

Federalism In India: A constitutional and judicial perspective on Centre-state relations

Chapter 2: Constitutional Foundations of Federalism in India

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Abstract

The concept of federalism in India represents a unique constitutional innovation tailored to the needs of a diverse, multilingual, and culturally pluralistic society. Unlike classical federations where sovereignty is equally shared between the Centre and States, the Indian Constitution adopts a quasi-federal model—one that combines the features of both unitary and federal systems. This dissertation critically examines Indian federalism from both a constitutional and judicial perspective, analysing how the division of powers and institutional mechanisms have functioned in practice, and how the judiciary has interpreted and evolved the contours of Centre-State relations.

*The study begins by exploring the constitutional framework that governs Indian federalism, particularly the division of legislative, administrative, and financial powers under the Seventh Schedule, and the role of institutions like the Finance Commission, Inter-State Council, and the GST Council. It then evaluates how judicial decisions have reinforced or recalibrated this balance, especially through landmark judgments such as *Kesavananda Bharati v. State of Kerala*, *S.R. Bommai v. Union of India*, and *Mohit Minerals v. Union of India*. These rulings have clarified the federal structure, limited the misuse of Article 356, and upheld the autonomy of States in fiscal matters.*

The dissertation investigates contemporary issues such as the implementation of GST, the rise of cooperative and competitive federalism, and the implications of political centralisation on State autonomy. By adopting a doctrinal and analytical approach, this study highlights the tensions, contradictions, and cooperative mechanisms within the Indian federal system.

Ultimately, the dissertation concludes that while the constitutional foundation of Indian federalism remains robust, its effective functioning depends on judicial vigilance, institutional dialogue, and, most importantly, a political culture that respects decentralisation and pluralism. Indian federalism, though imperfect, continues to evolve as a vital mechanism for democratic governance and national unity.

2.1 Meaning and Types of Federalism

The term “federalism” originates from the Latin word *foedus*, meaning a league or pact. In constitutional theory, federalism denotes a system of governance in which powers are constitutionally divided between a central authority and various constituent units, such as states or provinces, in such a manner that both levels of government are legally independent within their respective spheres of competence.¹ Federalism is essentially a normative arrangement that seeks to reconcile the need for a strong central government with the demands for regional autonomy, thereby enabling unity without uniformity and diversity without disintegration. The federal principle rests upon the co-existence of dual authority and the guarantee of autonomy, which is constitutionally entrenched and judicially protected.

According to K.C. Wheare, widely regarded as the father of modern federal theory, “the federal principle is the method of dividing powers so that the central and regional governments are each within a sphere co-ordinate and independent.” Wheare’s classical definition stresses formal equality between the two levels of government, particularly in the legislative and financial domains. However, later scholars have contested this rigid model and introduced more flexible and pragmatic interpretations. For instance, William H. Riker views federalism as a political organisation in which at least two levels of government rule the same land and people, and each level has at least one area of action in which it is autonomous.² This definition underscores the political nature of federal bargains and the necessity of shared rule through institutional arrangements that permit mutual influence and negotiation.

Federalism is not monolithic and manifests in various types. The two primary models of federalism are dual federalism and cooperative federalism. Dual federalism, also referred to as “layer-cake federalism,” posits a clear and distinct separation of functions and responsibilities between the Centre and the states. Under this model, both levels of government operate in watertight compartments and seldom interfere in each other’s jurisdictions.³ This model closely resembles the American federal system, where the Constitution provides for an explicit and rigid division of powers through the Tenth Amendment.

On the other hand, cooperative federalism, sometimes termed “marble-cake federalism,” envisions interdependence and collaboration between the Centre and the states. It acknowledges the overlapping nature of governmental functions and encourages joint decision-making and coordinated action, especially in areas of concurrent jurisdiction such as education, public health, and infrastructure development.⁴ This model is increasingly prevalent in modern federations, including India, Canada, and Australia, where functional cooperation is seen as essential for managing complexity and ensuring effective service delivery. Cooperative federalism has gained prominence in the Indian context post-liberalisation, particularly through institutions like the Inter-State Council and the NITI Aayog.

¹ K.C. Wheare, *Federal Government* 10–12 (4th ed. 1963)

² W.H. Riker, *Federalism: Origin, Operation, Significance* 11–14 (1964)

³ M.P. Jain, *Indian Constitutional Law* 260–62 (8th ed. 2018)

⁴ J.A. Chandler, *Local Government Today* 68–71 (2007)

Another important distinction in federal theory is between symmetrical and asymmetrical federalism. Symmetrical federalism implies that all constituent units enjoy equal powers and status under the Constitution. In contrast, asymmetrical federalism refers to a structure where some states or provinces are granted special autonomy or privileges due to historical, ethnic, or geographical reasons.⁵ The Canadian federation, which affords special status to Quebec, and the Indian Constitution's erstwhile Article 370 in relation to Jammu and Kashmir, are classic examples of asymmetrical federalism. This model attempts to accommodate diversity and regional aspirations without fracturing the national unity, although it also raises concerns regarding equality and uniformity among states.

In addition to the above, other variations such as competitive federalism, fiscal federalism, and emergent forms like post-sovereign federalism have also gained scholarly attention. Competitive federalism refers to a system in which subnational units compete with each other and with the Centre for resources, investments, and administrative efficiency.⁶ Fiscal federalism focuses on the financial relationships between different levels of government, especially the principles of revenue sharing and financial accountability. Post-sovereign or quasi-federalism, as seen in the European Union, denotes arrangements that do not conform strictly to the classical federal paradigm but still embody a complex sharing of sovereignty among multiple levels of governance.

2.2 Historical Evolution of Indian Federalism

The evolution of Indian federalism is deeply rooted in the subcontinent's historical experiences with colonial administration, nationalist movements, constitutional debates, and post-independence statecraft. Unlike classical federations such as the United States or Australia, which emerged through a "coming together" of sovereign states, Indian federalism was crafted through a "holding together" model.⁷ This historical trajectory has had a lasting impact on the nature, structure, and functioning of federalism in India, which, while federal in form, retains significant unitary features.

The seeds of federalism in India were sown during the colonial era, particularly with the Government of India Act, 1919. Known as the Montagu-Chelmsford Reforms, this Act introduced the concept of "dyarchy" at the provincial level, dividing subjects into "transferred" and "reserved" categories.⁸ While the Act did not create a federal structure in the classical sense, it laid the groundwork for decentralised administration by acknowledging the need for provincial autonomy. However, the real milestone in the evolution of Indian federalism was the Government of India Act, 1935. For the first time, this Act introduced a formal federal structure by dividing legislative powers between the Centre and the provinces through three lists—Federal, Provincial, and Concurrent. It also proposed the establishment of an All-India Federation that would include both British Indian provinces and princely states. Although the federation envisaged under the 1935 Act never

⁵ Ronald Watts, *Comparing Federal Systems* 60–63 (3rd ed. 2008)

⁶ A. Ostrom and V. Ostrom, "The Meaning of American Federalism," *Publius* 1(1): 1–17 (1971)

⁷ Ronald Watts, *Comparing Federal Systems* 27–30 (3rd ed. 2008)

⁸ Government of India Act, 1919, ss. 45–50

materialised due to the refusal of princely states to accede, the framework it provided significantly influenced the makers of the Indian Constitution.

The Constituent Assembly, in its deliberations between 1946 and 1950, recognised the need for a strong Centre to ensure national unity, especially in the wake of Partition, communal violence, and the integration of princely states.⁹ As Dr. B.R. Ambedkar observed in the Constituent Assembly, "The Constitution is federal in structure but unitary in spirit." The framers opted for a federal structure with a strong Centre, embodied in provisions like the single citizenship, integrated judiciary, and residuary powers vested in the Union under Article 248. The Seventh Schedule of the Constitution divided powers between the Union and the States through three lists—Union, State, and Concurrent closely mirroring the 1935 Act. Additionally, Articles 3 and 4 empowered the Parliament to alter state boundaries and create new states, reinforcing the idea that Indian federalism was not founded upon an indissoluble union of states, unlike in classical federations.

The post-independence period saw further evolution of Indian federalism through both political developments and constitutional amendments. The linguistic reorganisation of states in 1956, following the recommendations of the States Reorganisation Commission, marked a significant step in accommodating regional and linguistic identities within the federal framework. It transformed the territorial and cultural landscape of India's federation, paving the way for greater subnational autonomy while maintaining the supremacy of the Centre in critical domains.

During the Nehruvian era, centralisation was a defining feature of Indian governance, justified on grounds of nation-building and economic planning. However, this central dominance came under increasing scrutiny during the 1960s and 1970s, especially with the rise of regional parties and the imposition of President's Rule under Article 356.¹⁰ The controversial use of Article 356 to dismiss state governments perceived as hostile to the Centre led to accusations of political bias and prompted a re-examination of federal principles. The landmark Supreme Court judgment in *S.R. Bommai v. Union of India* (1994)¹¹ marked a turning point by placing substantive limitations on the arbitrary use of Article 356 and reinforcing the autonomy of state governments.

The federal dynamic shifted again in the post-liberalisation period, particularly from the 1990s onwards. The emergence of coalition governments at the Centre enhanced the bargaining power of regional parties, thereby strengthening the federal structure through political means. The economic liberalisation process also prompted decentralisation of economic decision-making, with states playing a more active role in attracting investment and managing resources. More recently, the establishment of the Goods and Services Tax (GST) regime in 2017 introduced a new form of fiscal federalism by creating a shared tax system governed by the GST Council. While hailed as a model of cooperative federalism, the GST regime has also been criticised for reducing states' fiscal autonomy due to compensation delays and central control.¹²

⁹ Granville Austin, *The Indian Constitution: Cornerstone of a Nation* 125–135 (1966)

¹⁰ Rekha Saxena, "Situating Federalism in India: Towards a Balancing Approach," *Publius* 35(2): 189–210 (2005)

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

¹² M. Govinda Rao, "GST and Fiscal Federalism in India," *Economic and Political Weekly*, Vol. 52, No. 19 (2017)

Expert commissions have also contributed significantly to the evolution of Indian federalism. The Sarkaria Commission (1983–1988) undertook a comprehensive review of Centre–State relations and recommended greater consultation between the two levels of government, especially through institutional mechanisms like the Inter-State Council. The Punchhi Commission (2007–2010) reiterated many of these recommendations while emphasising the need to strike a balance between autonomy and cooperation. Although many of these suggestions remain unimplemented, they continue to shape scholarly and policy debates on federal reforms.

2.3 Constitutional Scheme of Indian Federalism

The Indian federal structure, though inspired by classical federal models like those of the United States, has evolved into a unique system defined and shaped by the Constitution of India. The constitutional scheme of Indian federalism does not strictly follow the conventional models but establishes a *sui generis* system that combines federalism with a strong centralising tendency. This blending of federal and unitary features is clearly reflected in the distribution of powers, institutional arrangements, and mechanisms for Centre–State coordination. The Constitution's framers, aware of India's vast diversity and complex socio-political realities, deliberately adopted a model that would ensure unity without suppressing regional autonomy.¹³

At the core of Indian federalism is the principle of division of powers, enshrined in Part XI of the Constitution. Article 245 of the Constitution lays down the extent of legislative powers of the Union and the States. The Seventh Schedule divides these powers into three lists: the Union List (List I), the State List (List II), and the Concurrent List (List III). The Union List consists of subjects of national importance such as defence, foreign affairs, banking, and atomic energy, over which only the Parliament has exclusive authority. The State List covers subjects like police, public order, and local government, which are primarily within the legislative domain of the States. The Concurrent List includes subjects such as education, marriage, and bankruptcy, where both the Parliament and State legislatures can legislate, although Article 254 provides that in the case of a conflict, Union law prevails.¹⁴

Unlike in classical federal systems where the division of powers is rigid and symmetric, Indian federalism exhibits a clear tilt towards the Centre. This is evident in the assignment of residuary powers to the Union under Article 248, a provision that departs from the American model where such powers are reserved for the states.¹⁵ Furthermore, the Centre enjoys overriding powers in matters of national importance, especially during emergencies. Articles 352 to 360 empower the President to declare different types of emergencies—national, state, and financial under which the federal structure becomes significantly centralised. During a national emergency under Article 352, the legislative competence of the State Legislatures is overridden by Parliament, and the executive authority of the Union extends to all States. Similarly, under Article 356

¹³ Granville Austin, *The Indian Constitution: Cornerstone of a Nation* 177–179 (1966)

¹⁴ *Ibid.*, Art. 254

¹⁵ *Ibid.*, Art. 248

(President's Rule), the President can assume the functions of a State government, effectively suspending the federal arrangement in that State.

Financial arrangements further reflect the centralised character of Indian federalism. Articles 268 to 293, contained in Part XII, deal with the distribution of financial resources between the Centre and the States. While the States have the authority to levy taxes under the State List, major sources of revenue such as income tax (except on agricultural income), customs duties, and excise duties lie with the Centre. Moreover, the power to grant financial assistance to States under Article 275 and to distribute taxes through the Finance Commission under Article 280 highlights the Centre's fiscal dominance. This has raised concerns about vertical fiscal imbalance and the need for more equitable sharing of resources, especially in the context of increased responsibilities delegated to the States.¹⁶

The Constitution also provides institutional mechanisms to ensure cooperation and coordination between the Union and the States. Article 263 permits the President to establish an Inter-State Council for resolving inter-governmental disputes and promoting cooperative federalism. However, despite its existence, the Council has largely remained inactive, and its potential as a federal forum is underutilised. In contrast, the recently constituted Goods and Services Tax (GST) Council, under Article 279A, has emerged as a significant platform for Centre-State collaboration, especially in matters of indirect taxation.¹⁷ The GST Council consists of the Union Finance Minister and the Finance Ministers of all the States and is tasked with making recommendations on tax rates, exemptions, and revenue distribution under the GST regime. Though praised for its cooperative nature, critics argue that the Council still favours the Centre due to the voting structure which gives the Union Government a one-third weight.¹⁸

Indian federalism also features an integrated judiciary and a single Constitution for both the Centre and the States (except for Jammu and Kashmir prior to the abrogation of Article 370). Unlike in the United States, where both federal and state constitutions exist, Indian States do not have separate constitutions (with the former exception of Jammu and Kashmir). The judiciary, particularly the Supreme Court, plays a critical role in maintaining the federal balance by adjudicating disputes between the Centre and the States under Article 131. Landmark judgments such as *State of West Bengal v. Union of India* (1963)¹⁹, *S.R. Bommai v. Union of India* (1994)²⁰, and *Kuldip Nayar v. Union of India* (2006)²¹ have shaped the understanding and practice of federalism in India. For instance, in *S.R. Bommai*, the Court held that federalism is a basic feature of the Constitution and placed limits on the arbitrary use of Article 356, thereby strengthening the federal structure.

Despite the constitutional provisions, the political reality of Indian federalism often reflects asymmetries and variations in practice. Some States have been granted special provisions under Articles 371 to 371J, recognising their unique social, economic, and cultural contexts. These asymmetries allow for flexibility

¹⁶ M. Govinda Rao & Nirvikar Singh, "The Political Economy of India's Fiscal Federal System and Its Reform," *Publius* 35(4): 529–550 (2005)

¹⁷ *Ibid.*, Art. 279A

¹⁸ Chakravarthi Rangarajan, "Federalism and Fiscal Transfers in India," *Economic and Political Weekly* 49(8): 14–19 (2014)

¹⁹ *State of West Bengal v. Union of India*, (1964) 1 SCR 371

²⁰ *S.R. Bommai v. Union of India*, (1994) 3 SCC 1

²¹ *Kuldip Nayar v. Union of India*, (2006) 7 SCC 1.

within the federal framework but also generate demands for greater autonomy and devolution. Moreover, political centralisation particularly during periods of one-party dominance at the Centre has often led to the erosion of federal principles, especially in the use of gubernatorial powers and financial dependencies.²²

2.4 Division of Powers – Legislative, Administrative, and Financial

The essence of a federal polity lies in the division of powers between the central and regional governments. In India, this division of powers is constitutionally mandated and elaborately structured in the Constitution, particularly in Part XI and Part XII. The scheme of power-sharing encompasses three critical dimensions—legislative, administrative, and financial—each designed to promote autonomy while maintaining the unity and integrity of the nation. However, Indian federalism departs from classical federal structures by conferring a dominant position on the Centre, especially in exceptional circumstances. This central bias, though often justified in the name of national unity, has led to intense academic and political debates on the actual nature of Indian federalism.²³

2.4.1 Legislative Division of Powers

The legislative division of powers in India is structured through the Seventh Schedule of the Constitution, which delineates three lists: the Union List (List I), the State List (List II), and the Concurrent List (List III). Article 246 distributes the legislative subjects among these lists. The Union Parliament has exclusive power to legislate on matters enumerated in List I, which includes subjects of national significance such as defence, foreign affairs, atomic energy, banking, and citizenship.²⁴ The State Legislatures, on the other hand, have jurisdiction over the State List, which includes topics such as police, public health, and agriculture. The Concurrent List contains subjects on which both the Centre and the States can legislate, such as education, marriage, adoption, and succession.

A unique feature of Indian federalism is the supremacy of Union law in the event of a conflict. Article 254 clearly states that in case of inconsistency between a law made by Parliament and a law made by a State Legislature in the Concurrent List, the former shall prevail. Moreover, under Article 249, the Parliament is empowered to legislate on State List matters if the Rajya Sabha passes a resolution, by two-thirds of the members present and voting, declaring it necessary in the national interest. Additionally, during a national emergency declared under Article 352, the Centre can legislate on matters in the State List as well.

Thus, the legislative scheme in India establishes a federal framework with a tilt towards centralisation, granting Parliament a broad override power. This feature distinguishes Indian federalism from the more balanced model found in the United States, where the Constitution reserves residuary powers to the States. In contrast, Article 248 of the Indian Constitution assigns residuary legislative powers to the Centre.

²² Rekha Saxena, "Situating Federalism in India: Towards a Balancing Approach," *Publius* 35(2): 189–210 (2005)

²³ D.D. Basu, *Introduction to the Constitution of India* 229–231 (2021)

²⁴ Constitution of India, Art. 246, List I (Seventh Schedule)

2.4.2 Administrative Division of Powers

Unlike the legislative division, the administrative division of powers in India is less distinctly federal. Articles 256 to 263 of the Constitution outline the administrative relations between the Union and the States. According to Article 256, the executive power of every State must be exercised in a manner that ensures compliance with the laws made by Parliament. Article 257 further stipulates that the executive power of the States must not impede or prejudice the executive authority of the Centre. These provisions reinforce the Centre's supervisory authority over the State administrations, especially in matters of national importance.

The Centre has the power to give directions to the States for the implementation of Union laws. In the event of non-compliance, the President can take appropriate action under Article 356 (President's Rule), effectively bringing the State under the direct control of the Union.²⁵ This authority was misused on several occasions during the 1970s and 1980s, prompting the Supreme Court in *S.R. Bommai v. Union of India* (1994) to impose judicial checks on the exercise of Article 356, thereby reinforcing the federal structure.²⁶

In matters of national interest, the Union Government can entrust State Governments with the implementation of its administrative schemes and policies. Likewise, States can voluntarily delegate their functions to the Union under Article 258A. However, the central control is further strengthened by the appointment of Governors by the President, who act as the Centre's representatives in the States. In practice, this has sometimes led to political tensions, especially when Governors use discretionary powers in ways that favour the ruling party at the Centre.²⁷

2.4.3 Financial Division of Powers

The financial division of powers is perhaps the most centralised aspect of Indian federalism. Articles 268 to 293 of the Constitution outline the financial relations between the Union and the States. Broadly, taxation powers are divided as follows: some taxes are levied by the Centre and collected by it (e.g., income tax, customs duties), others are levied by the Centre but assigned to the States (e.g., stamp duties on certain financial documents), while some are levied and collected by the States (e.g., taxes on agricultural income, land revenue).

The Constitution mandates the establishment of a Finance Commission under Article 280 every five years, tasked with recommending the distribution of the net proceeds of taxes between the Union and the States and suggesting measures for augmenting the Consolidated Funds of the States. Despite this, the Centre enjoys overwhelming control over financial resources. According to the 15th Finance Commission report (2021), more than 60% of total tax revenue accrues to the Centre, whereas States are responsible for a significant share of public expenditure, resulting in a vertical fiscal imbalance.²⁸

²⁵ Ibid., Art. 356

²⁶ *S.R. Bommai v. Union of India*, AIR 1994 SC 1918

²⁷ Rekha Saxena, "Centripetal Features of Indian Federalism: The Role of the Governor," *Publius* 36(1): 103–122 (2006)

²⁸ Report of the Fifteenth Finance Commission (2021–26), Government of India

The Goods and Services Tax (GST), implemented through the 101st Constitutional Amendment Act, 2016, represents a major restructuring of India's fiscal federalism. The GST regime subsumed a number of indirect taxes and established a dual model wherein both the Centre and the States are entitled to levy GST on the same transaction. The GST Council, constituted under Article 279A, is a federal body that makes decisions regarding GST rates and policies. While the GST Council is often cited as a model of cooperative federalism, concerns have been raised regarding the dominance of the Centre in its decision-making process due to the voting structure, which gives the Union Government one-third weight and the States two-thirds collectively. Further, the discretionary grants and loans provided by the Union Government under Article 282 have often been used as instruments of fiscal control. Critics argue that this results in an erosion of fiscal autonomy and makes the States financially dependent on the Centre.²⁹

2.5 Role of the Constitution in Balancing Centre-State Relations

The Indian Constitution plays a foundational role in structuring, regulating, and balancing the relations between the Centre and the States. While federal in structure, the Constitution incorporates strong unitary features, designed to maintain national unity and integrity in a country marked by vast linguistic, religious, and cultural diversity. The framers of the Constitution were aware of India's socio-political realities and consciously devised a system that could prevent centrifugal tendencies.³⁰ The Constitution thus attempts to strike a delicate balance between central authority and regional autonomy—a balance that is dynamic, evolving through constitutional interpretation, political practice, and judicial scrutiny.

2.5.1 Federal Design with Unitary Features

The Indian Constitution establishes a quasi-federal framework, often described as “federal with a strong unitary bias” or “a federation sui generis.” Dr. B.R. Ambedkar, the principal architect of the Constitution, described India as a “Union of States” in Article 1, underscoring the indestructibility of the Indian Union. This is unlike the federal model in the United States, where the federation is a compact between sovereign states. In India, the States do not have the right to secede, and their existence and territorial boundaries are subject to alteration by the Parliament under Article 3.³¹

Despite these unitary traits, the Constitution grants the States exclusive powers in their own domains through the State List in the Seventh Schedule, and also ensures that they have elected governments accountable to their respective State Legislatures. The principle of federalism is implicit in the constitutional structure and has been recognised by the Supreme Court as part of the basic structure doctrine in *S.R. Bommai v. Union of India*.³²

²⁹ M. Govinda Rao, “Central Transfers to States in India: Rewarding Performance While Ensuring Equity,” *Economic and Political Weekly* 44(31): 55–60 (2009)

³⁰ Granville Austin, *The Indian Constitution: Cornerstone of a Nation* 186–192 (1966)

³¹ Constitution of India, Art. 3

³² *S.R. Bommai v. Union of India*, AIR 1994 SC 1918

2.5.1 Distribution of Powers and Institutional Mechanisms

The Constitution ensures a detailed division of legislative, administrative, and financial powers between the Union and the States. However, this division is not rigid; it allows flexibility to respond to exigencies such as emergencies, internal disturbances, or inter-state conflicts.

Articles 245 to 263 provide a nuanced legal framework for resolving jurisdictional overlaps. For example, while the Union has supremacy over Concurrent List entries (Article 254), a State law on the same subject can prevail if it receives Presidential assent. This reflects a constitutional mechanism of conditional autonomy—an approach that promotes cooperation while recognising the potential for conflict.

The Constitution also envisages institutional forums to ensure cooperative federalism. The Inter-State Council (Article 263) is one such body, created to facilitate dialogue and coordination between the Centre and the States. Although underutilised, it represents a constitutional attempt to institutionalise inter-governmental relations. Similarly, the Finance Commission under Article 280 plays a crucial role in balancing financial resources between the Centre and the States by recommending devolution schemes based on equity and efficiency.

2.5.3 Emergency Provisions and Federal Balance

The Constitution provides for three types of emergencies—national (Article 352), state (Article 356), and financial (Article 360). During emergencies, the federal character of the polity is significantly altered in favour of the Centre. For instance, during a national emergency, Parliament gains the power to legislate on matters in the State List, and the executive power of the Union extends to giving directions to any State.³³

The most controversial provision in this regard is Article 356, which empowers the President to impose President's Rule in a State if it is found that the State cannot function in accordance with constitutional provisions. This Article was often invoked for political reasons, especially during the one-party dominance period of Indian politics. The Supreme Court in *S.R. Bommai v. Union of India* laid down strict guidelines for the use of Article 356, asserting that the imposition of President's Rule is subject to judicial review and that federalism is a part of the basic structure of the Constitution.³⁴ This landmark judgment reaffirmed the constitutional commitment to maintaining a balanced federal order.

2.6 Comparison with Other Federations (U.S.A., Canada, Australia)

The federal structure of India, though unique in its formulation, draws from and is often contrasted with the experiences of other well-established federal systems such as the United States, Canada, and Australia. These federations, though broadly similar in that they distribute powers between different levels of government, diverge significantly in terms of their origin, constitutional design, division of powers, and the extent of

³³ Ibid., Arts. 352, 356, 360

³⁴ *S.R. Bommai v. Union of India*, AIR 1994 SC 1918

autonomy enjoyed by the constituent units. A comparative analysis not only aids in understanding the relative strengths and weaknesses of the Indian model but also sheds light on the evolving nature of federalism across jurisdictions.

2.6.1 Foundational Principles and Historical Context

The genesis of federalism in the U.S.A., Canada, and Australia was rooted in a voluntary coming together of independent colonies or states to form a union, a bottom-up model of federalism. In contrast, Indian federalism is more of a top-down creation. The United States Constitution of 1787 emerged after thirteen independent states decided to create a federation to ensure collective defence and economic coordination.³⁵ Similarly, Canada's Constitution Act, 1867 (formerly the British North America Act) united three British colonies, while Australia's federation in 1901 was the result of a negotiated agreement among six self-governing colonies.³⁶

In contrast, the Indian Constitution, enacted in 1950, did not represent a compact among sovereign States but a single constitution for the entire country. The framers deliberately chose a strong Centre given the political fragmentation, communal tensions, and threats to national unity experienced during Partition and independence. Article 1 of the Indian Constitution declares India to be a "Union of States", and not a federation formed by agreement, thereby marking a crucial departure from classical federations.

2.6.2 Distribution of Legislative Powers

The division of powers is a central feature of any federal system. In the United States, the Constitution provides for a clear enumeration of powers to the federal government, while the residual powers rest with the States (Tenth Amendment).³⁷ This allocation strengthens State autonomy and limits central overreach.

Contrastingly, in Canada, the Constitution Act, 1867, assigns residual powers to the federal Parliament under Section 91, reinforcing the dominance of the Centre. However, Canadian provinces enjoy substantial autonomy over civil rights, education, and local matters.³⁸ Similarly, in Australia, the Constitution explicitly enumerates federal powers in Section 51, and residual powers are left to the States, but due to extensive judicial interpretation and financial control exercised by the Commonwealth, the federal government has gained significant supremacy.³⁹

India's model resembles Canada in assigning residuary powers to the Centre under Article 248. The Indian Constitution provides for three lists in the Seventh Schedule—Union List (List I), State List (List II), and Concurrent List (List III). In practice, however, the Union List contains a wider range of subjects, and Article 254 grants supremacy to the Union in case of conflicts over matters in the Concurrent List, subject to Presidential assent for State laws. This indicates a constitutional tilt in favour of the Centre.

³⁵ U.S. Constitution, Art. I, II, III and Tenth Amendment

³⁶ W.H. McConnell, *Canadian Federalism* (1977); Cheryl Saunders, *The Australian Constitution* (2nd ed., 2002)

³⁷ U.S. Constitution, Tenth Amendment

³⁸ Constitution Act, 1867 (Canada), Sections 91 and 92

³⁹ Cheryl Saunders, "The Australian Federation: A Story of Centralisation," *Publius: The Journal of Federalism*, Vol. 31, No. 4 (2001)

2.6.3 Financial Federalism

The issue of fiscal autonomy is pivotal in determining the real extent of federalism. In the United States, States have independent sources of revenue and enjoy significant financial autonomy. They can levy taxes, borrow funds, and frame their budgets independently. Similarly, in Australia, while both levels of government can levy taxes, the Commonwealth's control over income tax and the system of tied grants has significantly reduced State autonomy.

Canada provides for unconditional transfers to provinces under equalisation payments, aiming to reduce fiscal disparities. The Canadian model is praised for its strong inter-governmental fiscal relations that respect provincial autonomy.

In India, the division of tax powers is skewed in favour of the Union. The Union levies and collects the bulk of taxes, while States depend heavily on financial transfers and grants. The Finance Commission, constituted under Article 280, recommends the sharing of central taxes and grants-in-aid. However, the rise of centrally sponsored schemes (CSS) and the implementation of the Goods and Services Tax (GST) have raised concerns over the fiscal autonomy of States. The GST Council, though an example of cooperative federalism, has been criticised for the disproportionate voting power of the Centre and for delays in compensating States.⁴⁰

2.6.4 Judicial Interpretation and Role of Courts

In all federal systems, the judiciary plays a crucial role in adjudicating centre-state disputes. In the United States, the Supreme Court has historically reinforced the doctrine of States' rights, especially during the 19th century. However, over time, the federal government's powers expanded significantly, particularly after the New Deal era.⁴¹

The Canadian Supreme Court has often favoured federal supremacy, especially through the “peace, order and good government” clause, which has been interpreted to support national legislation on diverse subjects. The Australian High Court has also tended to favour the Commonwealth, especially through its expansive interpretation of financial powers and the “grants” power under Section 96.⁴²

In India, the Supreme Court has gradually evolved from supporting centralised power structures to recognising the federal nature of the Constitution. In *State of West Bengal v. Union of India* (1963), the Court held that Indian States had no sovereignty. However, in *S.R. Bommai v. Union of India* (1994), it firmly established that federalism is a part of the basic structure of the Constitution and that misuse of Article 356 is subject to judicial review. More recently, in *Government of NCT of Delhi v. Union of India* (2018), the Court recognised the importance of cooperative federalism and the need for respect between different tiers of government.

⁴⁰ Shubho Roy, “Fiscal Federalism in India: GST and Beyond,” *EPW*, Vol. 53, Issue No. 51 (2018)

⁴¹ Edward S. Corwin, *The Constitution and What It Means Today* (1978)

⁴² Cheryl Saunders, “Co-operative Federalism in Australia,” *Melbourne University Law Review* (1997)

2.6.5 Emergency Provisions and Flexibility

One major area where the Indian federation diverges from others is its extensive use of emergency powers. The U.S. and Australia do not provide for the suspension of federal features during emergencies. In Canada, emergency powers are available but rarely invoked. In contrast, the Indian Constitution provides for the suspension of normal federal relations during national, state, and financial emergencies (Articles 352, 356, and 360 respectively), allowing the Union to assume control over State matters.

While these provisions were designed to preserve national unity during crises, their frequent misuse—especially Article 356—has undermined federal principles. The *S.R. Bommai* decision was instrumental in curbing such misuse by mandating judicial scrutiny and the need for floor tests in State Assemblies.

2.6.6 Amendment Process and State Participation

Another distinguishing feature of federalism is the role of constituent units in constitutional amendment. In the U.S., the Constitution can only be amended with the ratification of three-fourths of the States (Article V), ensuring that States have a direct say in constitutional changes. In Australia, amendments require a referendum with a double majority—both a majority of voters nationwide and a majority of voters in a majority of States (Section 128).

In India, the process is relatively centralised. Under Article 368, most constitutional amendments require only the approval of Parliament. Only those amendments affecting federal provisions—like Articles 1, 3, 73, 162, and the Seventh Schedule require ratification by at least half the State Legislatures.⁴³ This limited role of the States in the amendment process reflects a less participatory federal design.

⁴³ Constitution of India, Art. 368(2)