



## Centralization in Indian Federalism: Patterns, Implications, and Future Trajectories

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ARTICLE DETAILS	ABSTRACT
<b>Research Paper</b>	<p>The structure of Indian federalism has undergone significant transformation in recent years, marked by a discernible trend toward centralization. This paper delves into the patterns, implications, and potential future trajectories of this centralizing tendency in Indian federalism. Examining key schemes and policies, this study sheds light on the multifaceted dimensions of centralization. The Government's One Nation One Election initiative aims to synchronize various elections, consolidating power at the national level and potentially compromising regional autonomy. Similarly, the push for One Nation One Language introduces linguistic uniformity, challenging the federal fabric that accommodates linguistic diversity. The controversial Farm Laws and their subsequent withdrawal highlight a nuanced power dynamic between the Centre and the States, underscoring the challenges posed by centralization. The management of the COVID-19 pandemic further exposes the intricate interplay between the Centre and the States in crisis response, offering insights into evolving federal dynamics. The New Draft of the Indian Port Bill 2021 and the expanding powers of Border Security Forces exemplify centralizing trends through enhanced control over crucial economic and security domains. This Article synthesizes these instances to provide a comprehensive understanding of the changing contours of Indian federalism.</p>
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## Introduction

The constitution of India has a so unusual political structure that it is difficult to describe it briefly. Even the members of the Constituent Assembly avoided any particular theory about federalism. They believed that India had unique problems that had not been seen in the other established federations.<sup>1</sup>

Federalism itself was not a definite concept and lacked a stable meaning, therefore the members of the Constituent Assembly of India drawing on the experience of great federations like the United States, Canada, Switzerland, and Australia, decided to apply the policy of 'pick and choose' to see what would be the best for nation's interest.<sup>2</sup>

A federation is a political device for reconciling unity and diversity. It is a form of government in which sovereign powers are divided and shared between a central government and a number of regional or state governments.<sup>3</sup>

The three legislative lists listed the authority granted to the state legislature, the Parliament, and to both of them concurrently. On the other hand, a subject would be deemed as a residuary power of the Parliament if it wasn't dealt by any of the three Lists.<sup>4</sup>

## Toward a Unified Future: Exploring the Centralizing Aspirations of a Strong Union Government

In the pursuit of a cohesive and harmonious nation, the concept of a strong union government has gained traction, embodying aspirations for a unified future. Such a government seeks to centralize authority to foster streamlined decision-making, efficient resource allocation, and consistent policy implementation across regions. Proponents argue that a robust central authority can mitigate regional disparities, promote national identity, and respond swiftly to challenges that transcend local boundaries. However, the centralizing tendencies also raise concerns about potential infringement on regional autonomy and the diverse needs of various communities. In this exploration, we delve into the motivations behind these

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<sup>1</sup> GRANVILLE AUSTIN, THE INDIAN CONSTITUTION -CORNERSTONE OF A NATION 231-232 (oxford University press 1972)

<sup>2</sup> DD BASU, COMPARATIVE FEDERALISM,116-118(Lexis Nexis 2d ed. 2008)

<sup>3</sup> K.C. WHEARE, FEDERAL GOVERNMENT, 3-8, 1946

<sup>4</sup> INDIA CONST.art.248



centralizing aspirations and assess the potential implications for the overall stability and prosperity of the nation.

### **One Nation One Language**

India's official language debate has a contentious past. Since several of the nation's states, particularly those in southern India, were established on the foundation of linguistic subnationalism following protracted and fierce fights, they are particularly sensitive to the language argument.

Union Home Minister Amit Shah discussed "One Nation One Language" in 2019. This catchphrase is a component of India's ideology, which supports imposing a single language over the nation's many linguistic traditions. Nearly 70% of the Cabinet agenda is now prepared in Hindi; 22000 Hindi teachers have been recruited in the eight states of the northeast, which have agreed to make Hindi compulsory up to class X; nine tribal communities of the northeast have adopted Devanagari script for their dialects.<sup>5</sup>

According to the 2011 census, 44% of Indians speak Hindi as their first language, while the remaining 120 speak other languages. Of the 1383 mother tongues recorded by respondents, hundreds were eliminated. After that, these mother tongues are categorized as languages. Approximately 5 crore people identified Bhojpuri as their mother tongue, and over 65 mother tongues, including Bhojpuri, were included under Hindi. Thus, while it is true that many Indians speak Hindi, we cannot deny that the vast majority of Indians do not speak the language.

India has a diverse culture, and the Constitution of India also upholds this diversity principle by making space for twenty-two languages in the Eighth Schedule. The irony is the idea of 'One Nation, One Language' is itself a foreign Idea. India always believed in Unity in Diversity.

The idea of 'One Nation One Language' is not compatible with Indian culture, because, India has a multilingual culture and every language has its relevance and history; some of the languages are even older than Hindi. Any idea of imposition of one language, whether Hindi, English, Urdu, or any other language will affect the economic condition of India as due to this migration will slow down and surely will affect the capital flow.

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<sup>5</sup> The Editorial, Diversity in unity, The Indian Express, Tuesday, April 12, 2022 pg.10



## One Nation One Election

The demand for conducting One Election for One Nation is not new in India, it has been going on for a long time. Recently, in 2014, it was seen in the election manifesto of the BJP that they are willing to introduce the said system in India, and in this regard, it has also planned to conduct 25 webinars to create a general opinion for One Nation- One Election.

In India, initially, elections were conducted at two levels first is at the Central and the another one is at State levels, after the 73<sup>rd</sup> and 74<sup>th</sup> Amendments in 1993, Parts IX and IXA were added to the Constitution and henceforth, elections are held at 3 levels- Central, States, and Local bodies, at Central level elections of President, Vice President, Lok Sabha and Rajya Sabha is conducted and at state level elections for Vidhana Sabha, Vidhana Parishad (at some states) are to be conducted, and at Local level, elections of Panchayats and Municipalities are conducted. It is generally believed that, when Prime Minister Narendra Modi talks about a One Nation One Election, he means that all the elections of the Centre and State should be conducted at the same time. It shouldn't be misunderstood that elections of all the states of India and the center will end in a single day. Rather it means that when the elections are conducted in one area, all the elections (Lok Sabha and Vidhana Sabha and Local Bodies) of that particular area should be conducted at the same time.

The present Government pointed out many advantages of implementing One Nation One Election such as it will lead to better governance in the country as due to the elections, the government is always in election mode and it causes disturbance in many aspects. By implementing one nation- one election, the government will be able to focus on policy-making and implementing the same and it will also help in maintaining the social fabric which always got disturbed at the time of elections.

But the major concern is that the implementation of One Nation One Election will disturb our scheme of Federalism and the national issues will get all the attention by neglecting the local issues. India is a diversified country, with several areas dealing with various problems, which has an impact on state politics and election schedules. Therefore, a one-size-fits-all strategy might result in serious political backlash and is at odds with the diversity of the country.<sup>6</sup>

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<sup>6</sup> Arun Kumar, 'One Nation, One Election' Will Further Weaken Indian Democracy, THE WIRE, Oct.10,2023, <https://thewire.in/politics/one-nation-one-election-further-weaken-democracy>



Shri S.Y. Qureshi<sup>7</sup> said that the scheme of election, India currently follows, increases the accountability of the leaders as they need to face the people more for demanding their votes in election campaigning.

### **Expanding powers of Border Security Forces**

The Ministry of Home Affairs in Oct. 2021 extended the Jurisdiction of Border Security Forces up to 50 km inside international Borders in three states namely, Punjab, West Bengal, and Assam.

Managing internal security threats in India is the principal responsibility of the Central Armed Police Forces, of which the BSF is one of the seven major divisions under the Ministry of Home Affairs. However, India's main defense bulwark against external threats is the Indian Armed Force, which is under the Ministry of Defense.

Powers, Duties, and Jurisdictional Limitations of BSF are provided under the Border Security Force Act, 1968, which gives the Central Government, and consequently, the Ministry of Home Affairs the Power to define BSF's jurisdictional limitation.<sup>8</sup>

BSF's Jurisdiction extends to 10 states and 2 Union Territories – Manipur, Mizoram, Tripura Nagaland, Meghalaya, Gujarat, Rajasthan, Punjab, West Bengal, and Assam and Union territories of Jammu and Kashmir and Ladakh, respectively, which share boundaries with either Pakistan or Bangladesh.

The Ministry of Home Affairs Notification of Oct. 2021 extends the powers of BSF which include arrest, search, and seizures from 15 Km to 50 Km inside the International Borders in Punjab, West Bengal, and Assam while the jurisdictional limit for Gujarat has been reduced from 80 Km to 50 km.

This addition of a 35 km stretch to the BSF mandate has led to criticism from the states of Punjab and West Bengal, the opposition party ruled states questioned the step and said that it is an encroachment upon their powers and against the Federal scheme of India.

According to Article 246 of the Indian Constitution, Public Order and Police are the subject of the State List subject to Entry 2A of the Union List which empowers the Central Government to make such changes when necessary.<sup>9</sup>

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<sup>7</sup> Former Chief Election Commissioner of India.

<sup>8</sup> Border Security Force Act, 1968, No. 47, Acts of Parliament 1968 (Section 139 cl.1)

<sup>9</sup> INDIA CONST. art. 246



BSF does not have Police Powers; after apprehending a suspect it can only conduct preliminary questioning and has to hand over a seized consignment or the suspect to the local Police within 24 hours. It does not have the power to prosecute crime suspects. Maintaining public peace, security, and Tranquility is primarily the responsibility of the State Government<sup>10</sup>, However, where there is a serious public disorder that threatens the security or defense of the state or of the Country itself, the situation becomes a matter of concern for the Union Government also.

On this, the Government of Punjab said that by doing such an act Central Government weakens the spirit of Federalism. In the Naga people movement, the Supreme Court also said that the union force must not supplement or substitute the civil powers in the state<sup>11</sup>

### **Farm Laws and Withdrawal**

On 5<sup>th</sup> June 2020, the Farm Bill was introduced in India, and even after a gradual protest by the farmers on September 27, 2020, President gave assent to them and they became Farm Laws and The situation became worse and the farmers of the country strongly opposed these Farm Laws and started ‘Dilli Chalo Andolan’ after that Central Government was ready to amend those laws but farmers were demanding to repeal them. In Dec. 2020 Bhartiya Kisan Union moved to Supreme Court against Farm Laws. Supreme Court stayed the implementation of Farm Laws as Farmers were on the roads to show their anger towards Farm Laws.

On the other hand, states like Chhattisgarh, Punjab, and Rajasthan passed legislation to counter the Centre’s Farm Laws and said that it shows the double standards of Indian federalism. After all, it became mandatory for the Indian government to Repeal those Laws, in the winter session of Parliament on December 1, 2021 Farm Laws were repealed formally.

All the anger, confusion, and confrontation could have been avoided if the Centre had first consulted the states about its proposed Farm Laws.

### **Indian Ports Bill 2021**

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<sup>10</sup> Entry 1, State List, VII Schedule.

<sup>11</sup> Naga People's Movement of Human Rights v. Union of India (1998) 2 SCC 109



Though there are many issues with the Indian shipping sector like high transportation costs, overaged vessels, shortage of skilled manpower, etc. the recent center-state controversy is regarding the authority on Minor Ports.

After the 18<sup>th</sup> meeting of the Maritime Development Council which was held in June 2021, it triggered the controversy between the centre and the states when the new Indian Port Bill was introduced. The Bill proposed to replace the Indian Ports Act of 1908 and introduced some central regulations in the affairs of minor ports which are till now an exclusive domain of state government. Indian ports handle over 95% of the country's total trade volume and around 70% of total trade value.

Stakeholders argue that the Indian Ports Bill, 2021, will negatively affect the economy due to its excessive regulation and centralization, which will limit the country's ability to develop port infrastructure on an even playing field, delay and slow down the addition of port capacity, and prevent foreign port developers from investing in India.<sup>12</sup>

Many concerned State Governments are of the opinion that The Union Government through the Maritime States Development Council seeks to appropriate the authority of states through this proposed Bill. These modifications will not lead to the development of the nation in the Maritime sector instead it will create an adverse impact on the growth of the nation. This excessive centralization of authority is against the very spirit of cooperative federalism.

On the other hand, according to the Central Government, the proposed modifications are intended to address maritime environment and safety concerns in a unified manner that is consistent with international standards. The question is not who owns the port, but rather who is responsible for accidents and disasters.

Here the Centre and the State Governments need to work in cooperation with each other. States ought to have autonomy, but that shouldn't come at the expense of federal duties. Give states complete control over business matters at small or private ports. Port fees and cargo handling decisions cannot be influenced by the central government. States must, however, acknowledge federal obligations in the areas of safety, security, and marine pollution.

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<sup>12</sup> Dharani Thangavelu, Excessive centralisation of ports will impact the economy of Indian states, THE NEWS MINUTE, (Oct. 11, 2021, 4.41 pm), <https://www.thenewsminute.com/news/excessive-centralisation-ports-will-impact-economy-indian-states-156380>



## **COVID-19 and center-state relations in handling it.**

The need for sustained cooperation is felt during the COVID-19 Pandemic and it reflects the potential of federalism in India's polity. The most cynical of chief ministers professed to work with the Centre to deal with the number of challenges posed by the pandemic.

Health is placed in the state list under Entry 6<sup>13</sup>, under the head of public health and sanitation; hospitals, and dispensaries. Few enlightened members of the constitutional assembly already visualized that health is a subject that should not be only the matter of the state concerned because disease knows no boundaries, it can easily spread from one state to another. They thought that it should be placed in the union list or at least in the concurrent list, Frank Antony and T.T. Krishnamacharya.

On analysis from the point of view of federalism, maintaining public health is primarily a matter of State concern but at the same time, Central Government also has some responsibilities.

In March 2020 when the cases were not in big numbers, the Centre imposed a nationwide lockdown, and without consulting the states, the central government centralized everything instead of helping local efforts to manage the outbreaks. In the second wave, when the number of cases tremendously increased centre left it to the states to decide whether lockdown to be imposed or not.

In 2021, when the vaccination drive started, the center had a muddled procurement process that seemed to change every other day, with prices that changed frequently as the center was getting vaccines at low rates as compared to states, and in private sector rates are much higher than anything and vaccine supplies were running out every day.

In 2020, decentralization was needed as cases were not high in numbers, and efforts should be taken at the local level. And in 2021, centralization was needed where the central government left the matter to the states. During the pandemic instead of co-operative federalism, competitive federalism was seen in India.

## **Conclusion**

Centralization and Decentralization cannot become the definite mantras of governance as the Indian Constitution itself came up with an idea of cooperation between the two. At times when a strong center is needed it is essential to work as a unitary state but at the same time, decentralization becomes essential in

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<sup>13</sup> INDIA CONST. (Sch VII).





normal parlance. When the Indian Constitution was made the circumstances were that we needed the strong centre essentially. But now as India has become more stable and state capacity improved it is required that the matters of local concern should be treated locally.

In examining the centralizing aspirations of a robust union government, it becomes evident that while such consolidation may promise efficiency and uniformity, it concurrently poses significant risks to the principles of decentralization and individual autonomy. The pursuit of a unified future necessitates careful consideration of the potential erosion of local governance and the diverse needs of distinct regions. Striking a delicate balance between central authority and regional autonomy remains a formidable challenge, as excessive concentration of power may undermine the pluralistic fabric of a nation. Furthermore, the implications for democratic processes and citizen participation demand thoughtful reflection, as a strong union government's influence can either fortify or jeopardize the democratic foundations of a nation. In navigating this delicate terrain, policymakers must prioritize inclusivity and adaptability, recognizing that the pursuit of unity should not come at the expense of diversity and the multifaceted identities that define a nation's strength. Centre and states should work under the spirit of cooperative federalism rather than combative federalism.