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**A STRUCTURAL RESET FOR INDIA'S  
FEDERALISM**

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## A STRUCTURAL RESET FOR INDIA'S FEDERALISM

### Context

- Recently, a **high-level committee on Union–State relations**, submitted its first report to the Government of Tamil Nadu that deals with powers and responsibilities shared between the Union and the States.

### About India's Federalism

- Federalism** is a system of government in which **power is constitutionally divided** between a **central authority (Union)** and **regional governments (States)**.
- A federal system gives both levels **independent authority within their own spheres**, unlike a unitary system (where all power flows from the centre).
  - Neither level is legally subordinate to the other within those assigned domains.

### India's Unique Federal Design

- Constitutional Design:** The Constitution (1950), influenced by the **Government of India Act, 1935**, created a strong **Union List**, a residuary power vested in Parliament, Emergency provisions (Articles 352, 356, 360), and a single Constitution and single citizenship.
  - Indian federalism was shaped by Partition, princely state integration, and fears of fragmentation, unlike classical federations (e.g., the US).
- India is often described as a '**Union of States**', a phrase **deliberately used in the Constitution** to reflect unity with diversity.
- India's federalism is often called '**quasi-federal**' or '**federal with a unitary bias**', as the Constitution of India gives the **Union stronger authority** in certain areas, especially during emergencies.

Constitutional Division of Powers (Schedule VII)		
List	Who Makes Laws?	Examples
Union List	Parliament	Defence, Foreign Affairs, Currency
State List	State Legislatures	Police, Public Order, Public Health
Concurrent List	Both	Education, Forests, Marriage

Union law prevails (with limited exceptions) if there is a conflict in Concurrent List subjects. It reflects both:

- The need for **national unity**, and recognition of **regional diversity**.

### Core Foundational Principles of Indian Federalism

- Constitutional Supremacy:** India does not operate on parliamentary supremacy (like the UK).
  - The **Constitution is supreme**, i.e. both the Union and States derive their authority from it, and no government, either Union or State, can act beyond constitutional limits.
- Division of Legislative, Executive & Financial Powers:** Federalism is not just about law-making. It also involves **Legislative powers (law making)**, **Executive powers**, and **Financial powers**.
  - Revenue sharing is done through the Finance Commission, GST Council, and Centrally Sponsored Schemes.
- Cooperative Federalism:** India's model is not meant to be competitive or adversarial. The ideal vision is **cooperative federalism**, meaning:
  - The Union and States work together.
  - Policies are discussed collaboratively.
  - Institutions like the Inter-State Council and GST Council encourage consultation.
    - More recently, the phrase '**competitive federalism**' has emerged, meaning States compete in performance (investment, ease of doing business, governance reforms).
- Unity with Diversity:** India is linguistically, culturally, and economically diverse. Federalism accommodates different languages, development models, and governance experiments.

- ◆ For example: Tamil Nadu pioneered the noon meal scheme; Kerala achieved strong public health outcomes; Maharashtra experimented with employment guarantee schemes.
- **Asymmetrical Federalism:** India does not treat all States identically. Some States historically enjoyed special provisions like Sixth Schedule areas for tribal regions in Northeast India.

### Judicial Safeguards: Federalism as Basic Structure

- **S.R. Bommai vs Union of India (1994):** The Supreme Court held that **Federalism is part of the Basic Structure of the Constitution.**
  - ◆ States are not 'mere appendages' of the Centre, and they are supreme within their constitutional sphere.
  - ◆ The term '**Basic Structure**' means that even **Parliament cannot amend** the Constitution in a way that destroys federalism.
  - ◆ Article 356 (President's Rule) is subject to judicial review.

### Commissions on Centre–State Relations

- **Rajamannar Committee (1971):** Established by Tamil Nadu, it argued for greater State autonomy and clearer limits on Union encroachment.
- **Sarkaria Commission (1983–1988):** Recommended cooperative federalism, restraint in using Article 356, and consultation with States.
- **Punchhi Commission (2007–2010):** Called for redefining the Governor's role and strengthening intergovernmental mechanisms.

### Concerns & Issues Around India's Federalism

- **Centralisation of Legislative Powers:** Parliament increasingly legislates on subjects where States also have authority.
  - ◆ Provisions such as **Articles 249 and 250 allow Parliament to legislate on State subjects** under certain conditions, raising concerns about **gradual erosion of State spheres.**
  - ◆ It reduces meaningful State autonomy when uniform national laws override local policy choices.
- **Misuse and Legacy of Article 356:** Article 356 (President's Rule) was frequently invoked for political reasons before *S.R. Bommai* (1994).
  - ◆ The Supreme Court restricted arbitrary use, making proclamations judicially reviewable.
- **Role of Governors:** Major concerns include delays or refusal of assent to State Bills, discretionary powers in government formation, and reporting under Article 356.
- **Fiscal Federalism Imbalances:**
  - ◆ **Vertical Imbalance:** States bear substantial expenditure responsibilities (health, education, agriculture), yet major taxation powers are concentrated at the Union level.
  - ◆ **Conditional Transfers:** Centrally Sponsored Schemes (CSS) under **Article 282** allow the Union to impose policy templates through tied grants.
  - ◆ **Finance Commission Dynamics:** The broader concern is that fiscal dependence weakens substantive autonomy.
- **GST and Shared Sovereignty:** The introduction of the GST (2017) restructured fiscal federalism. **Concerns include** loss of independent taxation space for States, GST compensation disputes, voting structure within the GST Council, and increasing central coordination over tax rates.
  - ◆ It lies between **uniform market integration** and **fiscal autonomy.**
- **Executive Federalism & Institutional Drift:** Intergovernmental bodies such as NITI Aayog, GST Council, and Inter-State Council have reshaped federal practice.
  - ◆ The decision-making increasingly occurs through executive forums rather than legislative federalism, reducing transparency and formal accountability.
- **Asymmetric Federalism Under Strain:** India accommodates **asymmetry (e.g., special provisions for certain States).**
  - ◆ However, reorganisation of states, alteration of special status arrangements, and uniform policy drives have raised questions about how asymmetry is protected within a centralising framework.

- **Political Centralisation:** Strong single-party dominance at the Union level, particularly when the same party governs multiple States, can create 'high command' culture, reduced bargaining autonomy, and policy uniformity pressures.
  - ♦ Conversely, coalition eras historically strengthened negotiated federalism.

### Way Forward: Strengthening India's Federalism

- **Limit Overreach in the Concurrent List:** Parliament should exercise restraint in legislating on Concurrent subjects unless national uniformity is indispensable.
  - ♦ Revitalising Article 263 institutions can institutionalise structured dialogue rather than ad hoc negotiation.
- **Reform the Role of Governors:** Establish transparent criteria for appointment; fix timelines for assent to State Bills; and codify discretionary powers more clearly.
  - ♦ Commissions (Sarkaria, Punchhi) have recommended insulating the office from partisan influence. Implementing these reforms would reduce recurring Centre - State conflicts.
- **Revisit Article 282 Practices:** Clarify limits on discretionary grants to prevent fiscal centralisation.
  - ♦ Need to ensure predictable, transparent, and rule-based devolution criteria.
- **Recalibrate GST Governance:** The improvements are needed for greater deliberative transparency, timely compensation mechanisms, mechanisms for limited State rate flexibility in defined sectors. It would balance market integration with fiscal autonomy.
- **Institutionalise Cooperative & Competitive Federalism:** India's federal future lies in combining **Cooperative federalism** (shared decision-making), and **Competitive federalism** (policy innovation and benchmarking).
  - ♦ Encouraging States to experiment, while sharing best practices horizontally, strengthens overall governance capacity.

Source: TH

### Daily Mains Practice Question

[Q] Examine whether India's federal system requires a structural reset aligning with contemporary political and administrative realities.