

**FROM COOPERATIVE TO COERCIVE FEDERALISM:
REASSESSING CONSTITUTIONAL BALANCE IN CONTEMPORARY
INDIA**

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This article examines the transformation of Indian federal governance within the framework of twenty-first-century constitutionalism and evaluates its constitutional implications. While the Indian federal structure has traditionally been characterised by a model of cooperative federalism grounded in institutional complementarity and shared responsibilities, recent governance practices indicate a gradual shift towards a more centralised and structurally asymmetrical federal arrangement. Adopting a doctrinal research methodology, the paper analyses constitutional provisions, landmark judicial decisions, and emerging institutional practices to assess the evolving relationship between the Union and the States. It argues that the centralisation of fiscal powers, the expanding discretionary role of Governors, and increasing legislative assertiveness by the Union have collectively altered the constitutional balance in favour of the Centre.

The article further contends that, although these developments do not amount to explicit constitutional violations, they exhibit characteristics associated with “coercive federalism.” It critically examines the judicial response to these transformations and highlights the absence of a coherent doctrinal framework capable of addressing contemporary challenges to Indian federalism. By situating the Indian experience within a comparative federal context, the paper advocates the articulation of clearer constitutional safeguards and institutional mechanisms to preserve the federal character of governance and strengthen the autonomy of the States within the constitutional framework.

KEYWORDS: *Constitutional Governance, Cooperative Federalism, Coercive Federalism, Federalism, Judicial Review, Separation of Powers*

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INTRODUCTION

The basic principle of the Indian Constitutional scheme lies in federalism. It is a system where both the Union and the states share power. The Indian system is considered quasi-federal in contrast to other forms of federations.¹ Apart from the guarantee of state sovereignty, it is characterized by an equally strong centre. Over time, however, this rigid categorisation has given way to a more dynamic understanding of federalism, particularly through the emergence of the concept of cooperative federalism, which emphasises coordination, consultation, and shared responsibility in governance.² This interpretation of the problem owes much to judicial pronouncements. According to the Supreme Court of India in *S. R. Bommai v. Union of India*, federalism is an integral part of the basic structure of the Indian Constitution.³ Rather than being just a mere bureaucratic set-up, it gets its respect from such an interpretation. In the recent landmark judgment of *State (NCT of Delhi) v. Union of India*, the Supreme Court once again stressed upon constitutional equilibrium and cooperative governance to achieve democratic responsibility.⁴ Trends within the modern field of management indicate a marked change in the way that this federal system functions. Modern times are marked by an increasing boldness of the Union legislature, centralizing finance decisions, and the discretion of the governor. All of these trends point to a less predictable relationship between the States and Centre.⁵ While none of these trends overturn the constitutionally established system, it does cause one to speculate if this structure indeed helps foster the cooperation recommended by the judiciary. As a means to understand this emerging trend, this post will look at whether India's federal system is evolving into coercive federalism.

CONCEPTUAL FRAMEWORK: COOPERATIVE AND COERCIVE FEDERALISM

There is nothing about the theory of federalism of the Constitution that has remained static or rigid. The application of the theory to practice has been developing, adapting to meet the demands and needs of a specific time and place. The flexibility and asymmetry in the federal system of India have been ensuring that it becomes a major force in shaping the Centre-state

¹H.M. Seervai, *Constitutional Law of India* (4th ed. 1996).

²Granville Austin, *Working a Democratic Constitution: The Indian Experience* (Oxford Univ. Press 1999).

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

⁴*State (NCT of Delhi) v. Union of India*, (2018) 8 SCC 501.

⁵Louise Tillin, *Remapping India: New States and Their Political Origins* (Oxford Univ. Press 2013).

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relations, since it offers the scope for involvement of the Centre while providing an opportunity for the states to secede.⁶ For comprehending the trend in shaping the modern Centre-state relations, it is essential to analyse the concepts of cooperative and coercive federalism. Cooperative federalism approach is usually understood as one involving a multi-dimensional government where many levels of government work cooperatively. The Union is not only confined to its sphere but now involves itself in state-level affairs by participating in decision-making and policies related issues. It has to be recognized that such an approach is somewhat flexible in nature.

In India, for example, cooperative federalism can be found indirectly in institutions like intergovernmental councils, fiscal transfers, and concurrent legislation, all of which make coordination easier than confrontation.⁷ Cooperative federalism has also received backing from judicial opinion. The Supreme Court of India, especially in landmark cases like *State (NCT of Delhi) v. Union of India*, has stressed the need for a "constitutional balance" and collaborative governance in federal systems.⁸ In this case, the court reiterated the notion that the Union and States should use their respective powers without interfering with each other's functions. Thus, cooperative federalism, instead of being just an idea, has acquired normative significance in constitutional law. However, while the term "cooperative federalism" is widely accepted, it fails to do justice to the contemporary reality. Recent literature has emphasized the need for an alternative form of federalism, termed coercive federalism.⁹ While coercive federalism retains the formal structure of federal systems, including constitutional autonomy for subnational units, it involves practical interference by the Union in the activities of state governments. The main difference between centralization and coercive federalism lies in how such interference is exercised. Coercive federalism can be defined as a situation where the Union possesses an excessive degree of control over the decision-making process of the State, either through indirect means like conditional funding, policy regulation, or even utilization of constitutional offices.¹⁰ In this case, although States still have their legislative and administrative capacities, they become restricted due to dependencies and institutional

⁶Granville Austin, *Working a Democratic Constitution: The Indian Experience* (Oxford Univ. Press 1999).

⁷K.C. Wheare, *Federal Government* (4th ed. Oxford Univ. Press 1963).

⁷ INDIA CONST. arts. 246, 263, sch. VII.

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

⁹Jessica Bulman-Pozen & Heather K. Gerken, Uncooperative Federalism, 118 *Yale L.J.* 1256 (2009).

¹⁰Heather K. Gerken, Federalism as the New Nationalism: An Overview, 123 *Yale L.J.* 1889 (2014).

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restrictions. Constitutional violations are not a part of this type of federation, but only a functional change in the nature of the federation.

Thus, the difference between the two types of federations does not lie in the presence of central authority but in how this authority is used. In the first type of federation, the cooperation is built on interactions while, in the second one, the authority has some kind of asymmetric influence on the processes, shaping their outcomes without any discussion or cooperation.¹¹ It is also important that the two concepts do not contradict each other and can exist simultaneously in the constitutional setting with shifts according to the changes of political and legal spheres. This theoretical framework is particularly relevant when applied to the analysis of the recent trends in Centre-State relations in India. Although the Constitution provides a structure through which coordination and cooperation can take place, the increasing concentration of fiscal authority, the expanding ambit of executive power, and the rise of constitutional officials indicate a drift toward a highly controlled and lopsided federation.¹² This development raises some fundamental concerns regarding the extent to which these tendencies can be considered consistent with the essential tenets of constitutional federalism. In employing the distinction between cooperative and coercive federalism as an analytical tool and not necessarily as an either-or proposition, it is intended that this paper provide an examination of the development of constitutional government in India. An analytic treatment of the matter will certainly enable one to move beyond mere descriptions of the situation to analysis.

CONSTITUTIONAL DESIGN OF FEDERALISM IN INDIA

The Indian Constitution establishes a federal structure that is distinctive in both its design and operation. While it incorporates the essential features of federalism, namely a distribution of legislative, administrative, and financial powers between different levels of government, it simultaneously vests the Union with significant authority, reflecting the framers' concern for national unity and administrative efficiency. As a result, Indian federalism has often been described as "quasi-federal", combining elements of both federal and unitary systems.¹³ However, such characterisations, while descriptively useful, do not fully capture the normative framework within which Centre-State relations are intended to function.

¹¹Jessica Bulman-Pozen & Heather K. Gerken, Uncooperative Federalism, 118 *Yale L.J.* 1256 (2009).

¹²Louise Tillin, *Remapping India: New States and Their Political Origins* (Oxford Univ. Press 2013).

¹³Granville Austin, *The Indian Constitution: Cornerstone of a Nation* (Oxford Univ. Press 1966).

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At the core of the constitutional design lies the distribution of legislative powers under the Seventh Schedule, which divides subjects into the Union List, State List, and Concurrent List.¹⁴ This scheme reflects a calibrated allocation of authority, where matters of national importance are assigned to the Union, while States retain control over subjects of regional and local significance. The Concurrent List, in particular, embodies the principle of shared governance, allowing both levels of government to legislate on specified matters, subject to the supremacy of Union law in case of conflict.¹⁵ The design, if interpreted as a whole, appears to reflect an attempt at striking a balance between the two principles of independence and cooperation rather than giving undue importance to one over the other. Apart from distribution of legislation, the Constitution also provides for distribution in terms of administration and finance. Though there is some element of supervision by the Union in the field of State administration, it is meant not to undermine the position of the State governments but to achieve uniformity in areas of national concern.¹⁶ In a similar vein, arrangements such as distribution of revenues and grants-in-aid have been made not only to overcome regional imbalances but also maintain the effectiveness of the States.¹⁷

It has been an important role of the judiciary to interpret and preserve the balance. In *S.R. Bommai v. Union of India*, the Supreme Court clearly stated the role of federalism in the basic structure doctrine.¹⁸ As a consequence of its decision, the Court put some substantive limitations on the powers of the Centre to exercise its powers arbitrarily, especially during President's Rule. The Court declared federalism as an aspect of the basic structure, and thus made it justiciable in nature and not only a part of the structure of the Constitution. The judicial pronouncements made after this case have reiterated the above statement but with differing shades of meanings attached to the same. In each case, it was held by the court that although the Constitution gives the Union an upper hand, it does not mean that the Union can act contrary to the principles of the Constitution. The balance between both the levels of government has always remained significant and important for the working of the system of governance of the country.¹⁹ Subsequent judicial decisions have continued to reinforce this understanding, though with varying degrees of clarity. The Court has consistently

¹⁴INDIA CONST. art. 246, sch. VII.

¹⁵INDIA CONST. art. 254.

¹⁶INDIA CONST. arts. 256–257.

¹⁷INDIA CONST. arts. 270, 275, 280.

¹⁸*S.R. Bommai v. Union of India*, (1994) 3 SCC 1.

¹⁹INDIA CONST. arts. 352, 356.

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acknowledged that while the Constitution grants the Union a position of relative strength, such strength must be exercised within the bounds of constitutional propriety.²⁰ The emphasis, therefore, has been on maintaining a functional equilibrium, where neither level of government encroaches upon the essential domain of the other. This equilibrium is not merely a matter of institutional convenience but is integral to the broader framework of constitutional governance, ensuring accountability, representation, and democratic participation across different levels of the polity. However, another facet of the constitutional scheme of the Indian polity is that it permits the Centre to intervene in extraordinary circumstances, such as during an emergency or even a crisis in the State due to some constitutional breakdown. It can clearly be seen that the Constitution takes a realistic approach and has provided such powers in order to maintain national unity in times of crises. However, what must be remembered is that since the Constitution does provide for such powers, it must also be ensured that there is judicial scrutiny of the same so as to ensure that such powers are not misused.

The above discussion thus makes it quite clear that the constitutional scheme of federalism in India does not denote any form of either cooperative federalism or coercive federalism, but is rather a combination of the two as there are provisions ensuring both the supremacy of the Centre as well as protection of the interests of the State. However, it can clearly be seen that the success of this scheme would depend upon the implementation of these provisions. These processes call for an analysis of the actualities of functional federalism, which the next section takes up by examining the means by which centralisation is being achieved in modern-day India.

MECHANISMS OF CONTEMPORARY CENTRALISATION

Although the constitution of India continues to maintain a balanced power division between the Union Government and the State Governments, modern governance practices indicate a shifting balance of power brought about through a series of institutional means. The shifts in governance practices do not imply a breach of the federalist provisions of the Constitution or a change in its structure but rather a change in its functioning in the current context. This section discusses three such processes; these include fiscal centralization, the changing role of Governors, and legislative dominance, which show elements of coercive federalism.

(A) Fiscal Federalism and Centralisation of Financial Power

²⁰*State of West Bengal v. Union of India*, AIR 1963 SC 1241.

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Finance constitutes an essential feature of all forms of federations as it is integral to governance and administration. Financial powers determine the autonomy of federal units. The implementation of the Goods and Services Tax (GST) marks a notable reconfiguration of the indirect tax structure in India.²¹ Where the GST framework is viewed as the result of cooperative federalism due to the involvement of the GST Council in making decisions, it also involves a major compromise of the States' independent taxation powers. Being based on the inclusion of various taxes at the state level into a unified system, the GST implies greater fiscal dependence of the States on the Union. In itself, such dependence does not necessarily contradict the federal principles, for integrated economic cooperation may require the coordination of taxation. At the same time, the generated imbalance poses a number of questions. The dependence on the resources of the centrally managed budget and discretionary grants may lead to the limitation of the states' independence in developing policy agendas. Even though the dependence is institutionalized through cooperation, it may affect the existing power dynamics by providing the Union with indirect control over state governance.²²

(B) The Expanding Role of Governors

A further way in which the influence of the centre finds its expression is through changing scope of the role of the Governor in the constitutional context. Appointed by the President, governors have a special status as constitutional heads of the States who are required to perform their duties according to the constitutional norms. Yet, as was noted above, governors' discretionary powers are quite limited but have lately become a topic of debate between the centre and states.²³ The judicial interpretations of governors' duties and powers can be found in various court decisions. Thus, for example, in the case *State (NCT of Delhi) vs. Union of India* the Supreme Court stressed the importance of constitutional actors complying with constitutional norms in performing their duties.²⁴ Although the judiciary tries to provide clarity, recent practice shows an increase in the actual exercise of governors' discretionary powers in such areas as forming governments, approving legislation and convening assemblies. Such tendencies do not signify any deviation from constitutional norms but rather illustrate

²¹Constitution (One Hundred and First Amendment) Act, 2016; INDIA CONST. art. 279A.

²²Louise Tillin, *Remapping India: New States and Their Political Origins* (Oxford Univ. Press 2013).

²³INDIA CONST. arts. 163, 200.

²⁴*State (NCT of Delhi) v. Union of India*, (2018) 8 SCC 501.

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how the ambiguity of institutional design can be used to exert the influence of the centre over the states beyond its constitutional powers. Such concerns, in turn, have implications for whether existing constitutional arrangements provide adequate safeguards in the exercise of such discretion. Recent constitutional litigation has further highlighted the tensions arising from the exercise of gubernatorial powers. In *State of Tamil Nadu v. Governor of Tamil Nadu*, the Supreme Court strongly criticised the prolonged withholding of assent to Bills and emphasised that constitutional authorities cannot frustrate the democratic will of elected legislatures through indefinite inaction.²⁵ Although the subsequent advisory opinion in *In re: Assent, Withholding or Reservation of Bills by the Governor and the President of India* (2025) departed from certain aspects of the Tamil Nadu judgment, particularly regarding timelines and deemed assent, both decisions underscore the growing constitutional significance of gubernatorial conduct within India's federal structure.²⁶ Together, these developments demonstrate that disputes concerning assent are no longer isolated institutional disagreements but have emerged as central questions concerning federal balance, democratic accountability, and the limits of constitutional discretion.

(C) Legislative and Regulatory Predominance of the Union

Another aspect of modern centralization has been that of increased legislative and regulatory primacy of the Union. The constitutional setup, through its power to legislate over items listed in the Concurrent List, allows for legislation by both the Union and States over a host of issues. In case of any contradiction, however, the supremacy of Union law renders the Centre superior in matters that fall under the purview of the Concurrent List.²⁷ In recent times, there has been an increase in the tendency of the Union to resort to legislating over subject-matters falling into State jurisdiction, and in cases like this, the effect has been to limit the scope of State-level policy making. This is especially true where the regulatory apparatus of the Union itself has considerable impact on the actual policy-making at the State level. It is important to note here that this process of centralization operates within legal parameters. To the extent that the Union frequently applies the legislative and regulatory power granted to it in such a way that it diminishes the degree of state autonomy, the federal system of government can be radically changed without even amending the Constitution. As one can see from the above consideration of three mechanisms at work in modern American politics, the

²⁵*State of Tamil Nadu v. Governor of Tamil Nadu*, 2025 INSC 481

²⁶*In re: Assent, Withholding or Reservation of Bills by the Governor and the President of India*, 2025 INSC 1333

²⁷INDIA CONST. art. 254.

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process of interaction between the Union and states moves from being symmetrical and independent to becoming asymmetrical and dependent. Fiscal centralization concerns material autonomy of states, the rising influence of governors introduces some ambivalence, but legislative preponderance clearly defines the normative framework within which states act. While all the processes mentioned take place within the boundaries of the Constitution, they result in the creation of an imbalance between the two branches of government. It should nevertheless be emphasized that there is not the slightest hint at the rejection of the federal system of government from the constitutional point of view. The observed shift rather implies a move away from a cooperative coordination system towards a coercive control system.

This is particularly because the relevance of this change does not arise out of the existence of centralization itself, but rather from the lack of any clear doctrinal boundaries within which such centralization can be exercised. This leads to a very interesting constitutional inquiry into the sufficiency of current judicial and institutional checks to ensure that this evolving form of federalism does not deviate from this fundamental requirement of balance.

JUDICIAL RESPONSE: DOCTRINAL INCONSISTENCY IN FEDERAL ADJUDICATION

The judiciary plays a very pivotal role in balancing the powers of government within the context of federalism. In India, for instance, the Supreme Court has ruled several times that federalism belongs to the 'basic structure' of the Indian Constitution and thus sets very clear boundaries on how executive and legislative powers may be exercised.²⁸ However, though the Court has established the importance of federal balance in theory, there have been a lot of inconsistencies in its doctrine as far as settling Centre-State conflicts is concerned.

Judicial interventions in the question of federalism have been largely case-specific, and there have not been any theoretical frameworks established in the matter. As an example, in *S.R. Bommai v. Union of India*, the Court adopted an uncompromising approach in judicial review of President's Rule and declared federalism to be a basic structure of the Constitution.²⁹ The significance of this decision can be seen in how it has elevated federalism from being an aspect of the Constitution to a constitutional principle that can be legally enforceable. Another significant element is how the Court laid emphasis on constitutional morality as an

²⁸*Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.

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

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important consideration while exercising powers under Article 356 of the Constitution. While post-Bommai decisions have emphasized on the balance of institutions in this regard, they have not gone beyond the doctrines set out in the judgment itself. For example, in *State (NCT of Delhi) v. Union of India*,³⁰ the Court reiterated the importance of “constitutional balance” and collaboration among constitutional actors, especially where the exercise of overlapping executive powers was concerned. The point of focus here has been how a federal system would function only if there was mutual respect among the various actors of the Constitution. Although this articulation reaffirms the normative stance in support of cooperative federalism, it fails to provide an adequate set of criteria for evaluating cases of central overreach. It is indicative of a wider trend in the jurisprudence of the Supreme Court of India: the use of abstract principles without a doctrinal test associated with them. In several judgments, the Supreme Court has referred to the ideas of federal equilibrium, constitutional morality, and cooperative governance but, at the same time, did not formulate clear criteria for applying these principles to the concrete case at hand.³¹ Consequently, there appears a certain lack of coherence in the judicial resolution of federal conflicts, since the resolution depends on particular factual and political considerations rather than a legal standard.

In light of contemporary processes of centralization, the importance of doctrinal indeterminacy increases significantly. As was argued in the previous part, fiscal dependence, gubernatorial discretion, and legislative dominance are among the practices that occur within the formal limits of the Constitution but change the power equilibrium. Therefore, it becomes difficult to apply conventional methods of judicial review to them. The significance of such doctrinal indeterminacy is evident when considering centralisation in contemporary times. As noted above, devices like fiscal dependence, gubernatorial discretion, and legislative supremacy work within the scope of the Constitution but change the balance of power in practice. Such trends are not easy to subject to judicial intervention because they can be seen as legal violations of constitutional rules. However, there is a need for another, more sophisticated approach that would take into account the shift in the function of institutions even in the absence of any legality.³² Without such an approach, the ability of courts to tackle coercive tendencies in federalism is going to be restricted by the fact that judicial intervention can only happen in very exceptional circumstances, such as President’s Rule. On the contrary,

³⁰*State (NCT of Delhi) v. Union of India*, (2018) 8 SCC 501.

³¹*State of Rajasthan v. Union of India*, (1977) 3 SCC 592.

³²*Rameshwar Prasad v. Union of India*, (2006) 2 SCC 1

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a structural change through legitimate means cannot be easily addressed judicially.³³ However, it is necessary to clarify that this limitation does not stem from a lack of judicial power, but rather from a lack of a coherent doctrinal approach in dealing with this issue. Indeed, there is ample potential within the Indian Constitution for the creation of such a doctrinal approach by interpreting key principles like equality, due process and federalism in the context of the basic structure. What is needed here is not greater judicial power, but an approach to these issues which is more consistently based on these principles.³⁴

Thus, the reaction of the courts to questions relating to federalism in India can be characterized as principled without being coherent in its doctrinal approach. In affirming the constitutional principle of maintaining a balanced relationship between the Union and the States, there have been no clear attempts at formulating a doctrine for assessing how this balance might be compromised through modern day institution building. This approach is becoming increasingly inadequate in dealing with the complex phenomenon of centralization which takes subtler forms than in the past. The absence of such a framework will make it challenging for the judiciary to take a pro-active stance against the ongoing developments and remain engaged merely with resolving individual disputes without considering the overall shift that is happening to the constitutional order.

COMPARATIVE ANALYSIS: THE FEDERAL BALANCE IN OTHER JURISDICTIONS

The comparative approach to constitutional analysis plays an important role when discussing how federal constitutions resolve the dilemma between centralized power and the autonomy of states within a federal system. Even though each particular federation operates under unique conditions determined by historical and political circumstances of that nation, the comparison of doctrines adopted by other jurisdictions may reveal alternative ways of solving problems that are similar to those faced in a particular case. In the context of Indian federal system dynamics, the examples of federal balance from the U.S. and Canada can be especially helpful. The former state is known to operate under a traditional form of federalism that focuses on the autonomy of States owing to the explicit constitutionality of their powers. On its part, the U.S. Supreme Court has sought to address these concerns by coming

³³Mark Tushnet, *The New Constitutional Order* (Princeton Univ. Press 2003).

³⁴Upendra Baxi, *The Avatars of Indian Judicial Activism: Explorations in the Geographies of [In]Justice*, in *Fifty Years of the Supreme Court of India* (S.K. Verma & Kusum eds., Oxford Univ. Press 2000).

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up with legal doctrines including that the federal government may encourage the States to act by offering grants of money, but the Federal Government may not coerce the States to act in violation of their autonomy.³⁵ This distinction between permissible encouragement and impermissible coercion provides a structured framework for evaluating federal action, allowing courts to assess not only formal legality but also the practical impact on State independence.

Conversely, Canada stands out as an example of a federation whose structure demonstrates the ability of the federal government to be strong but allow for substantial provincial autonomy. Indeed, the legal traditions of Canada have developed doctrines of "pith and substance" as well as "cooperative federalism," which aim to establish balance amid overlapping jurisdictions.³⁶ Crucially, Canadian judicial practice has taken note of the reality that, although overlap and cooperation are expected, federal institutions should not create situations where one jurisdiction dominates the other, hence the need to protect essential attributes of each level of government despite the existence of cooperative frameworks. One of the lessons learnt from this comparative analysis is that doctrinal approaches are necessary when regulating centralization processes.³⁷

In countries like the US and Canada, for example, the courts have been proactive in formulating analytical tools for evaluating the effects of centralization on the system. Centralization does not automatically undermine federalism per se, but it needs to be constrained by certain limitations to ensure that the functional independence of subnational units is maintained. The applicability of this perspective in the context of India rests upon the realization that it becomes imperative to progress from abstract ideas to concrete doctrine in dealing with this issue. This is clear from the above analysis which shows that even today, processes of centralization continue despite the formal structure of federal balance provided in the Constitution.

TOWARDS DOCTRINAL CLARITY: RECONCEPTUALIZING FEDERAL BALANCE IN INDIA

³⁵*South Dakota v. Dole*, 483 U.S. 203 (1987).

³⁶*Canadian Western Bank v. Alberta*, 2007 SCC 22 (Can.).

³⁷*Reference re Secession of Quebec*, [1998] 2 S.C.R. 217 (Can.).

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It can be seen from the above discussion that although the Indian Constitution provides for a formally balanced federal structure, modern day practices of governance have made changes to the functioning of the federal structure in India. These changes, brought about through the process of fiscal dependence, discretion and legislative primacy, do not easily admit of being tackled through conventional methods of adjudication. Therefore, the current legal framework that is built on general principles but not concrete doctrinal tests fall short of providing a solution to the changing nature of Centre-State relations. There is a need for developing constitutional doctrine in a way that ensures federal balance without interfering with the flexibility of the system.³⁸

One of the primary challenges here is determining when constitutionally acceptable interdependence becomes constitutionally unacceptable control. In view of the Indian constitutional scheme that allows for central predominance in certain situations, it is necessary to determine what distinguishes the two concepts, a challenge made even more difficult due to the lack of doctrinal indicators. Without these indicators, decisions on federal questions might depend on the specifics of each case only.³⁹ In light of these challenges, a possible solution might involve formulating the principle of non-coercion in federal relations, which can be considered a development of the basic structure doctrine as applied in *S.R. Bommai v. Union of India*.⁴⁰ While at the same time stipulating that any such act must preserve the practical independence of the States. It follows from this that not only should the issue of competence but also the question of whether the form and substance of the act allowed for the preservation of State independence in carrying out their constitutionally granted responsibilities.

It could be achieved by the application of various indicia. First, it would be necessary to determine whether the conditions of the agreement in question place some pressure upon States, compelling them to make specific decisions, thus taking away their option. Secondly, it should be established whether there exists a procedure which allows one branch of government to make decisions unilaterally. Furthermore, the implementation of legislative acts, constitutional in themselves, may be viewed in light of the aggregate effect of their

³⁸INDIA CONST. arts. 245–254; Granville Austin, *The Indian Constitution: Cornerstone of a Nation* (Oxford Univ. Press 1966).

³⁹INDIA CONST. arts. 256–263; *State of Rajasthan v. Union of India*, (1977) 3 S.C.C. 592 (India).

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

restricting States' discretionary power. The above-stated principle will complement another principle concerning the federalism balance test. The procedure of traditional judicial review, according to which validity issues, including the consideration of whether the legislature passed the law with the appropriate competences, as exemplified in the case of *ITC Ltd. v. Agricultural Produce Market Committee and Bihar Distillery v. Union of India*,⁴¹ cannot be sufficient for tackling the problem of gradual centralization, caused by separate and individually valid measures. The application of the functional criterion can enable judges to evaluate the cumulative effect of decision-making concerning the balancing of various branches of government. In this respect, judges would make a significant contribution to the transition from the formal interpretation of the federal balance to its functional side. It is crucial to remember that the federal balance can be undermined not only due to the violation of the federal system of government, but also due to the use of authority given to the entity in question. What is more, courts would be unlikely to engage in policymaking, as their primary aim would consist in determining the existence of the proper environment for autonomous functioning. However, there are certain limits on the institutional function of the judiciary regarding its political and administrative role. It is necessary to draw a fine line between making judges policymakers and effective implementation of constitutional principles. In other words, the judiciary, while introducing new norms, has to make sure that it does not go too far and overburdens its role. Instead, it is necessary to find the right balance between developing new doctrines and interventionism.

In addition to judicial doctrines, the question of balance in the federal state can also depend on the efficacy of various mechanisms that facilitate coordination. In this context, it is vital to pay attention to intergovernmental forums, fiscal commissions, as well as the recommendations made by the Sarkaria and Punchhi Commissions.⁴² All these tools are critical for building a constructive dialogue between the Union and the states. Consequently, improvement in their efficacy may help prevent many controversies that might occur in terms of constitutional principles application. Lastly, the issue of the federal system development cannot be analysed without regard to other transformations in the government. Indeed, it is necessary to understand the evolution of federalism in India within the broader process of

⁴¹*ITC Ltd. v. Agricultural Produce Mkt. Comm.*, (2002) 9 S.C.C. 232 (India); *Bihar Distillery v. Union of India*, (1997) 2 S.C.C. 453 (India).

⁴²Govt. of India, Sarkaria Commission Report (1988); Punchhi Commission Report on Centre-State Relations (2010); INDIA CONST. art. 280.

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governance, where the growing interdependence of states and the increasing complexities of technology require coordination and cooperation to achieve objectives. In this case, centralization can be seen not as a deviation from the constitution but as an exigency of governance. Hence, what should be strived for is not the rejection of centralization as a practice but rather its limitation within the constitutional framework that would preserve the importance of state autonomy in terms of structure and function.

The process of evolving federalism in India can be seen as a transition from the focus on allocation of powers under the federal system to its further modification based on how powers can be used effectively in such a situation. Although there is a clear constitutional basis, the absence of doctrinal limits in relation to powers results in a shift in the balance of those powers in some form. Hence, there should be a transition from recognizing federalism as an institution to regulating it. The development of non-coercion principles and a federal balance test are among the steps taken to accomplish this goal. None of the aforementioned ways is aimed at changing the constitution itself, but rather at improving the system's operation considering the new developments in the governance of the country. Definite rules regarding judicial review would make it possible to enhance the legitimacy of decisions within the constitutional procedure; thus, federalism would acquire both structural and procedural character for India's constitutional government.

CONCLUSION

It has become clear that one cannot consider the changes occurring in Indian federalism only through the prism of the Constitution. Though the responsibilities and competences of the Union and the State are accurately determined within the document, the operation of this scheme has undergone certain changes. The modern mechanisms of governance in India including fiscal federalism, increased importance of constitutional authorities, and prevalence of legislative and regulatory activity on the part of the Union belong to such changes as well. None of the aforementioned ways is aimed at changing the constitution itself, but rather at improving the system's operation considering the new developments in the governance of the country. Definite rules regarding judicial review would make it possible to enhance the legitimacy of decisions within the constitutional procedure; thus, federalism would acquire both structural and procedural character for India's constitutional government. Such a change does not necessarily indicate any formal shift away from the design of the Constitution, or

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that federalism as a fundamental structural component has been threatened in any direct way. On the contrary, it signals rather an increasingly sophisticated use of the mechanisms of power, whereby the balance between the levels of government set out in the Constitution takes place within the context of dependency, imbalance, and influence. At this level, the key point is not whether there is any central authority which indeed constitutes a fundamental aspect of the Indian constitution but how it operates.

As the primary guardian of the Constitution, the judiciary plays a crucial role in addressing these challenges. The federal structure of the Constitution is considered part of its basic structure and consequently places substantive constraints on the exercise of state powers. Nevertheless, it can be seen from the preceding discussion that the judiciary's intervention in issues pertaining to federalism has been marked by the application of abstract principles rather than doctrine. This has led to a type of decision-making that is principled in terms of its articulation but falls short in dealing with the nuanced and structural aspects of modern-day centralization. Experience from other federal states suggests the need to move past constitutional value judgments and into more concrete doctrine-based judgments for purposes of informing the judicial review process. Without doctrine, the analysis of federal controversies is bound to remain a process lacking consistency and regularity. This poses serious problems especially considering the complex structure of India's federalism and its ever-changing governance processes. It is with this in mind that this paper proposes a structured doctrinal approach to rethinking Indian federalism based on two interrelated tools of analysis; one being the principle of non-coercion, and the other being the functional evaluation of the balance of the federation. The principle of non-coercion, in essence, acts as a constitutional guarantee against the phenomenon of indirect centralization.

This being supplemented by the functional theory of federalism helps bring judicial review in focus away from specific cases of legislative competence and towards the systemic impact of governance procedures. In combination, these help build the link between the constitutional text and practice, and thus provide an easier criterion for the judiciary to apply in cases involving Centre-State conflicts. From a higher perspective, the history of federalism in India captures the underlying conflict between the needs of national coordination on one hand and regional autonomy on the other. While such conflicts are inherent in all federal regimes and not something peculiar to India alone, what distinguishes the current juncture is that the

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complexity of governance makes it more difficult than before to resolve such problems using traditional doctrinal tools.

Theorizing this doctrine thus implies a reconfiguration of the jurisprudential basis of the judicial decision-making process in federal controversies. It is no longer sufficient to make binary judgments about whether Congress or state legislatures have the appropriate authority under the Constitution; there is a need to adopt a more sophisticated analysis, taking into account the practical effects of state ability and independence. This is by no means an expansion of judicial authority into policymaking spheres, but an effort to develop a more nuanced understanding of how the structure of power functions in practice. Through the incorporation of such factors as fiscal dependency, institutional asymmetry, and aggregate regulatory burden, a more accurate picture of federalism in practice emerges. It is precisely this quality that must be retained in order for the strength of Indian federalism to be sustained over time. The challenge, however, is not one of resisting change but of ensuring that this change remains true to the constitutional spirit on which the federal arrangement rests. In this sense, it becomes important to evolve a cohesive and sensitive doctrine, allowing the Constitution to meet the challenges of the present without forsaking its essential spirit.

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