



Co-operative Federalism in India

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Abstract

Cooperative federalism in India is a concept that emphasises a harmonious relationship between the central and state governments to address common issues collaboratively. This approach aims to foster cooperation between different governing bodies to tackle social, political, economic, and civic challenges collectively. The Indian federal system, characterised by a strong central government, allows for a balance between cooperation and competition among states and the centre. The historical roots of cooperative federalism in India can be traced back to ancient times, when local matters were left to regional authorities due to the country's diverse cultural landscape. Over time, India's federal structure has evolved to distribute power from the union to the states and further down to local governing bodies like panchayats. The Constitution of India plays a pivotal role in delineating the distribution of powers and responsibilities between the centre and the states, aiming to achieve unity, social justice, and democracy. This model of cooperative federalism is crucial for India's governance, especially given its vastness and diversity, and has been instrumental in addressing challenges like the Covid-19 pandemic and economic crises effectively.

Keywords: *Cooperative Federalism, Niti Aayog, Central Government, State Government, Distribution of powers, Dual Federalism contrast, State Policy, Federal Laws, Divided Jurisdiction*

Introduction

Concept of Federalism –

The word federalism means a political concept where power is divided between a central authority and a number of regional governing authorities. So, it is the division of power of government at the centre and the state level. The origin of the word 'federalism' is from the Latin word 'foedus', meaning treaty or covenant. Federalism is a system of government wherein a country is controlled by two levels of government¹. There are two types of states: union and federal. In a union government, the central authority holds all powers, but in a federal state, power is divided between the centre and the states. The federal system involves collaboration between states and the central government to promote inclusive growth and national development. In a unitary government, powers are centralised in the central government, with provinces subordinate to it. In a federal system, powers are divided between the federal and state governments, which are independent in their respective spheres.

The Indian Constitution's framers observed the practice of federalism in countries such as the United States and Australia². The country's practical needs necessitated the development of a system capable of serving a diverse and large country like India. The Indian Constitution is a hybrid of federalism and unitary governance. The notion emphasises the importance of national interest and unity, even under federalism.

Meaning of Cooperative Federalism-

Federalism can be cooperative, competitive, executive, or collaborative. A notion or subset of federation known as cooperative federalism refers to a system in which federal, state, and local governments work together to address shared issues and provide the public with products and services. The Indian government operates on a cooperative basis, as stated in **State of Rajasthan v. Union of India**³. The Indian Union is federal in a certain sense.

¹ Ambar Kumar Ghosh, 'The Paradox of "Centralized Federalism": An Analysis of the Challenges to India's Federal Design' (Observer Research Foundation, Occasional Paper No 272, September 2020).

² MP Jain, *Indian Constitutional Law* (8th edn, LexisNexis 2018) ch XIV.

³ *State of Rajasthan v Union of India* AIR 1977 SC 1361.

However, the requirements of the nation's progress and development, which include national integration, political and economic coordination, and the advancement of social, intellectual, and spiritual aspects of life, have significantly mitigated the scope of federalism in it. Under such a system, the States would be unable to obstruct the country's lawful, fully planned development in the way that is instructed by the Central Government. A horizontal interaction is observed between the federal government and the states under cooperative federalism. They cooperate in order to concentrate on national development. A range of issues and concerns raised by the States and Union territories are supported via cooperative federalism with the Ministers. A federalist structure like this one does not have supremacy. The connection between the states and the centre is constructive and adaptable, and they are required to collaborate. The union government is meant to take on the role of the older brother in cooperative federalism. Cooperative federalism reduces conflict and fosters cooperation among the states, both of which aid in accomplishing desired outcomes. Public welfare is advanced by the states' coordination with one another. The Centre has the most financial resources, and its position is such that it can help other states in meeting their demands. The Centre is also dependent on states for the implementation of laws that are made under the Concurrent list. Grandville Austin calls the Indian federation a cooperative federation; however, Morris Jones called India an example of a bargaining federation. The model centre behaves like a big brother during negotiations. In modern times, nonetheless, the coalition government has also led to a relative increase in the state government's bargaining power. States in the Union Parliament are not equal in status or representation, unlike the United States of America. various states have various provisions. India is a "Demos enabling model," according to Alfred Stepan, while the United States is a "Demos constraining model." The United States Senate has two seats for each state, regardless of population size. As a result, people and demos are underrepresented. On the other hand, Rajya Sabha seats in India are distributed based on population, hence more representation, which is why it is called the 'Demos enabling model'. Hence, according to Alfred Stepan, India is a better example than the USA with respect to the model of federation for new countries.

Cooperative Federalism in India-

The term federalism originated from the Latin word "foedus", which means treaty or agreement. Consequently, a federation is a novel form of state policy that combines the authority of decentralised entities with the concept. Federalism must be adapted because India

is made up of numerous states with distinct cultures. In India, the concept of cooperative federalism improves ties between states and local governments in addition to the centre-state connection. Federalism is a form of government in which the federal government and its component states or provinces each have different powers. In India, cooperative federalism is a reflection of the idea of a solid union between the central government and its constituent units. It directs all governing entities to take the initiative and work together to find solutions to shared social, political, economic, and civic issues.

Measures to promote Cooperative Federalism in India-

1. Niti Aayog :-

The purpose of NITI Aayog is to facilitate excellent governance in India and to fulfil the crucial objective of cooperative federalism. Administrators or Lieutenant Governors of Union Territories and Chief Ministers of states make up the Governing Council of Niti Aayog.

NITI Aayog serves as the central platform for the Government of India, uniting the States into a cohesive "Team India" to pursue the country's development goal. The Centre-state partnership model, Development Support Services to States and Union Territories (DSSS), and the Sustainable Action for Transforming Human Capital (SATH) program are two examples of models and programs it established for the development of infrastructure, as well as to rekindle and establish private-public partnerships. In addition, the Aspirational Districts Program is being launched, State/UT officials' capacity is being developed, and policy assistance is being provided.⁴

In order to develop three "role model" states for the school education sector, the "Sustainable Action for Transforming Human Capital-Education" project, or SATH-E, was initiated in 2017. Madhya Pradesh, Jharkhand, and Odisha were selected following a rigorous selection procedure. March 2020 saw the completion of SATH-E's first phase. The following areas saw significant advancements: school consolidation, IT-enabled school monitoring, remedial programs for improving student learning, governance changes, teacher training, recruiting, assessment, accountability, and coaching of academic coordinators (BRCs/CRCs).

A few of the achievements are as follows:

⁴ NITI Aayog, 'Aspirational Districts Programme' <https://www.niti.gov.in/aspirational-districts-programme> accessed 1 April 2024.

- I) Learning enhancement programme/remedial teaching with workbook support for approximately 2.3 crore students was enrolled.
- II) Academic monitoring of schools and students streamlined, with nearly 1.5 lakh inspections carried out every month.
- III) As the COVID-19 pandemic began, SATH-E changed into "Digi-SATH" to continue offering support through digital channels.
- IV) Online education and teacher training have been made available under the DigiSATH program by the MP's "Hamara Ghar Hamara Vidyalaya" and "Digi-LEP" (or "Digital Learning Enhancement Programme"), Odisha's "Shiksha Sanjog" and "Shiksha Sampark," and Jharkhand's "Hamara Doordarshan Hamara Vidyalaya."

2. Inter-State Council-

Article 263 provides that the President may, by order, appoint an Inter-State Council if it appears to him that public interest would be served by its establishment.⁵ The President may define the organisation, procedure and duties of the council. Generally, it may be charged with the duty of:-

- a. Enquiring into and advising upon disputes which may have arisen between states;
- b. Investigating and discussing subjects in which some or all of the states, or the Union and one or more of the States have a common interest;
- c. Making recommendations upon any subject and, in particular, recommendations for the better coordination of policy and action with respect to that subject.

The Prime Minister, chief ministers from every state, and administrators of some Union territories are gathered in the ISC. This makes room for candid conversation and idea sharing on issues of national significance. The ISC assists in creating agreement on national policy by promoting dialogue and understanding between the Centre and states. The ISC facilitates the consideration of inter-state issues by Zonal Councils, which deal with regional matters. This ensures a coordinated approach to challenges faced by multiple states. The Council ensures that decisions are carried out by keeping an eye on how both its own and Zonal Councils'

⁵ *The Constitution of India 1950.*

recommendations are being implemented. The ISC promotes true federalism, in which the central government and the states cooperate for the advancement of the country.

Giving them a forum to express their issues and take part in determining national policy gives states more authority. By serving as a conduit between the federal government and the states, the Inter-State Council essentially promotes coordination, communication, and a more cohesive approach to national governance within the framework of cooperative federalism.

3. Goods and Services Tax (Article 279A)

The Goods and Services Tax (GST) is a significant tax change in our country. The 101st Constitutional Amendment Act of 2016 removed taxes and cesses at both the central and state levels. This has created an opportunity for states to develop and administer their taxes effectively. The Act was approved by more than half of the states and requires a two-thirds majority in Parliament. The clauses that abolish customs taxes actually uphold the federal principle of the Constitution. The tag "One India, One Tax" represents the ethos of federalism.⁶

4. All India Service Commission (Article 312)⁷

AIS Services is another example of cooperative federalism. Despite the fact that the All-India Service is a unitary feature, it is maintained by the federal government with state government consultation. An integrated court system has been established to uphold both state and federal laws. People are hired by the Union government, which then distributes them throughout the states. The state government is in charge of small hiring-related choices like transfers and promotions, while the union government retains authority over major decisions like retirement age, firing, and removal, among other things. Therefore, although the state has immediate power, the central government has the final say.

The case of **Jaora Sugar Mills v Madhya Pradesh**⁸ It is the best example of federal-state cooperation. A sugarcane cess that was payable in line with the Act's requirements was

⁶ GST Council, 'Brief History of GST' <https://gstcouncil.gov.in/brief-history-gst> accessed 1 April 2024.

⁷ 'Assam and Meghalaya Sign Historic Agreement to Resolve Boundary Dispute' (All India Radio News, 29 March 2022) <https://newsonair.gov.in/News?title=Assam%2C-Meghalaya-sign-agreement-to-resolve-interstateboundarydisputes&id=438118> accessed 1 April 2024.

⁸ *State of West Bengal v Union of India* 1966 AIR 416, 1966 SCR (1) 573.

established when the Madhya Pradesh government passed the Madhya Pradesh Sugarcane (Regulation of Supply and Purchase) Act, 1958. Due to the Centre's legislative jurisdiction over the issue under the Union list, this Act was ultimately ruled to be unlawful. It was deemed invalid as a result. The Parliament did, however, discover that this Act and several other state statutes shared the same constitutional shortcomings and inconsistencies. In response, the Sugarcane Cess (Validation) Act of 1961 was enacted. A two-year cess payment order was given to the appellants. A two-year cess payment order was given to the appellants. After the petition was denied by the High Court, the appellants contested the constitutionality of the Act because it constituted "colourable legislation." Though its goal is questionable, the Supreme Court decided that the Act is constitutionally permissible.

7th Schedule-

Three lists that divide authority between the federal government and the states are included in the Seventh Schedule of the Constitution (Article 246)⁹. Union list: The Parliament is the only body with legislative jurisdiction over its 98 issues.

State list: The states alone can enact laws on these 59 topics.

Concurrent list: States and the federal government may both enact laws covering 52 topics. Nonetheless, the law passed by Parliament will take precedence in the event of a dispute on the concurrent list (Article 254).

Importance of Cooperative Federalism-

Cooperative federalism, which preserves the balance of power between the federal government and state governments, is a crucial component of India's political structure. In India, cooperative federalism is significant for the following reasons:

- to fulfil the goals of effective governance.
- to encourage harmony among differences.
- to safeguard state rights.
- to more effectively distribute resources.

⁹ *The Constitution of India* 1950, art 246.

- to motivate states to innovate.
- to motivate states to enhance their health and hygiene.

Which elements work against cooperative federalism?

Over-centralisation: The Union List enumerates the nation's most crucial issues, and the Centre has more authority than the states. Because the Centre enforces laws and regulations that many states find discriminatory, this frequently leads to conflicts of interest between the states and the Centre. For instance, Article 356 addresses the application of the President's Rule in a state where the Centre routinely abuses power.

Uniform approach: When formulating policy, the Centre neglects to consider India's diversity. In a multicultural nation like India, the one-size-fits-all method is ineffective. This makes coordination between the state and the centre exceedingly challenging.

The Inter-state Council's limitations: Article 263 gives the Inter-State Council the authority to recommend, but not the authority to impose or carry out those recommendations

What initiatives could support India's cooperative federalism?

Sarkaria Commission on Indian Federalism¹⁰

Strong centralising tendencies emerged in India due to a monopoly on governance following independence. However, the Congress Party's dominance was overthrown in 1967, and since then, a number of national and local parties have grown. The States can exert pressure on the Centre and are in a strong position. Since then, requests to reorganise Indian federalism have been more frequent as the situation has altered. However, the majority of them are inflated and unrealistic. The following suggestions were given in the report by the Sarkaria Commission:

- The requirement for federal supremacy for successful functioning was highlighted.
- Article 356 is a very contentious clause, but the demand to eliminate it was denied.
- The residual authorities should not be transferred from the Centre to the States.
- However, it should be used in a restrictive manner and with great caution.

¹⁰ Supra n 2.

- The proposal to combine the Planning and Finance Commissions was also turned down.
- The Commission also suggested that Article 263 require the Intergovernmental Council.

General Recommendations-

- **Strengthening Inter-Governmental Mechanisms:** Utilise constitutional and statutory institutions to resolve conflicts between union and state governments.
- **Promoting Fiscal Federalism:** Increase fiscal autonomy for state governments, fostering coordination and cooperation.
- **Strengthening Institutional Frameworks:** Enhance the roles of NITI Aayog, Inter-State Council, and Finance Commission.
- **Regular Inter-Governmental Meetings:** Facilitate information sharing, mutual concern discussions, and policy consensus.
- **Avoiding the 'One size fits all' Approach:** Recognises the socio-economic, political, and cultural diversity of states.
- **Empowering Local Governments:** Gives them greater decision-making powers and financial resources.

What role has cooperative federalism had in India's response to the COVID 19 pandemic?

1. **The Foundation:** The National Disaster Management Act (NDMA) of 2005 and the Epidemic Diseases Act (EDA) of 1897 gave the federal and state governments, respectively, legal foundations to act. This made it possible for a coordinated national response, with each state able to enact measures according to their unique circumstances.
2. **First Cooperation:** During the first wave, there was some initial collaboration between the states and the centre. The Centre published national standards, which the states then implemented with regional modifications, taking into account things like healthcare infrastructure and population density.

3. **Resource Sharing:** The Centre gave states financial and medical support, while states with smaller caseloads shared resources, such as medical oxygen, with areas that were more severely hit.

Strengthening Cooperative Federalism: A Way Forward-

1. India's densely populated state with numerous ethnicities necessitates cooperative federalism to address its diverse needs.
2. The Centre and State are mutually interdependent, with the Centre providing necessary resources to the State.
3. The Centre should provide flexibility to the schemes, allowing states to choose what is needed.
4. The Centre should make arrangements according to the necessities of the States, ensuring that budgetary requirements are fulfilled.
5. The Centre should provide assistance and support to states, ensuring leeway and flexibility in the schemes.
6. A collaborative federation aims to address issues and problems and work towards their solution.
7. States should express readiness to acquire common goals and work harmoniously.
8. Authorities should show concern over conflicts and hardships faced by the people.
9. The Centre should develop good conventions for obtaining corporations from the States, considering all different ethnicities.
10. The Centre should take the anchor's role in difficult times, but states should not be neglected.
11. The COVID-19 pandemic tested the federal structure, highlighting the need for healthy cooperation between the Union and the States.

Conclusion-

India, a democratic country, has some features of a federal system of government, which consists of a three-tiered framework with clearly defined powers and responsibilities for the centre, state, and local levels of government. An essential component of federalism in the political structure of India is cooperative federalism. It safeguards state sovereignty while fostering cooperation, efficient government, equitable resource allocation, and innovation. Better communication and the development of consensus can be facilitated by strengthening

organisations like the ISC and Zonal Councils. Giving governments more financial and administrative authority can improve their ability to respond to demands in the region. The effective operation of cooperative federalism depends on promoting an atmosphere of respect and cooperation.

Overall, cooperative federalism holds immense potential for India's progress. It can become the cornerstone of efficient government in a complex and diverse country like India by addressing the current issues and bolstering its implementation.



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