore, in an effort to alleviate inequalities both within and between states, the Center significantly increased welfare spending between 2004 and 2014 by addressing inter- and intra-state disparities and assisting states in their pursuit of local development, MGNREGA, the National Rural Health Mission, the Right to Education Act, and urban and rural development initiatives.

c. Centre–State Dynamics through the Lens of Self-Rule and Shared-Rule

A helpful framework to assess whether public policy dynamics between the Union and the Indian states have tended toward centralization or decentralization is provided by the ideas of *'self-rule and shared rule'*. The three main facets of this assessment are administrative, fiscal, and political. The degree of autonomy enjoyed by states is reflected in self-rule, which includes the ability to plan, finance, and provide public services (administrative dimension), control over their own revenue sources (fiscal dimension), and independence in policymaking (political dimension).On the other hand, shared rule encapsulates the cooperative aspect of federalism, encompassing joint planning, financing, and service delivery, centrally collected revenue distribution, and participation in national policymaking through shared institutions. When states' self-rule authority is diminished without a commensurate improvement in shared-rule mechanisms, centralization results.

However, the system does not necessarily become more centralized or decentralized if more shared rule is used to offset a decrease in self-rule. Rather, it develops into a more interdependent model—either by empowering states to make decisions at the national level or by urging them to give up some of their authority in return for funding and advantages in policy. On the other hand, decentralization entails increasing the states' ability to govern themselves.

Therefore, the analytical triad of centralization, decentralization, and interdependence allows for the examination of Union-state relations in the domains of politics, finance, and administration. Independent policymaking, which occurs when a government acts unilaterally on matters that impact other governments and forces those governments to make adjustments without prior consultation, is in contrast to interdependence.[324]

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[322] M. P. Singh and D. V. Verney, "Challenges to India's Centralized Parliamentary Federalism," Publius: The Journal of Federalism 33, no. 4 (2003): 1–20, https://doi.org/10.1093/oxfordjournals.pubjof.a005005.

[323] S.R. Bommai v. Union of India, MANU/SC/0445/1994

[324] Thomas J. Courchene et al., The Art of the State: Governance in a World Without Frontiers (IRPP, 2003).p.127

Between 1996 and 2014 in the era of coalition politics at the national level was marked by significant power-sharing and interdependent governance with regional and state-level parties exerting considerable influence in Parliament, either as coalition partners or as external supporters of minority administrations. However, when the ruling party at the centre enjoys a clear national majority but faces strong opposition in multiple states, the outcome is partisan polarization across the federation. In such circumstances, the central government often adopts a blend of cooperative and coercive measures to deal with state-level rivals. A striking illustration of this approach was Indira Gandhi's strategy of imposing punitive actions on states governed by opposition parties. At present, this dynamic characterizes the Modi government's experience too.

d. Modi's- fictional Promise-

The Indian Centre's de facto one-party government was reinstated following the 2014 general elections. The Bhartiya Janata Party was able to secure a legislative majority in the Lok Sabha by itself following almost 20 years of (minority) coalition rule. As evidenced by a series of assembly election results since 2014, the BJP held a hegemonic position within the party system, possibly pave the way for one-party domination.

As Gujarat's chief minister from 2001 to 2014, Narendra Modi was well known for his extremely centralized approach to state governance. As a result, some political analysts expected him to take a similar tack when he became prime minister at the national level.[325] But according to his remarks as Gujarat's chief minister and the BJP's 2014 general election platform, which placed a strong emphasis on "cooperative" federalism, a significant concentration of power was not unavoidable.

Modi frequently attacked the federal government for overreaching during his time in Gujarat, especially with regard to the Centrally Sponsored Schemes (CSS), which he saw as an infringement on state power. In order to let states take the lead in national development, the 2014 BJP manifesto pledged to "balance Center-State relations through consultation." In addition to encouraging fiscal autonomy and financial discipline, the plan, known as "Team India," called for reorganizing intergovernmental relations by creating "Regional Councils of States" and reviving long-dead organizations like the National Development Council and Inter-State Council.The BJP's adaptable and practical approach to coalition politics was another observation made by observers who anticipated a state-friendly stance. The party's willingness to cooperate with regional forces is demonstrated by its alliances with the Assam Gana Parishad in Assam, the AIADMK in Tamil Nadu, and the Akali Dal in Punjab. According to the Modi government's "cooperative-competitive federalism" principle, the Union and the states should improve coordination rather than acting independently in certain policy areas. In order to ensure a balanced system of power-sharing, this calls for a framework of joint decision-making in which both governmental levels participate equally and have reciprocal veto powers.

3. SHIFT TOWARDS GREATER CENTRAL CONTROL SINCE 2014: A REALITY

3.1 Role of Governor in Imposition of Presidential Rule

[325] James Manor, "Government and Opposition in India," Government and Opposition 46, no. 4 (2011): 436–63, https://www.jstor.org/stable/44482207.

Soon after taking office, the BJP, in keeping with a long-standing custom, dismissed governors appointed by earlier Congress-led administrations. For example, nine governors appointed during the UPA administration were dismissed with the party's help. Under President's Rule,[326] governors play a crucial role because they can suggest that it be imposed if they think there has been a "breakdown of constitutional machinery" in a state. This term is ambiguous and frequently associated with insurgency, political impasse, or a loss of the majority in the state legislature. Judicial review has been applied to the grounds for enforcing the President's Rule since the Supreme Court's 1994 *Bommai* ruling.

In 2016, the BJP made an effort to take advantage of this provision in Arunachal Pradesh and Uttarakhand. A BJP-led government was intended to be established in Arunachal Pradesh after internal strife within the Congress government which prompted the governor, who was appointed by the BJP, to move the state assembly session forward. The governor of Uttarakhand asked the congress Chief minister to hold a floor test after nine Congress MLAs defected; however, the central government forewarned the president to suspend the state government one day prior to the test. The Supreme Court overturned the President's Rule's implementation in both cases. The Court in Arunachal Pradesh questioned why the assembly session was rescheduled, denying the Congress government enough time to demonstrate its majority. The Court decided that the central government in Uttarakhand lacked the power to enforce the President's Rule before a floor test. By restoring both state governments, the Court upheld the values set forth in *Bommai* and strengthened its position as a federal safeguard and institutional veto player. Notably, this was the first time the Court had mandated the reinstatement of two state governments that had been dismissed.

3.2 Gubernatorial Withholding of the State bill by the Governor:

The Supreme Court in the matter of *State of Tamil Nadu v. Governor of Tamil Nadu*[327], admonished Governor R.N. Ravi, who voted against ratify ten bills and asserted that the power of the President to reserve bills under Article 201 has a three-month time limit. The Court, in this case, was very explicit that governors are required to enforce legislative decisions and be impartial constitutional sentinels, use their discretion regardless of political calculations. The ruling upholds the principle of '*federal loyalty'*, which ensures cooperation and restraint between the Union and the States, and reiterates judicial oversight as crucial for maintaining constitutional supremacy. According to the German concept of *Bundestreue,*[328] the different levels of government within a federation are supposed to respect, work together, and exercise restraint according to the situational needs. In a pluralistic and multiform polity that exist in India, federal loyalty is not just a doctrinaire ideal but also a necessity for the smooth and peaceful operation of the federal setup. It emphasizes that the governor could not stand in the way of legislative action and that any move to vest the office with more authority than the constitution states would jeopardize India's federal equilibrium and democratic administration. This principle will have to be firmly applied in the Indian scenario in order to maintain the constitutional equilibrium and enhance institutional trust. Achieving genuine federalism in India involves strengthening

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[326] Constitution of India 1950, art.356.

[327] State of Tamil Nadu v. Governor of Tamil Nadu, 2025 INSC 481

[328] Narender Nagarwal, "Supreme Court In Defence Of Rule Of Law, Federal Loyalty And Constitutional Supremacy," April 24, 2025, https://www.livelaw.in/articles/supreme-court-defence-rule-law-federal-loyalty-constitutional-supremacy-290190.

intergovernmental channels of communication and securing the autonomy of constitutional posts, especially the governors. These initiatives could lead the way to a more effective and cooperative federal setup.

The Supreme Court cautioned governors not to act arbitrarily or in "mala fides" in *Nabam Rebia v. Deputy Speaker,*[329] asserting that their actions are open to judicial review and cannot be placed beyond the rule of law. Preceded by this, the latest Tamil Nadu judgment makes it clear that not giving assent to bills without a reasonable cause is a breach of the office's Article163[330] trust. As the elected members and the council of ministers, who are the representatives of the people, have legislator powers, the discretion of the governor is greatly curtailed after such a bill has been passed by the state legislature and referred to him. Governor R.N. Ravi went against these constitutional obligations by refusing key bills and saying they were outside his purview. The Court's move to revive the expired bills serves to underscore the importance of timely gubernatorial assent to the smooth functioning of the legislative process.

4. EROSION OF FEDERALISM IN INDIAN EDUCATION: THE SHIFT FROM STATE AUTONOMY TO CENTRAL CONTROL

The British brought in the Govt of India Act, 1935, that for the first time conferred a federal system on the nation. Subjects of legislation were distributed between the federal govt (now Union) and provinces (now states). Education, as an essential "public good," was put in the provincial list. This went on after independence, and education was put in the state list under the division of powers in the Constitution.

After the Emergency in 1975, the Congress government appointed the Swaran Singh Committee to suggest constitutional amendments. One of them was to transfer education to the concurrent list so that the Union government could formulate national education policies. This resulted in the 42nd Constitutional Amendment of 1976, transferring education from the state to the concurrent list, although no justification was assigned for the transfer. The University Grants Commission (UGC) was established in the 1950s in accordance with Entries 65 and 66 of the Union lists,[331] which even before the 42nd Amendment gave the Centre the power to create professional, vocational, and training institutions as well as regulate standards in higher education and research.

The 44th Constitutional Amendment (1978) was passed by the Janata government after the Emergency ended in 1977, reversing many of the 42nd Amendment's modifications. One such was to put 'education' back in the state list. Though it was cleared by the Lok Sabha, it was not ratified in the Rajya Sabha and thus education stayed in the concurrent list. The 1983 Sarkaria Commission, which was established by the Govt of India to examine Centre-state relations, suggested that the status quo be preserved. It did recommend, however, that the Union govt seek state inputs before legislating on matters of the concurrent list. Education, as a concurrent subject, is a shared responsibility. While the Centre sets national policies, states adapt and implement them based on local needs and resources. Central and state govts can enact laws on education. However, in case of a conflict, the central law prevails unless the state law has received the

[329]Nabam Rebia v. Deputy Speaker, Arunachal Pradesh Legislative Assembly, MANU/SC/0768/2016
[330]Constitution of India 1950, art. 163.
[331]Constitution of India 1950, Seventh Schedule, List I (Union List), Entries 65 and 66

President's assent, in which case it can take effect. This ensures uniformity and smoother coordination in implementing education-related laws. Concurrent jurisdiction in education encompasses curriculum, pedagogy, teacher training, vocational and adult education, infrastructure, standards, and quality assurance. The central and state govts are able to formulate policies and rules in these fields, and the concurrent status allows them to work together to realize common objectives in the field of education. Both govts are able to oversee institutions for adherence to laws and standards as well. Finance is also concurrent, with the central govt making available grants and schemes.

Those who are in favour of taking education back to the state list present some arguments. States, they contend, carry 75% of expenditure related to education and should have more power to regulate the educational institutions without the Centre's interference. Besides, putting education back in the state list would also improve autonomy, enabling them to set up policies suited to local aspirations. Their own states will be free to introduce fresh schemes and innovation in educational models appropriate to their own geographic areas without first obtaining approval from the center. This freedom may bring about more innovative ways of learning and educating. Accountability is another aspect. States are more likely to be held responsible for their success or failure when they frame policies themselves. Central policies like NEET, CUET, and the NEP also clash with state-level frameworks created to suit regional needs. Those who advocate that education remain in the concurrent list claim that the Centre has an essential role in guaranteeing standards and equal access to quality education. Most states do not have the capacity to enhance quality and enrolment, particularly in higher education, which central intervention addresses through specific schemes and funding. A unified national curriculum is also needed to synchronize youth skills with the requirements of a pan-India and international job market.

It would also allow the Centre to take up emerging national and international concerns like sustainability, climate change, digital literacy, and AI with appropriate policies, while taking into account state-specific issues. Central leadership provides policy guidance, oversight, and uniformity in application across institutions. A decade prior to the 1976 transition, the Kothari Commission promoted a uniform national educational system for facilitating national integration and cultural exchange. A balance between national standards and state flexibility is conducive to both diversity and unity. The Centre is also enabled to create and administer institutions of national significance like IITs, IIMs, NITs, and AIIMS, whose innovation and research are of global influence.

At the heart of the problem are two conflicting requirements: national coordination and standards, and increased state autonomy and flexibility. Perhaps the key to a solution is finding a balance between the two in "collaborative federalism," a principle suggested by the Kothari Commission. In this system, the Centre can issue broad national policies, standards, and guidelines, while leaving states with the freedom to suitably adapt and implement them in accordance with local requirements. Most of the reasons cited for transferring education to the state list, for example, adopting policies according to regional needs, are still attainable under the concurrent list if collaborative arrangements are adopted.

With numerous states finding it difficult to finance their universities, the concurrent list allows the Union govt to provide fiscal and technical assistance while ensuring states are equipped to effectively run their systems. What really counts is not where education is placed constitutionally, but how effectively the tenets of federalism are put to work to enhance the standard of education and research across the country. The future lies in cooperation, not confrontation. However, the stark reality is quite inclined toward centralizing education by extending the dominance of Union agencies.

4.1 Apprehensions regarding the National Eligibility-cum-Entrance Test (NEET)

The All-India Medical Entrance Examination, also instituted by the centre in 1985, was a federal matter when it captured 15% of state government seats, leaving Andhra Pradesh and J&K alone. To protect the interests of disadvantaged and rural students, the Tamil Nadu government did away with the common entrance examinations in 2006.[332]Subsequently, the centre combined the medical test with the National Eligibility-cum-Entrance Test (NEET), a requirement for seeking admission to undergraduate programmes in medical colleges. Notably, before the NEET, states, including India's topmost research institutes like the All-India Institute of Medical Sciences (AIIMS), conducted their own tests to determine eligibility criteria for admission to medical programmes. Following the introduction of NEET, seeking admission into medical and dental courses became the requirement.

NEET was first announced in 2012 by the UPA-II government, but it was delayed for a year by the Central Board of Secondary Education as a result of strong opposition from various states, such as Gujarat, Andhra Pradesh, Karnataka, Kerala, West Bengal and Tamil Nadu. After rigorous criticism from most states, the Supreme Court, in 2013, ruled that the test was illegal since it undermined the rights of the states to administer tests for state-managed institutions. The Supreme Court in 2016 reversed its earlier decision and upheld NEET for admission to public and private medical and dental colleges. This resulted in protests that infringed equality before the law as enshrined in the Constitution under Article 14 and resulted in one such aspirant in Tamil Nadu taking his life.[333] Evidently, with the persistent inequalities of education infrastructure and differences in curriculum designs among the states, the centre's 'one nation, one exam' policy appears to work counter to federal ethos.

Similarly, the New Education Policy (NEP) 2020 has also been opposed by the states as it is a very centralised policy since the Higher Education Commission of India (HECI) has merged many of the existing institutions such as the University Grants Commission (UGC), National Council for Teachers' Education (NCTE) and All India Council for Technical Education (AICTE). It is believed that the HECI is an intrusive and dominating agency due to its four vertical divisions which separate key areas of controversy, such as accreditation, regulation and sponsoring (Sahoo, 2020).

After the NEP 2020, in August 2022, the UGC Chairperson, Jagadesh Kumar, stated that the JEE Main and NEET would be merged with the Common University Entrance Test (Teri, 2022). Therefore, the establishment of a very centralised body with full powers could not increase the

[332] "'Bringing in NEET Is an Attack on Our Federal Structure and Pluralistic Ethos,'" Chennai, The Hindu, August 31, 2016, https://www.thehindu.com/news/cities/chennai/%E2%80%98Bringing-in-NEET-is-an-attack-on-our-federal-structure-and-pluralistic-ethos%E2%80%99/article14617412.ece.

[333] Sarah Zia, "Why Do Some States Think NEET Violates Federalism?," Mint, September 6, 2017, https://www.livemint.com/Education/QzicQ3gd3SOqgtkXJTRqrI/Why-do-some-states-think-NEET-violates-federalism.html.ssss

federal spirit of the Indian nation. Furthermore, the introduction of the NEET exam indicates centralisation, going towards a unitarian federal system.[334]

4.2 State Authority over In-Service Reservation in Postgraduate Medical Education: Scope of Entry 25 vis-à-vis Entry 66 and MCI Regulations

The Supreme Court in Tamil Nadu Medical Officers Association and Ors. Vs.Union of India held that — Entry 66 of List I (Union List)[335] in the Seventh Schedule to the Constitution confines itself only to the "coordination and determination of standards" of institutions of higher learning, including medical education, and does not include the area of admissions, reservations, or quota policy for in-service candidates in postgraduate medical courses. The Union, by Entry 66, cannot enact legislation on the mode of admission or reservation in the State quota; these are reserved for the States by Entry 25 of List III[336] (Concurrent List), subject only to the criteria decided by the Union.

'Medical Council of India Postgraduate Medical Education Regulations, 2000'[337], as amended, Regulation 9 does not address or make provision for reservation to in-service candidates in postgraduate degree courses. Such MCI Regulations hence do not restrict or withdraw the legislative power or authority of the States to make provisions for such reservations under Entry 25 of List III.

If Regulation 9 were to be construed as limiting the States' power to make provision for reservation or a distinct source of entry for in-service candidates, then it would be ultra vires the 'Indian Medical Council Act, 1956'. The MCI, by virtue of Section 33 of the Act,[338] cannot regulate such reservations, and such an action would be outside the purview sanctioned by Entry 66 of List I.

The earlier finding of the Supreme Court in *Dinesh Singh Chauhan*[339] observed that Regulation 9 of the MCI Regulations is a "complete code"-was explained. The "complete code" terminology only pertains to the admission process regarding standards, not to the issue of reservation or mode for in-service candidates, which is a subject of State jurisdiction.

The States thereby possess the legislative competence and jurisdiction to provide for an independent source of entry or reservation for serving government doctors in postgraduate degree/diploma courses within the State quota under Entry 25 of List III[340], provided such policy has attached to it, as a condition, that the persons who enter through this route shall serve for a minimum period of five years in rural/tribal/hilly areas upon obtaining their degrees, and shall fulfill appropriate service bonds.

Any other interpretation of Regulation 9, or application by the Medical Council of India (or the Central government) to limit the powers of the States to grant reservation during in-service in

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334 Mool Raj Sharma, "Locating Contemporary Indian Federalism: Contextualising the Trends of Centralisation with Changing Dynamics," South Asian Survey 30, no. 1 (2023): 45–71, https://doi.org/10.1177/09715231231190726.

335 Constitution of India 1950, Seventh Schedule, List I (Union List), Entry 66.

336 Constitution of India 1950, Seventh Schedule, List III (Concurrent List), Entry 25

337 "Postgraduate-Medical-Education-Regulations-2000.Pdf," n.d., accessed October 10, 2025, https://www.nmc.org.in/wp-content/uploads/2019/12/Postgraduate-Medical-Education-Regulations-2000.pdf.

338 The Indian Medical Council Act, 1956, § 33 (Act No. 102 of 1956), Government of India, Ministry of Law and Justice."Complete-Act-1.Pdf," n.d., accessed October 10, 2025, https://www.nmc.org.in/wp-content/uploads/2017/10/Complete-Act-1.pdf.

339 State of U.P. v. Dinesh Singh Chauhan, MANU/SC/0864/2016

340 Supra note 31 at 17.

postgraduate degree courses, was considered as being arbitrary, discriminatory, and violative of Articles 14[341] and 21[342] of the Constitution, and beyond the powers vested in the Indian Medical Council Act, 1956.

This judgment operates prospectively and admissions already made under the contrary legal position are not affected. Essentially, the ratio is — States have legislative and executive power under Entry 25, List III of the Constitution to make provisions for reservation or distinct entry source for in-service candidates in postgraduate medical courses, as such power is not abridged by Entry 66 List I or by the rules framed by the MCI under *Section 33 of the Indian Medical Council Act, 1956*[343]. Any effort by the MCI or by the Union to abridge this power either by rule or otherwise is ultra vires. But such hesitation will have to be coupled with a condition that the beneficiaries work in rural/tribal/hilly regions as required by State policy.[344]

4.3 Centralised Appointments and the Rise of Executive Overreach in University Governance-

The Emergency is repeatedly condemned by the Narendra Modi government as a black era in Indian democracy. Even so, it still relies on dubious legislation created at the time, including the '42nd Constitutional Amendment of 1976', which shifted education from the State List to the Concurrent List. Specifically concerning vice-chancellor (V-C) appointments, the newly tabled UGC (Minimum Qualifications for Appointment and Promotion of Teachers and Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education) Regulations, 2025, have been controversial. The proposed changes weaken state power in higher education, threaten federal principles, and pave the way for over-centralization. The draft regulations as proposed introduce a significant change in the appointment of vice-chancellors in state universities. They bestow the chancellors, who, in the majority of states, are the governors' powers to constitute the search and selection committees. This is a major deviation from the existing setup, where the state governments play a major role in the appointment process for these important academic offices. Under the new draft, the selection committee for each institution would have three members: one nominated by the visitor or chancellor, one by the chairperson of the University Grants Commission (UGC), and the third by the syndicate or senate of the university. The committee would then recommend a shortlist of three to five names, from which the chancellor or visitor would make the appointment alone. The new framework also eliminates the need for applicants to have teaching or research experience, which has raised concerns of politicisation of university management.

The origins of the governor's role as the university chancellor date back to the '*Wood's Despatch of 1854'*, which recommended that the chancellors should be persons of distinction dedicated to developing education. Since Independence, this practice persisted, mainly because one political party held sway at both the national and the state governments, to ensure unity of purpose between the two. With the onset of multi-party politics, this balance was shifted, and hence created tensions between governors and elected state executives. States over time have had difficulty keeping proper control over universities, and issues of governance arise when

[341] Constitution of India 1950, art. 14.
[342] Constitution of India 1950, art. 21.
[343] supra note 33 at 18.
[344] Tamil Nadu Medical Officers Association and Ors. Vs.
Union of India (UOI) and Ors. Manupatra Academy, accessed October 7, 2025, https://www.manupatracademy.com/.

governors as chancellors neglect or go contrary to the recommendations of the Council of Ministers. In the *Maru Ram v. Union of India*[345]ruling, Justice V. R. Krishna Iyer had eloquently characterized the functions of the President and governors as "functional euphemisms," meaning they were tied down by constitutional constraints and were supposed to respond in consonance with the elected executive. However, in reality, governors have often crossed these boundaries, going so far as to take decisions contrary to the powers of the state government.

The Justice 'R S Sarkaria Commission' recognized criticism of discretionary power wielded by a few governors under their role as chancellors. The Commission on Centre-State Relations, however, had a categorical view in this regard. In its March 2010 report, it highlighted the dangers of governors being chancellors and holding other statutory roles.

Several states have attempted to limit the role of the governor in university governance through legislative amendments, but the efforts have met with differing levels of success. A notable example is the governor's signing of the 'Gujarat Universities Laws (Amendment) Bill, 2013', which practically took away the governor's chancellorship powers. It was Narendra Modi as Chief Minister who brought in the legislation and the NDA government was instrumental in granting the assent. In contrast, similar moves by Kerala and other Opposition-ruled states have been obstructed, with governors either withholding assent or referring such bills to the President.

This author tried to bring a Private Member's Bill in Rajya Sabha during July 2024. '*The Constitution (Amendment) Bill, 2022'* (Amendment of Article 158*).- "6. In article 158 of the Constitution, after clause (4), the following clause shall be inserted, namely- "(5) Any person who has held the office of Governor of a State shall not be appointed to any other public office for a period of ten years."*[346] It aimed at limiting the governors to purely constitutional work and not letting them take up extra-constitutional duties like chancellorships. It was not allowed to be introduced because of the numerical majority of the ruling combination.

Recent Supreme Court decisions[347] have accorded superiority to UGC regulations above state university legislation, triggering heated discussions regarding the constitutional dynamics between central regulations and state legislation. Central to this discussion is the idea of subordinate legislation/delegated legislation, a by-blow of executive fiat that means Rules, Regulations, or Orders issued by executive agencies within the powers given to them by an Act of Parliament or State Legislature. Assigning primacy to delegated legislation such as UGC regulations above state enactments runs counter to federalism. Whereas state legislation is produced by elected members, delegated legislation comes from the executive. The draft Regulations also aim to institutionalise contractual employment in higher education through the abolition of the 10 per cent cap, further accelerating the contractualization of teaching posts. They also allow Higher Education Institutions (HEIs) to hire a maximum of 10 per cent industry and non-academic professionals as professors of practice, promoting corporate presence in academia by establishing a fractured faculty framework. Even in key schemes like UGC grants for teachers, it has increasingly left the load on state governments states now carry almost 76 per

[345] Maru Ram v. Union of India, MANU/SC/0163/1980

[346] "THE CONSTITUTION (AMENDMENT) BILL, 2022,Bill No. LXVI of 2022AS INTRODUCED IN THE RAJYA SABHA ON 9TH DECEMBER, 2022," n.d., accessed October 10, 2025, https://sansad.in/getFile/BillsTexts/RSBillTexts/Asintroduced/6%20E%20-%20258%20Session%201213202275144PM.pdf?source=legislation.

[347] Mandeep Singh & Ors. v. State of Punjab & Ors., 2025 INSC 834

cent of the total educational expenditure. The draft Regulations are a denial of federalism. The Kerala and Tamil Nadu legislatures have already adopted resolutions demanding withdrawal, other states will follow. When India is planning to emerge as a world leader in education and research, the focus of the draft Regulations towards central control has the potential to homogenise education, diluting diversity and innovation at the state level. India's federal framework is its bedrock, facilitating unity and diversity simultaneously. It is critical that everyone stand up against what can jeopardize this precarious balance.[348]

5. TRENDS REFLECTING FISCAL AND SCHEMES CENTRALIZATION

5.1.The 101st Constitutional Amendment (2016)

The roll-out of the Goods and Services Tax (GST) needed harmony, bargaining, and state agreement as opposed to merely a parliamentary majority in the Lok Sabha, unlike certain policy moves such as demonetization, the pre-election declaration of intergovernmental grants, or the abolition of the Planning Commission. One of the most holistic reforms in the fields of indirect taxation and intergovernmental fiscal relations, the implementation of GST represents a sea change in India's fiscal history.

The main objective of the reform was to preserve each state's fiscal autonomy while establishing an integrated national market. By bringing federal and state-level indirect taxes into line and removing interstate trade barriers, the GST could (a) unite India's economy; (b) reduce legal disputes and compliance burdens by establishing a more straightforward, credit-based tax system that guarantees transparent business transactions[349] (c) make Indian industries more globally competitive by removing tax cascades and lowering production costs; and (d) boost economic growth by removing bureaucratic obstacles, minimizing economic distortions, and creating a business-friendly environment. In the end, a wide tax base, low rates, and little distinction between tax slabs are what will make the GST framework successful.[350]

In light of this, it is helpful to look at the special design of the GST in India and how it affects the changing dynamic between the federal government and the states.

Although the Goods and Services Tax (GST) is frequently seen as a step toward increased fiscal centralization, the process that led to its creation was actually very federalizing; it strengthened the "shared rule" component of Indian fiscal federalism and promoted collaborative decision-making. Following a protracted negotiation process between the Union and the states, the first significant component of federalism under the current GST framework was introduced in July 2017. Both governmental levels came to a broad agreement to integrate India's formerly divided markets after much discussion and compromise. The states agreed to share control over state-level taxes like VAT, luxury tax, entry tax, entertainment and advertisement taxes, and state surcharges and cesses, while the Center gave up its sole authority over excise duties, service tax, additional customs duties, and central surcharges and cesses.

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[348]"Modi Govt's UGC Guidelines Erode States' Authority in Higher Education, Threaten Federalism | The Indian Express," accessed October 5, 2025, https://indianexpress.com/article/opinion/columns/modi-govts-ugc-guidelines-erode-states-authority-in-higher-education-threaten-federalism-9821822/.

[349]Mahesh C Purohit, "Issues in the Introduction of Goods and Services Tax," Economic and Political Weekly 45, no. 5 (2010): 12–15, https://www.jstor.org/stable/25664058.

[350] "Feasibility of Introducing GST in April 2010 on JSTOR," accessed October 5, 2025, https://www.jstor.org/stable/40279277?seq=1.

The implementation of a Concurrent Dual GST model, which is based on the destination-based taxation principle established by the 101st Constitutional Amendment Act of 2016, is the second significant "federalizing feature" of the reform.[351] Under this system, which is generally endorsed by policy experts, the states and the federal government simultaneously impose the State GST (SGST) and the Central GST (CGST) on a common tax base. Furthermore, interstate commerce in goods and services is subject to an Integrated GST (IGST) imposed by the Center, the proceeds of which are disbursed to the states that import or consume the goods. This is a major improvement over the previous origin-based tax system, which increased horizontal fiscal disparities by transferring the tax burden disproportionately from wealthier, producing states to less wealthy, consuming ones. However, there have been some criticisms of the GST. Some experts contend that India's implementation of the GST is still flawed and ineffective, despite its cooperative and federal nature. The ideal model has historically been thought to be a single, unified national GST. The difficulty in India, however, is not in implementing a dual structure which is all but inevitable but rather in the intricacy brought about by numerous tax slabs and rate exemptions that range from zero to extremely high levels. The primary barrier to realizing the GST framework's intended simplicity and efficiency is frequently viewed as this multiplicity rather than the dual system itself.

Theoretically, the Goods and Services Tax (GST), being an indirect tax, is not intended to work as a progressive taxation system i.e., higher rates being levied for goods and services consumed largely by the rich and lower for basic commodities. This is more of an association with direct taxes where persons with greater income are subjected to higher brackets of taxation. Yet India's GST structure has copied this concept partially by implementing a multi-rate system.

In the Indian scheme, the GST is implemented by having several slabs of taxes-0%, 5%, 12%, 18%, and 28% and even providing states some level of freedom in fixing rates. This pattern deviates significantly from typical international practice, wherein a single or narrow rate structure is preferably used to maintain consistency. Having more than one rate can inadvertently induce artificial trade barriers and go against one of the fundamental goals of GST, simplifying trade in the nation. Further, making payments of higher GST rates goes against the very purpose of the reform, which is to create a low-rate, broad-based regime for indirect tax. However, this intricate rate structure was the outcome of a collective decision in the GST Council (GSTC), which is an important federal machinery in India's dual GST model. The Centre has one-third of the total weight of votes in this council, whereas all states combined hold two-thirds. For any proposal to get through, the voting must be approved by three-fourths of the members. This institutional framework represents cooperative federalism, since the

Centre and the states have decision-making powers to share and sovereignty in taxation issues. Though the states are not bound to accept the recommendations of the GST Council, there exists a general consensus between all concerned parties that unilateral action by any of the states would destabilize the GST regime itself. Significantly, the council's voting system allows the states as a whole to veto any Center proposal if no less than twelve of them join hands against it. In contrast, the Centre has to secure the votes of no less than nineteen states to pass a measure. In spite of these collaborative elements, the council also has a centralizing element as the Union

[351] "Towards GST: Choices and Trade-Offs on JSTOR," accessed October 5, 2025, https://www.jstor.org/stable/4418045?seq=1.

government reserves the right to veto any proposal put forward by the states. In the event of a disagreement between the Centre and the states, or among the states, based on the decisions taken by the GST Council or their implementation, the council can institute a dispute-resolution mechanism to settle such disputes so that there is a systematic and institutionalized approach towards fiscal federal cooperation.

5.2.Centrally Sponsored Scheme

Similar to most State-level welfare programmes, CSS are budgetary allocations according to Article 282 of the Constitution.[352] A CSS is an attached grant, whereby the Centre provides funds to the States to be utilized in line with the Centre's instructions with minimal room for adjustment. This implies that when the Centre designs a CSS, it is exercising a raw spending power, as opposed to an executive or legislative power. The executive power used in implementing a scheme is that of the States. All the same, the Centre's power to control the deployment of funds by the States does have certain significant Centre-State implications.

It is one of those sectors where the Central and State responsibility has blurred the most is in Centrally Sponsored Scheme (CSS) design and implementation. These CSS are centrally designed and funded programs by the Union Government, on subjects in the State or Concurrent Lists of the Constitution. They are executed and partly financed by the States. Some of India's most well-known social protection initiatives, including the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS), Ayushman Bharat and Swachh Bharat Mission, reformulated by the Centre and executed by the States as Centrally Sponsored Schemes (CSS). These CSS play an enormous role in India's policy scene. Union Budget 2021–22 provided Rs. 3.18 lakh crores- 44% of all Union transfers to States to different CSS. Legacy CSS like MGNREGS and National Social Assistance Programme (NSAP) during the lock-downs for limiting the spread of COVID-19 were the lifeline for the people who had lost their means of livelihood.CSS are also significant in understanding State level policies. Certain schemes, like Tamil Nadu's Mid-Day Meal Scheme and Maharashtra's Employment Guarantee Scheme have become central programmes. At other times, the States have augmented the benefits under a CSS to meet regional requirements, like by giving additional pension benefits under NSAP.

CSS function as discretionary tied grants under Article 282. This gives the Union the authority to spend money even on purposes over which exclusive competence only vests in the States. This implies that any grants made to the States under a CSS can be used for only that scheme, as determined by the Union

In general, States have limited influence on how schemes are designed or the elements that are to be implemented on their territory. Consequently, there is significant divergence in programme implementation between States, and State-level apparatus and implementation can make or break a programme. In addition, although the Union shoulders the majority of the costs of CSS, the Union can require some portion of the cost to be allocated by the States. Since the Fourteenth Finance Commission award, the Union pays 100% of the costs for a select number of "Core of Core" schemes, but just 60% of the costs of Core Schemes and 50% of those of "optional schemes". In addition, the grant conditions may prescribe that funds are released to States only on meeting certain conditions. The release of funds to States is done by the respective line

[352]Constitution of India 1950, art. 282.

ministries, and States have complained that funds are not released on transparent grounds. One example of funding under the National Health Mission in 2016–17, where wealthier states like Gujarat and Maharashtra were paid more than 100% of the funds allocated, but poorer States like Bihar only 79%, since they could not meet the preconditions for funding.[353]

Most importantly, the power that is exercised by the Union in designating CSS is not an executive power, or a legislative power, but purely a spending power. This further implies that the Union has the freedom to devise fresh schemes, and to drop existing schemes whenever it pleases. Additionally, amounts distributed on each CSS can fluctuate annually, subject to the discretion of the Union.

A major concern is that policymaking at the Centre through CSS can undermine India's federal system by permitting increased Union policymaking in State subjects. Even while the Punchhi Commission (2010) upheld that the application of Article 282 to CSS was not unconstitutional, it cautioned against *"the mere fact that the Centre is in a position to provide a greater share of funds for projects pertaining to social and economic development ought not to give it a right to dictate terms to States on matters that otherwise fall within the Constitutional domain of States."*[354] In saying so, the Punchhi Commission reiterations the fears of the Administrative Reforms Commission in 1969, that since the planning was excessively centralized, States' initiatives corresponded to the Union Plan, and that in turn "led to the deployment of resources in ways not best suited to their individual and varying potentialities". These sentiments have been echoed by the Government of Tamil Nadu in its note to the Fourth Finance Commission, by the Baijal Committee in 1987 and by the Chaturvedi Committee in 2011.

In actuality, it seems as though a large portion of the Union's resources are used to attend to issues rightfully within the purview of the States. George and Gulati in 1985 discovered that the Union expended almost 42% of total spending on agriculture, a state subject,[355] into the State list.Some of the most prominent CSS, highly identified with the Union government, e.g., Ayushman Bharat and Swacchh Bharat Mission, are in the State list. Chakraborty (2019) has reported, for example, that 23% of the Union's expenditure in 2008–09 was on State List matters. The same had gone down to only 16% in 2015–16.

One of the effects of this extremely centralized policymaking process can be that State level initiatives have been crowded out.

5.3.'Union Loans Under Article 293(3): Conditional on Compliance with Central Schemes'

The Centre chose to raise the borrowing limits of the state to 5% of the Gross State Domestic Product or GSDP from 3%, taking into account the Covid-19 pandemic. But the concession wasn't entirely unconditional in exchange for taking the full 2% of the enhanced limit, states were requested to implement a few reforms. These comprised being a member of the *"One Nation One Ration Card"* programme, establishing measures to enhance urban local body revenues, undertaking some ease-of-doing-business initiatives, and undertaking power sector

[353] Anupama Kumar, "The Limits of Constitutionality? Centrally Sponsored Schemes in Law and Policy," Indian Law Review 6, no. 3 (2022): 280–302, https://doi.org/10.1080/24730580.2021.1998754.

[354] "COMMISSION ON CENTRE-STATE RELATIONS.SOCIO-ECONOMIC DEVELOPMENT, PUBLIC POLICY AND GOOD GOVERNANCE.MARCH 2010," n.d., para 5.2.03. accessed October 6, 2025, https://interstatecouncil.gov.in/wp-content/uploads/2015/06/volume7.pdf.

[355] Constitution of India 1950, Seventh Schedule, List II (State List), Entry 14.

reforms. This move has been criticized by several states including Kerala, Tamil Nadu and West Bengal, and is the latest in a chain of federal tensions that have cropped up in India's Covid-19 fight. But beyond the political implications or merits of this specific reform package, the legal issues that it throws up warrant examination.

- ***The constitutional setup***

Article 293(3)[356] of the Constitution makes it mandatory for states to take the Centre's approval to borrow in the event the state is in debt to the Centre for a past loan. All the states are in debt to the Centre at present and therefore all of them need the Centre's approval to borrow. In practice, the Centre has been wielding this power in terms of the recommendations made by the Finance Commission. This consent can even be given with some conditions by way of Article 293(4)[357]. This is where the power wielded by the Centre in the instant case originates.

One would instinctively ask at this point whether the Centre has absolute discretion to impose conditions under this provision. Neither does the provision itself provide any direction on the same, nor is there judicial precedent to take recourse to. Interestingly, though this question was included as part of the terms of reference for the 15th Finance Commission, it has not been dealt with in its interim report.

The genesis of Article 293 today lies in Section 163[358] of the Government of India Act, 1935. Yet, under colonial law, it was stated explicitly that the Centre would not attempt to attach *"any condition which is unreasonable."*

Not only that, in the event of a controversy about any condition, the issue had to be referred to the Governor-General, who would give the final decision. Congress leader Ananthasayanam Ayyangar had clarified in the Constituent Assembly that as a national government was going to succeed a foreign government, there was no necessity to keep these safeguards intact.

- ***The Centre's limitations***

In the lack of any directive on this provision, several arguments can be presented in favour of several interpretations. On plain reading, it can be asserted that as Article 293(4) does not contain any limitation which is expressly-stated, the Centre can impose any kind of condition. Yet, certain implied limitations can also be inferred in this provision by purposive interpretation in the following way.

Conditions can be imposed only when the Centre grants consent for borrowing by the state, and it can grant such consent only when the state is in debt to the Centre. This indicates that one of the possible reasons for vesting this power in the Centre was to safeguard its interest in the role of a creditor. A more general concern of maintaining macroeconomic stability can also be seen, as state indebtedness hurts the overall fiscal health of the country. With this in mind, the Centre should impose conditions only if they are directly related to a state's indebtedness or macroeconomic stability.

In the absence of any direction on this provision, there could be an argument in support of several interpretations. On ordinary reading, it may be stated that because Article 293(4) does not contain any limitation expressly-stated, the Centre could impose any kind of condition. Yet, some implied

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[356] Constitution of India 1950, art. 293(3)
[357] Constitution of India 1950, art. 293(4)
[358] Government of India Act, 1935, § 163.

limitations could also be construed into this provision by a purposive interpretation in the following sense.

The Centre can place conditions only when it grants permission for state borrowing, and it can grant such permission only when the state is in debt to the Centre. This implies that one of the possible intentions behind granting this authority to the Centre was to safeguard its interest in the role of a creditor. A general objective of maintaining macroeconomic stability is also traceable, as state debt impacts the overall fiscal well-being of the country negatively. Based on this interpretation, the Centre must impose conditions only insofar as it relates to a state's indebtedness or to macroeconomic stability.

6. CONCLUSION

Montesquieu asserted that federal systems flourish when *"power checks power"*[359], a principle reflected in the 7th Schedule of the Constitution of India. However, the Supreme Court's recent ruling confirms that federalism is a "basic structure" as held in *Kesavananda Bharati*,[360] that cannot be altered by constitutional amendments and is not just a legal technicality upheld in *S.R. Bommai v. Union of India*.[361]

The working dimension of Indian federalism deconstructs how the centre and the states have worked under various conditions, ranging from the Congress one-party monopoly to coalition regimes and even subsequent to the return of the one-party majority in the 2014 and 2019 elections. The center followed a mixed strategy for the management of federal machinery as Nehru followed a consensus-based accommodationist strategy, whereas Indira Gandhi followed an intensely centralised strategy with greater emphasis on increasing the authority of the center and suspended federalism altogether during emergency. States increasingly assertive during this period increased regional tensions, which led to autonomist and secessionist movements in several areas. The centralisation process continued even after Indira Gandhi's tenure as Rajiv Gandhi sustained it but also followed an accommodationist approach through concluding accords. Federalism gained prominence during the coalition era because of the regionalisation and federalisation of political parties and the establishment of ISC. Regional parties considerably balanced the federal equation and delimited the role of national parties in deciding crucial matters. Perhaps the period of coalition re-established federalism where trends in decentralisation took centre stage and even in this phase centrally sponsored schemes remained under central control. Therefore, states in the period of coalition were the point of action with consequential roles in maintaining national alliances, clearly outlining political decentralisation and reliance of national parties on regional parties for the continuation of power at the centre.

There was a mutual credence that India was slowly but surely moving towards more federalisation in a one-way process. But then came the drastic change when the BJP secured a historic Lok Sabha victory in 2014, followed by federal centralisation with a bit of cooperative inclinations as observed from its operations. After the onset of one-party governance, India's federal structure was altered and this political shift was initiated primarily due to vote consolidation on the basis of the majoritarian notion of nationalism and developmental agenda.

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[359] William Doyle, The Oxford History of the French Revolution (Oxford University Press, 2018).p. 51.

[360]Kesavananda Bharati v. State of Kerala, MANU/SC/0445/1973

[361]supra note 18, at 8.

Ever since, the phenomenon of an interventionist centre has gained momentum, with the BJP being the ruling political party at the centre, consolidated through a number of exemplary initiatives on the part of the government. Once again, BJP secured more seats in the 2019 Lok Sabha elections by surpassing its rivals and then further consolidated federal centralisation through its policies and measures. Apart from centralisation, BJP initiated a number of steps towards intensifying federal cooperation. Therefore, BJP has maintained its status as a ruling party and is expected to continue doing so until other parties establish strong alliances and come up with creative tactics which may capture the BJP's unshakable among people.