
REIMAGINING FEDERALISM: THE INDIAN EXPERIENCE IN A GLOBAL FRAMEWORK

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ABSTRACT

Federalism is important in globalization as it allows for a coordinated approach to address global challenges. It enables different regions or states within a country to have some autonomy in making decisions that affect their local economies and cultures, while still being part of a larger global framework. This helps in managing the complexities of globalization and ensuring that the interests and needs of different regions are considered. Federalism is a system of government where power is divided between a central authority and regional governments. It helps balance power and promotes cooperation between different levels of government. However, looking at the Indian concept of federalism, we can understand that it is more or less a Leaking Umbrella. This can be identified from the various provisions incorporated in the Constitution of India. This paper aims to identify the concept of federalism in its original sense, how it is identified by the Constitution of India and most importantly how it is in practice taking into consideration the Indian vogue on this matter. This paper shall also bring in various possibilities for harmonizing the global perspective of federalism as is expected in a globalized world and Indian ethos in this arena. Further, how Indian conditions can be mitigated to suit the global standards.

Keywords: globalization, federalism, Constitution of India, Indian perspective of federalism, harmonizing Indian and global standards on federalism.

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INTRODUCTION

As our planet becomes increasingly interconnected, the dynamics of governance and the distribution of power have evolved significantly.² The forces of globalization, characterized by the flow of goods, ideas, capital, and people across borders, have reshaped the way nations interact and operate on the global stage.³ In this paper presentation, we will explore the enduring significance of federalism as a governing framework, with a spotlight on its role in India in the context of globalization.

India, a diverse and dynamic nation, has long embraced federalism as a means to accommodate its rich cultural, linguistic, and regional diversity.⁴ The Indian Union is a prime example of a federal system, where power is shared between the central government and individual states, each with its unique identity and needs.⁵ As globalization accelerates, India stands as a complex and compelling case study for examining the interplay between federalism and globalization. Thus, giving an opportunity to understand how federalism as a concept helps attain end goal called globalisation.⁶

In this paper, we will delve into the unique challenges and opportunities faced by India as it navigates federalism within the globalized world. We will explore how India's federal system has evolved over the years to address the demands of globalization, including economic liberalization, cross-border trade, and technological advancements. Moreover, we will assess how federalism has played a pivotal role in maintaining India's unity while respecting its diversity in a globalizing context. The specific question that needs to be answered is whether Indian Federalism is on par with what is expected in the global arena. This can be identified from the various provisions incorporated in the Constitution of India. This paper aims to identify the concept of federalism in its original sense, how it is identified by the Constitution of India and most importantly how it is in practice taking into consideration the Indian vogue on this matter. This paper shall also bring in various possibilities for harmonizing the global

² Biermann, F. (2014). *Earth system governance: World politics in the Anthropocene*. MIT press.

³ Robinson, W. I. (2007). Theories of globalization. *The Blackwell companion to globalization*, 125-143.

⁴ Bhattacharyya, H. (2007). Federalism and competing nations in India. In *Multinational federations* (pp. 62-79). Routledge.

⁵ Monette, R. A. (1994). A new federalism for Indian tribes: The relationship between the United States and tribes in light of our federalism and republican democracy. *U. tol. l. rev.*, 25, 617.

⁶ Singh, N., & Srinivasan, T. N. (2006). Indian federalism, economic reform and globalization. *Federalism and economic reform: International perspectives*, 301-363.

perspective of federalism as is expected in a globalized world and Indian ethos in this arena. Further, how Indian conditions can be mitigated to suit the global standards.

THE CONCEPT OF FEDERALISM AND FEDERAL GOVERNMENT

Concise Law dictionary defines "federal" as a word concerning a political society in which several states form a unity, but remain independent in internal affairs and federalism as the federal principles of the government⁷.

*Federalism can be viewed as a system that fosters both self-governance and collective governance, while seeking to balance the interests of the nation as a whole with those of its constituent regions. It serves a dual objective: to prevent the dominance or oppression of a majority, and to build unity and strength through cooperation. A well-crafted federal framework strives to harmonize seemingly opposing aims preserving individual freedom alongside national cohesion, and accommodating diverse political identities and cultures while enabling effective joint decision-making. Such a framework typically emerges in societies with a tradition of negotiation among autonomous entities and a political ethos grounded in the idea of a social contract.*⁸

A federal government is one in which powers are divided between the national government and the regional governments by the Constitution itself and both operate in their respective jurisdiction independently.⁹

Federal principles are concerned with the combination of self-rule and shared rule.¹⁰ In the broadest sense, federalism involves the linking of individuals, groups, and polities in lasting but limited union in such a way as to provide for the energetic pursuit of common ends while maintaining the respective integrities of all parties.¹¹ As a political principle, federalism has to do with the constitutional diffusion of power¹² so that the constituting elements in a federal arrangement share in the process of common policy making and administration by right, while the activities of the common government are conducted in such a way as to maintain their

⁷ P. Ramanatha Aiyar, *Concise Law Dictionary* 498 (5th Ed. 2014)

⁸ Subrata K. Mitra & Malte Pehl, Federalism, In *The Oxford Companion to Politics in India* 43 (2nd Ed. 2015)

⁹ M Laximikanth, *Indian Polity* 13.1 (5th Ed. 2017)

¹⁰ Broschek, J. (2020). Self-rule vs. shared rule: Canada as a case of comparative federalism. *Canadian federalism: performance, effectiveness, and legitimacy*, 31-58.

¹¹ Elazar, D. J. (1987). *Exploring federalism*. University of Alabama Press.

¹² Bermeo, N. (2002). A new look at federalism: The import of institutions. *Journal of Democracy*, 13(2), 96-110.

respective integrities.¹³ Federal systems do this by constitutionally distributing power among general and constituent governing bodies in a manner designed to protect the existence and authority of al. In a federal system, basic policies are made and implemented through negotiation in some form so that all can share in the system's decision-making executing process.¹⁴

Federalism is a complex and flexible system of governance that divides political authority and power between a central government and subnational entities, such as states or provinces.¹⁵ This system is designed to strike a balance between a strong, unified central authority and regional autonomy, and it plays a crucial role in many countries' political structures worldwide.¹⁶ The concept of federalism encompasses several key principles and features that shape the relationship between the central government and its constituent states or regions.

Division of Powers: At the core of federalism is the division of powers between the central government and subnational entities.¹⁷ This division is typically outlined in a constitution or a similar foundational document. It delineates the specific areas of governance in which each level of government has the authority to act. These areas can include issues like defence, foreign affairs, and currency regulation for the central government, while states may have authority over education, healthcare, and transportation, among others.

Constitutional Basis: Federalism often relies on a written constitution or an established legal framework that defines the powers and responsibilities of each level of government.¹⁸ This constitution serves as the supreme law of the land and establishes the fundamental principles of the federal system. It also provides mechanisms for resolving disputes between the central government and subnational entities.

¹³ Jaeger, P. T. (2002). Constitutional principles and e-government: An opinion about possible effects of federalism and the separation of powers on e-government policies. *Government Information Quarterly*, 19(4), 357-368.

¹⁴ Elazar, Daniel J. *Exploring Federalism*. University Of Alabama Press, 16, (1987).

¹⁵ Aroney, N. (2016). Types of federalism. *Max Planck Encyclopedia of Comparative Constitutional Law*, Forthcoming.

¹⁶ Keohane, R., & Nye Jr, J. S. (2001). Between centralization and fragmentation: The club model of multilateral cooperation and problems of democratic legitimacy. *Available at SSRN* 262175.

¹⁷ Cameron, M. A., & Falleti, T. G. (2005). Federalism and the subnational separation of powers. *Publius: The Journal of Federalism*, 35(2), 245-271.

¹⁸ Jackson, V. C. (1997). Federalism and the uses and Limits of Law: Printz and Principle. *Harv. L. Rev.*, 111, 2180.

Autonomy of Subnational Entities: Federalism grants a significant degree of autonomy to subnational entities, allowing them to make decisions on matters within their jurisdiction.¹⁹ This autonomy is vital for respecting and accommodating regional diversity, as different states or regions may have unique cultural, economic, and social needs that require tailored policies.

Shared Sovereignty: Federal systems operate on the principle of shared sovereignty. While the central government holds ultimate authority in certain areas, states or provinces retain a degree of sovereignty within their spheres of influence.²⁰ This shared sovereignty often leads to a cooperative relationship between different levels of government.

Interlocking Jurisdictions: Federalism often results in interlocking jurisdictions, where both the central government and subnational entities have authority over certain policy areas.²¹ This can lead to complexities in governance but is designed to balance the need for unity and diversity.

Checks and Balances: Federal systems typically include mechanisms for checks and balances between different levels of government.²² These mechanisms ensure that no single authority becomes too dominant or abuses its power. For example, judicial review allows courts to interpret and enforce the constitution, thereby adjudicating disputes between the central government and states.

Flexibility: Federalism is a flexible system that can adapt to changing circumstances and regional needs.²³ Over time, constitutional amendments or legal reforms can modify the distribution of powers or redefine the relationship between the central government and subnational entities.

Democratic Governance: Federal systems often promote democratic governance by allowing citizens to participate in both national and regional elections.²⁴ This enhances

¹⁹ Blank, Y. (2010). Federalism, subsidiarity, and the role of local governments in an age of global multilevel governance. *Fordham Urb. LJ*, 37, 509.

²⁰ Biersteker, T. J. (2013). State, sovereignty and territory. *Handbook of international relations*, 245-272.

²¹ Blank, Y. (2010). Federalism, subsidiarity, and the role of local governments in an age of global multilevel governance. *Fordham Urb. LJ*, 37, 509.

²² Shane, P. M. (1995). Political accountability in a system of checks and balances: the case of presidential review of rulemaking. *Ark. L. Rev.*, 48, 161.

²³ Simeon, R. (2001). Adaptability and change in federations. *International Social Science Journal*, 53(167), 145-152.

²⁴ Benz, A. (2015). Making democracy work in a federal system. *German Politics*, 24(1), 8-25.

representation and responsiveness to local concerns.

Federalism is a system of governance that balances central authority with regional autonomy through the division of powers outlined in a constitution.²⁵ It accommodates diversity, fosters cooperation, and allows for tailored policy approaches to meet the needs of distinct regions or states within a single nation. Federalism has been a foundational concept in many countries, contributing to their stability, democracy, and capacity to adapt to changing global and domestic challenges.²⁶

THE CONCEPT OF GLOBALISATION

Globalisation, a multifaceted and intricate phenomenon, is characterized by several key features that have transformed the world in recent decades.²⁷ These features reflect the ways in which the world has become more interconnected and interdependent across various domains, including economics, culture, technology, and politics.

This term connotes a process by which the national economy moves towards a single borderless world economy with open market. It implies expansion of markets for goods, services, labour and capital beyond national boundaries. Independence of countries, competition and dominance of market and private sector characterize the globalisation process.²⁸

One of the most prominent features of globalization is the significant increase in international trade. Advances in transportation, logistics, and communication have facilitated the movement of goods and services across borders.²⁹ Global supply chains have become integral to many industries, allowing for efficient production and distribution of products worldwide. This has led to a remarkable expansion of global commerce, enabling consumers to access a wide variety of products from around the world.

²⁵ Obi, E. A. (2019). The theory, practice and current trends in federalism. *Journal of Social Service and Welfare*, 1(1), 10-20.

²⁶ Malik, A. A. (2024). Federalism in the 21st Century: Adapting to Global Challenges and Local Realities. *Issue 3 Int'l JL Mgmt. & Human.*, 7, 1900.

²⁷ Sari, A., Saleha, M. A. S., Salsabilla, N. K. S., Azaria, N. A., & Agustina, R. A. (2024). The Dynamics And Impact Of Globalization In The Field Of Science And Technology. *Binary Journal of Technology Education*, 1(1), 23-39.

²⁸ Ml Tannan Banking Law & Practice In India Vol. 2.2014, Lexisnexis, Dictionary Of Banking Terminology.

²⁹ Tseng, Y. Y., Yue, W. L., & Taylor, M. A. (2005, January). The role of transportation in logistics chain. Eastern Asia Society for Transportation Studies.

A closely related feature of globalization is the surge in Foreign Direct Investment (FDI). Multinational corporations and businesses are increasingly investing in foreign countries, establishing operations, and acquiring assets.³⁰ FDI not only drives economic growth in host countries but also promotes technology transfer and job creation.³¹ This influx of investments fosters closer economic ties among nations, as companies seek opportunities beyond their home markets.³²

Technological advancements, particularly in information and communication technologies (ICTs), play a pivotal role in globalization.³³ The internet, mobile communication, and digital platforms have revolutionized the way people connect, share information, and conduct business globally. Digital communication tools have reduced geographical barriers, enabling instant communication and collaboration across continents. This has also facilitated the growth of e-commerce, enabling businesses to reach customers worldwide and transforming traditional retail models.³⁴

Cultural exchange is another significant feature of globalization. The spread of media, entertainment, and popular culture from one part of the world to another has led to greater awareness and appreciation of different cultures.³⁵ Movies, music, literature, and fashion from various regions now have global audiences. However, this cultural exchange has raised concerns about cultural homogenization, where local traditions and identities may be overshadowed by globalized media and consumer culture.

Globalization has also spurred increased human mobility.³⁶ People move across borders for various reasons, including labour migration, tourism, and international education. Labour migration allows individuals to seek employment opportunities in different countries, contributing to a global workforce. Tourism promotes the exchange of cultural experiences and

³⁰ Cohen, S. D. (2007). *Multinational corporations and foreign direct investment: avoiding simplicity, embracing complexity*. Oxford University Press.

³¹ Obeng-Amponsah, W., & Owusu, E. (2025). Foreign direct investment, technological transfer, employment generation and economic growth: new evidence from Ghana. *International Journal of Emerging Markets*, 20(5), 2088-2109.

³² Altenburg, T. (2000). Linkages and spill-overs between transnational corporations and small and medium-sized enterprises in developing countries: Opportunities and policies.

³³ Edoho, F. M. (2013). Information and communications technologies in the age of globalization: Challenges and opportunities for Africa. *African Journal of Economic and Management Studies*, 4(1), 9-33.

³⁴ Burt, S., & Sparks, L. (2003). E-commerce and the retail process: a review. *Journal of Retailing and Consumer services*, 10(5), 275-286.

³⁵ Crane, D. (2016). Culture and globalization: Theoretical models and emerging trends. *Global culture*, 1-25.

³⁶ Clark, W. A. (2007). Human mobility in a globalizing world: Urban development trends and policy implications. *International Handbook of Urban Policy: Contentious Global Issues*. Edward Elgar, 79-106.

economic growth in the tourism industry. International education facilitates knowledge exchange, with students pursuing studies abroad and bringing back diverse perspectives.

Financial integration is a critical feature of globalization.³⁷ Global financial markets are interconnected, allowing capital to flow across borders with ease. This has expanded investment opportunities and improved access to financial services for individuals and businesses. However, it has also made economies more susceptible to financial crises that can spread rapidly across the globe, as seen during the 2008 financial crisis.³⁸

Globalization has given rise to the increased prominence of international organizations and institutions.³⁹ Entities such as the United Nations, World Trade Organization, International Monetary Fund, and World Bank play significant roles in shaping global policies, trade agreements, and development initiatives.⁴⁰ These organizations facilitate cooperation and address global challenges, emphasizing the importance of diplomacy and multilateralism in a globalized world.

Despite its many benefits, globalization also presents challenges. Environmental issues, such as increased resource consumption, pollution, and climate change, are global in nature and require international cooperation for effective solutions. Income inequality has been exacerbated by globalization, as the benefits of economic growth have not been evenly distributed within and between countries. This has raised concerns about social and economic disparities.

Furthermore, globalization has political implications. While it can promote diplomacy, peace, and cooperation among nations, it can also lead to political tensions, protectionism, and nationalist sentiments.⁴¹ As countries grapple with the consequences of increased interdependence, they may adopt policies to protect their interests and assert their sovereignty, which can lead to complex international dynamics.

³⁷ Moshirian, F. (2003). Globalization and financial market integration. *Journal of Multinational Financial Management*, 13(4-5), 289-302.

³⁸ Roubini, N. (2009). The financial crisis of 2007-2009: Causes and remedies.

³⁹ Peters, G. (2000). Globalization, institutions. *Governance in the Twenty-First Century: revitalizing the public service*, 29.

⁴⁰ Schlemmer-Schulte, S. (2000). The impact of civil society on the World Bank, the International Monetary Fund and the World Trade Organization: the case of the World Bank. *ILSA J. Int'l & Comp. L.*, 7, 399.

⁴¹ MacIsaac, S., & Duclos, B. C. (2020). Trade and conflict: trends in economic nationalism, unilateralism and protectionism. *Canadian foreign policy journal*, 26(1), 1-7.

Globalization has interconnected the world in ways that make it more susceptible to global crises.⁴² Events such as financial crashes, pandemics, and security threats can spread rapidly across borders, necessitating coordinated international responses. These crises underscore the need for effective global governance and cooperation.

Hence, we can say that globalization is a multifaceted phenomenon characterized by increased international trade, technological advancements, cultural exchange, human mobility, financial integration, and the growing influence of international organizations.⁴³ While globalization has brought about numerous opportunities and challenges, its effects are pervasive, shaping economies, societies, and politics on a global scale. As our world continues to evolve in the era of globalization, understanding its features is essential for individuals, businesses, and policymakers alike.

COOPERATIVE FEDERALISM- FEDERALISM MEETS GLOBALIZATION

The real question is why federalism important for globalisation. This can be understood by looking into how federalism act as a catalyst for the concept globalisation. globalization is often associated with breaking down traditional boundaries and fostering greater interconnection among countries and regions. Federalism, which involves the division of a country into smaller units with a degree of autonomy, might seem contradictory to this concept.⁴⁴ However, federalism can still play a role in facilitating globalization in the following ways:

Local Adaptation: Smaller units in a federal system have the flexibility to adapt to the specific needs and opportunities presented by globalization.⁴⁵ They can tailor policies to attract global investments, develop local industries, and encourage international trade based on their unique circumstances.

Coordination: Federal systems can create a framework for better coordination between the national government and subnational entities.⁴⁶ This coordination can be vital for

⁴² Kortunov, A. (2020). The world order crisis and the future of globalization. *Russian International Affairs Council*. <https://russiancouncil.ru/>. *The Changing Face of Globalization*, 175.

⁴³ Sari, A., Saleha, M. A. S., Salsabilla, N. K. S., Azaria, N. A., & Agustina, R. A. (2024). The Dynamics And Impact Of Globalization In The Field Of Science And Technology. *Binary Journal of Technology Education*, 1(1), 23-39.

⁴⁴ Lluch, J. (2012). Autonomism and federalism. *Publius: The Journal of Federalism*, 42(1), 134-161.

⁴⁵ Ruggie, J. G. (2003). The United Nations and globalization: Patterns and limits of institutional adaptation. *Global Governance*, 9, 301.

⁴⁶ Bakvis, H., & Brown, D. (2010). Policy coordination in federal systems: Comparing intergovernmental processes and outcomes in Canada and the United States. *Publius: The Journal of Federalism*, 40(3), 484-507.

implementing international agreements, trade policies, and global standards while still allowing for local adjustments.

Cultural Diversity: Federal systems often recognize and respect cultural diversity within a country.⁴⁷ This can be a valuable asset in a globalized world where cultural understanding and diversity are increasingly important for international relations and global business.

Labour Mobility: Federal systems can facilitate the movement of labour within a country, which can be important in a globalized job market where people may need to relocate for work opportunities.⁴⁸

Global Representation: Federal systems can provide opportunities for subnational entities to engage in international relations, contributing to a country's global presence.⁴⁹ They can represent their regions' interests in global forums and trade negotiations.

Check and Balance: In some cases, federal systems can serve as a check and balance mechanism to ensure that globalization doesn't lead to the concentration of power solely at the national level.⁵⁰ Smaller units can act as counterweights, promoting a more equitable distribution of the benefits of globalization.

It's essential to recognize that the effectiveness of federalism in facilitating globalization depends on how well it is managed and the specific policies in place. Overly fragmented or uncoordinated federal systems may hinder globalization efforts, but a well-structured federal system can strike a balance between local autonomy and global integration, ultimately contributing to a country's success in the globalized world. This discussion directly lead us to one core idea- COOPERATIVE FEDERALISM and the point of view that, although globalisation is about breaking boundaries and the concept of nation, the actual intension is to give global representation to all spheres of government.

⁴⁷ Kymlicka, W. (2007). Ethnocultural diversity in a liberal state: Making sense of the Canadian model (s). *Belonging*, 39-86.

⁴⁸ Johnston, W. B., & Force, G. W. (2000). The New World Labor Market'. *Harvard business review*, 69, 115-27.

⁴⁹ Duchacek, I. D. (1984). The international dimension of subnational self-government. *Publius: the journal of federalism*, 14(4), 5-31.

⁵⁰ Weiss, L. (1997). Globalization and the Myth of the Powerless State. *New left review*, 225.

Cooperative federalism is a concept in political science and governance that describes a collaborative relationship and sharing of powers and responsibilities between different levels of government within a country, typically the national (central) government and subnational entities, such as states or provinces.⁵¹ Unlike the more rigid forms of federalism where powers are strictly divided or reserved, cooperative federalism emphasizes joint efforts and cooperation in addressing complex issues.

In a system of cooperative federalism, both the national and subnational governments work together to achieve common goals and objectives.⁵² They often pool their resources, expertise, and authority to address challenges that transcend jurisdictional boundaries, such as infrastructure development, environmental protection, and healthcare. This collaborative approach fosters intergovernmental coordination and can lead to more efficient and effective policy outcomes.

Cooperative federalism often involves the use of grants-in-aid programs, where the national government provides financial assistance to subnational governments to implement policies or programs that align with national priorities.⁵³ These grants are typically conditional, requiring the subnational entities to meet certain criteria or standards set by the national government. Cooperative federalism can promote unity, coordination, and the pursuit of shared objectives while respecting the autonomy and diversity of subnational entities within the larger federal framework.

INDIAN FEDERALISM- A LEAKING UMBRELLA

The federation [of India] is union because it is indestructible. ⁵⁴

The term Federation has nowhere been used in the Constitution [of India]. Instead, Article 1 of the constitution describes India as a 'Union of States'. According to Dr. B R Ambedkar, the phrase 'Union of States' has been preferred to 'Federation of States' to indicate two things: (1)

⁵¹ Davidson, N. M. (2007). Cooperative localism: Federal-local collaboration in an era of state sovereignty. *Immigr. & Nat'lity L. Rev.*, 28, 167.

⁵² Zimmerman, J. F. (2001). National-state relations: Cooperative federalism in the twentieth century. *Publius: The Journal of Federalism*, 31(2), 15-30.

⁵³ Ervin Jr, S. J. (1964). Federalism and Federal Grants-in-aid. *NCL Rev.*, 43, 487.

⁵⁴ *Constituent Assembly Debates*, Volume VII, P.43

Indian federation is not the result of an agreement among the states like the American federation; and (2) the states have no right to secede from the federation.⁵⁵

With remarkable prescience, the framers of the Indian Constitution have equipped the Indian states to respond to the demands for autonomy through the double mechanism of individual and group rights, as well as the federal construction of political power. During the first phase of India's constitutional development, some of these instruments were useful in empowering political majorities below the level of relationship of national and regional identity from one of the transcendence and an either or type of choice into the one that exists in the realm of transactional politics of the day in the eyes of respondents⁵⁶.

Let's understand why India's federalism is called a leaking umbrella. For this, we should analyse the constitution of India, the various provisions that bypass the concept of federalism.

Article 256-

Each State is required to exercise its executive authority in a manner that ensures adherence to the laws enacted by Parliament, as well as to any other laws applicable within that State. Correspondingly, the Union's executive authority includes the power to issue directions to a State whenever the Government of India considers such action necessary to secure compliance with these laws.⁵⁷

This provision establishes its control over the state government in two folds. Primarily, the state must extend its machinery at the disposal of the Union government to enforce their law. Any deviation from that will constitute a direct infringement of this provision of the constitution. Secondly the power is vested with the parliament to give direction to this effect. Although, the framing of this provision create an illusion that it's an obligation vested on the central government, the reality is that it is empowering the central government to establish its power over the State government. Further, Article 257 gives more power to the government which is already at a dominant position.

⁵⁵ M Laximikanth, *Indian Polity* 13.2 (5th Ed. 2017)

⁵⁶ Subrata K. Mitra & Malte Pehl, Federalism, In *The Oxford Companion To Politics In India* 54 (2nd Ed. 2015)

⁵⁷ Article 256 In The Constitution Of India 1949

Control of the Union over States in Specific Situations

1. *Each State must exercise its executive authority in a way that does not hinder or adversely affect the functioning of the Union's executive powers. To ensure this, the Union Government has the authority to issue directions to a State whenever it deems such instructions necessary.*
2. *The Union's executive authority also includes the power to direct States regarding the construction and maintenance of communication systems that are declared to be of national or military significance. However, this provision does not limit Parliament's power to designate highways or waterways as national, nor does it restrict the Union's authority to construct and maintain such means of communication as part of its responsibilities relating to naval, military, or air force operations.*
3. *Additionally, the Union Government may issue directions to States concerning the measures required to safeguard railways within their territories.*
4. *If, in complying with such directions, whether for communication infrastructure under clause (2) or for railway protection under clause (3), a State incurs expenses beyond what it would normally spend on its regular duties, the Government of India must compensate the State. The amount of compensation will be mutually agreed upon, or, if no agreement is reached, it will be determined by an arbitrator appointed by the Chief Justice of India.⁵⁸*

To add, the Constitution also contains Emergency Provisions which makes it the wielder of ultimate power.

The Union has a fundamental duty to safeguard every State from external aggression and internal unrest, and to ensure that the governance of each State is conducted in conformity with the provisions of the Constitution.⁵⁹

Provisions in Case of Breakdown of Constitutional Machinery in a State

1. *If the President, upon receiving a report from the Governor of a State or through other*

⁵⁸ Article 257 In The Constitution Of India 1949

⁵⁹ Article 355 In The Constitution Of India 1949

means, is convinced that the State's government cannot be carried on in accordance with the provisions of the Constitution, the President may issue a Proclamation to:

- (a) assume all or any of the functions of the State Government and the powers vested in or exercised by the Governor or any authority within the State, except the powers of the State Legislature;*
- (b) declare that the powers of the State Legislature shall be exercised by or under the authority of Parliament; and*
- (c) make any incidental or consequential provisions deemed necessary or appropriate for implementing the objectives of the Proclamation, including the suspension, wholly or partially, of constitutional provisions relating to any authority or body in the State.*

However, the President cannot assume the powers of a High Court or suspend any part of the Constitution concerning High Courts.

- 2. The President may revoke or modify any such Proclamation through a subsequent Proclamation.*
- 3. Every Proclamation, except one that revokes a previous Proclamation, will cease to operate after two months unless it is approved by both Houses of Parliament within that period. If the Proclamation is issued when the Lok Sabha is dissolved, or it dissolves during that two-month period, and the Rajya Sabha has approved it but the Lok Sabha has not, the Proclamation will remain in force for thirty days after the newly elected Lok Sabha first meets, unless it is approved within that time by the Lok Sabha as well.*
- 4. Once approved, the Proclamation will remain in force for six months from the date of its issue unless revoked earlier. It may be extended for additional six-month periods with the approval of both Houses of Parliament, but it cannot continue for more than three years in total. If the Lok Sabha is dissolved during any such extension period and the Rajya Sabha has approved the continuance, the Proclamation will lapse thirty days after the new Lok Sabha first meets, unless the new House also approves it within that time.*

5. *Despite the above, a Proclamation cannot be extended beyond one year from its issue unless two conditions are met:*

(a) a national or state-level Emergency is in force at the time of passing such a resolution; and

(b) the Election Commission certifies that it is difficult to hold general elections to the concerned State Legislative Assembly during that period.⁶⁰

INDIAN FEDERALISM AS IS TODAY

India appears to be transcending toward what may be called a Union form of governance with the help of arbitrary action combined with fake concept of nationalism. Let's take into consideration arbitrary abrogation of Article 370.⁶¹ Ideally, the abrogation must have taken place after fulfilling the necessary steps, such as obtaining consensus from the people before taking such an action.⁶² The second aspect concerns the power of the Union government to convert a state into a Union Territory. For this purpose, let us try to understand what powers are granted to the central government under Article 3 of the Constitution of India.

Parliament has the authority, through legislation, to:

(a) create a new State by separating territory from an existing State, merging two or more States or parts of States, or combining any territory with a part of a State;

(b) expand the area of any State;

(c) reduce the area of any State;

(d) modify the boundaries of any State; and

⁶⁰ Article 356 In The Constitution Of India 1949

⁶¹ Banerjee, A. (2025). Power, Nationhood, and the Politics of Exception: Analyzing the Rise of Hindu Nationalism through the Revocation of Article 370 in India.

⁶² Susskind, L. (1999). An alternative to Robert's rules of order for groups, organizations, and ad hoc assemblies that want to operate by consensus. *The consensus building handbook: A comprehensive guide to reaching agreement*, 3-55.

(e) change the name of any State.

However, no Bill proposing any of these actions may be introduced in either House of Parliament unless it is recommended by the President. Additionally, if the Bill involves changes to the area, boundaries, or name of any State, the President must first refer the proposal to the Legislature of the affected State to seek its opinion within a specified time period (or any extended period allowed by the President). The Bill can proceed only after that period has expired.

Explanation I: For the purposes of clauses (a) to (e), the term “State” also includes a Union Territory; however, in the proviso, “State” does not include a Union Territory.

Explanation II: The power granted to Parliament under clause (a) also covers the authority to create a new State or Union Territory by merging a part of any State or Union Territory with another State or Union Territory.⁶³

Nowhere in Article 3, the Union Government is empowered to convert a state into Union Territory. It may form a new State by separation of territory from any State or by uniting two or more States or parts of States or by uniting any territory to a part of any State; increase the area of any State; diminish the area of any State; but not convert them into Union Territories. To add to this, Article 1 states that India shall be a union of states not a Union of Union Territories.

Further, One Nation One Election policy- How such an act may affect Indian federalism is of concern. This may directly point at President rule and shall be followed by reduced autonomy of the state in the event of premature dissolution of State Assembly.⁶⁴

A Way Forward - Harmonising two opposing views.

One far-fetched idea of mitigating this problem may be the age-old Gandhian philosophy of Rama Rajya.⁶⁵ However, we must realise that this was already pitched a possible model for the constitution of India before accepting this form.

⁶³ Article 3 In The Constitution Of India 1949

⁶⁴ Prashant Bhushan, Simultaneous Polls- But Only In A Presidential System, The Hindu (25th September 2023)

⁶⁵ Arghya Sengupta, A Time To Articulate New Constitutional Ideas For India, The Hindu (2nd October 2023)

The ideal of a revived village life with benevolent panchayats and a decentralized government bringing democracy to the grassroots level appealed to Assembly members. Yet, when considering the political tradition to be embodied in the constitution, they had to ask themselves several questions concerning the Gandhian alternative; Was the nature of man different in rural from that in urban society? Would man become a moral being in one and not in the other? Was it possible in 1947 to change India back to a primarily agricultural, village nation? Did the villagers have- as they must have with a decentralized constitution and indirect government, the initiative to remake their way of life? Hence, the Assembly's alternative to the Gandhian constitution was a constitution in the European and American tradition, a constitutional tradition with, quite evidently, very different principles.⁶⁶

Several other features can be included in the parliament itself to make it more accountable for the steps taken. Therefore, the federal features of India can be retained intact. One possible solution is to add an opposition day in the parliament, whereby the ruling party will be forced to discuss the matters that they are generally reluctant to discuss. The topics of discussion for that particular day will be brought in by the opposition. Hence, the parliament will be more inclusive of the regional ideas. Additionally, the Prime Minister's question-and-answer session can be incorporated to increase accountability for the actions taken by the Union government.

⁶⁶ Granville Austin, *The Indian Constitution – Cornerstone Of A Nation* 39, (42nd Ed. 2022)