



Federal jurisprudence in India: A study of Supreme Court interpretations of Nature of Indian Federalism

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ABSTRACT

The Constitution of India is often referred as quasi-federal due to its centralizing tendencies but the judicial interpretations have progressively reshaped it. With the time, the Supreme Court of India has moved from strict interpretation of nature of Indian Constitution to the liberal one, providing a nuance meaning to it. This paper aims to study the evolving interpretations of the Supreme Court regarding the federal nature of Indian Constitution. The study analyzes the landmark judgements where Court relied on strict or liberal interpretation while defining the scope of Centre or State. The selection of judgements is made purposively. The scholarly interpretation of nature of Indian Constitution is also provided for better theoretical insight. The paper also tries to understand the evolution of judicial judgements from centre-dominant to constitutional balancing. The paper argues that Basic Structure Doctrine played an important role in evolution of Indian Federalism.

Introduction

The Constitution of India is the supreme law of the Union of India. It bags the title of world's lengthiest Constitution with each and every article discussed in detail. Still in case there arises any confusion regarding any provision, the Supreme Court of India, the highest one in hierarchy of judicial institutions is approached for clarification. The major provisions of the India Constitution are a result of the socio-economic and political circumstance prevailing during its enactment and enforcement. The linguistic,



cultural, regional and religious plurality of India demanded the federal thread to foster national unity along with accommodating the interests of the diverse population Indian political system saw a gradual shift from pre-dominant one-party rule to rise of regional parties leading to coalitions with more say of regional actors in national politics. The heterogenous character of Indian society, the regional, religious and linguistic plurality have led to the formation of different States and led to the rise of different political parties. These parties have over the years demanded more state autonomy in a centralized federal system leading to judiciary's active involvement. The Supreme Court have listened to the matters pertaining to nature of Indian Constitution and given its wider interpretations. Along with the shift in political scenario, the role of Supreme Court has also varied and have become more active throughout the years.

India's Federal Constitutional Framework

The Indian federalism is a combination of federal as well as unitary features. The Constitution of India has all the necessary features which set the proper ground for labelling India as a federation. The distribution of powers between Union (at national level) and State (at regional levels) governments is done through the Article 245-254 and Schedule VII of the Constitution of India which divide the sphere and marks the competence of these two levels of government. Further, this written constitution is the supreme law of the nation and the power of its interpretation lies with an independent judiciary. These features have helped to endorse the federal instinct through self and shared rule between the Union and State governments.

The other prime task of polity is to maintain the national unity and integrity intact. The unitary features in Constitution of India make its work at ground level. The strong Centre was a necessity of post-independence post-partition India having a plural population with diverse interests. Though the Constitution of India makes a distinction between the Union and State governments but this distribution is heavily tilted in favour of the Union. The Parliament is empowered to make laws on Union list but in certain circumstances (enforcing international treaties, on request of state governments, national interest) it could legislate on State list subjects too. Further the Parliament much high in matters of Concurrent list and in case of dispute the law made by Parliament prevails over the one framed by the state legislature. The residuary subjects also lie in the domain of Union. Second, the emergency provisions under Article 352, 356 and 360 empower the Union government to convert the federal structure into a unitary one. Third, The federal scheme is limited to the legislative and executive branches only which the judiciary is



still unified and integrated. The Supreme Court is the highest court while all other courts are subordinate to it and its decisions are binding on all the courts in the hierarchy.

These federal features of Indian Constitution are similar to those found in all classical federations like United States and Australia. But the existing circumstances required the Indian federation to be more tilted towards the Union portraying its resemblance to the Canadian federal model. The uniqueness of Indian federalism is that its federal features go hand in hand with the unitary features and the existence of these twin principles for over a period of seventy-five long years its advocates the success of vision of the constitution framers.

Scholarly Interpretations of the Nature of Indian Constitution

Dr B. R. Ambedkar in Constituent Assembly declared the Indian Constitution is federal. He supported the statement that it is federal in as much it establishes what may be called a Dual Polity. It can be both unitary and federal according to the requirement of time and circumstances. It is framed to work as a federal system in normal and unitary in times of war. Thus, Dr. Ambedkar gives a hybrid model which is federal in normal times but unitary in crisis.

On the basis of interpretation of the Constitution of India, the scholarly works give a different view to understand the nature of Indian Constitution. They do not just limit it as federal or quasi-federal but their interpretation goes a step ahead by explaining such stance. These interpretations are based on the thorough study of Indian Constitution. To have deeper understanding, the views of both Indian and western scholars are studied.

Western Thinkers

K.C. Wheare: He was the first scholar who designated the Indian Constitution as a **quasi-federal**. In his book 'Federal Governments' (1960) he studied the federal features of some countries and after comparing their features, he denoted India as an example of quasi-federal Constitution. He justified his stance that Indian Constitution is quasi-federal as India a unitary state with subsidiary federal features rather than a federal state with subsidiary unitary features. Wheare's interpretation is based on the comparison of Indian Constitution with the classical federation like USA which are based on bargaining model. The federal imbalance in favour of Centre made Wheare designate Indian Constitution as 'quasi-federal'



Benjamin N. Schoenfeld: He accepted the centralizing tendency of Indian federalism in his article *Federalism in India* (1959) and described it as **heavily centralized**. He stated that Indian Constitution was to accomplish its socialistic goals and centrally devised planned development which could be possible only with a more centralized Constitutional framework.

Granville Austin defines the Constitution of India as a perfect example of **cooperative federalism** with a strong central government. He views it as a unique form of federalism containing both federal and unitary features. This unique system reflects how the India's heterogenous structure with linguistic, cultural and regional diversity is very well accommodated within a unified framework.

W.H. Morris- Jones on the basis of his study of the Constitution of India denotes it as a cooperative federal structure. He goes a little further he calls it an example of **bargaining federalism**.

Sir Ivor Jennings: viewing the centralized pattern he names the Constitution of India as **federation with strong centralizing tendencies**.

Christopher Jeffrelot: He observes the highly centralized system as catalyst for more regional autonomy. He states that the rise of regional parties in states like Tamil Nadu, Punjab leads to increased demand for more regional representation in decision making thus challenging the hegemony of Union government. thus, from his work it becomes clear that he accepts the centralized nature of Indian federalism where regional actors try to get their share leading to progressive decentralization.

Louis Tillin have defined the Constitution of India as perfect mixture of cooperative and competitive federalism. The Centre and States cooperative with each other in legislative and policy matters along with competition in good governance and economic sphere between states. This justifies the federal principle of autonomy and shared rule.

INDIAN scholars

Durga Das Basu: He defines the Constitution of India as a **combination of unitary and federal features**. He views it as accomplishing dual motives i.e., holding federal spirit as well as establishing paramountcy of national interest.

M.P. Jain: As a part of his academic description of Constitutional law, he defines the Constitution of India as a **quasi-federal** where a strong central government was necessary to ensure national integration and stability.



Subrata Mitra: accepting the closely centralized framework, the scholar views the centralization as a limiting force to regional autonomy thus leading to a federal imbalance.

M. P. Singh & Rekha Saxena (2013) have referred Indian federalism as asymmetrical. The study of the special provisions for Jammu & Kashmir, north-eastern states and other scheduled areas by these scholars made them acknowledge the dis-similar mechanism adopted to incorporate the interests of diverse groups and areas.

Rekha Saxena: the eminent scholar of Indian contemporary politics views Indian federalism as cooperative and the one evolving dynamically. In her studies, she analyze the gradual shift of Indian federalism towards decentralized and cooperative over the years.

The summarized scholarly views about the nature of Constitution of India is presented below:

S.No.	Name of the Scholar	Nature of Indian Constitution
1.	K.C. Wheare	Quasi-federal
2.	Benjamin N. Schoenfeld	Heavily centralized
3.	Granville Austin	Cooperative federalism
4.	W.H. Morris- Jones	Cooperative and bargaining
5.	Sir Ivor Jennings	Federation with centralizing tendencies
6.	Christopher Jeffrelot	Initially centralized
7.	Durga Das Basu	combination of unitary and federal features
8.	M.P. Jain	Quasi-federal
9.	M. P. Singh & Rekha Saxena	Asymmetric
10.	Louise Tillin	Cooperative and competitive

Thus, we could say that different scholars have analyzed the federal provisions of quasi-federal Constitution of India and presented a concrete view of their understanding. This has enabled the young scholars to have a broader conceptual insight of Indian federalism and widened the scope of Indian federal studies.

Judicial Lens to Nature of Indian Federalism

The Supreme Court of India is the sole arbiter of the Constitution of India. The federal features along with the unitary ones raise concern about the true nature of Indian Constitution and necessitates its



interpretation. The question of defining the nature of Constitution of India comes across when powers of Parliament are in conflict vis-à-vis state. The extent of interpretation requires explanation in context of the nature of Indian federalism. The Court relies on certain principles of statutory interpretation such as strict, liberal, wider, harmonious construction etc.

Literal interpretation: when the Court relies on the literal meaning of sentences

Liberal interpretation: when interpretation is made based on purpose, flexible and justice-oriented

Wider Interpretation: textual expansion, going beyond words of statute

Based on the interpretation of nature of Indian Constitution, the judgements are categorization into two heads: based on strict interpretation and liberal interpretation. On the basis of time period of judgments and the political scenario in which they were delivered, the judgements based on wider interpretation as placed first.

(A) Judgements based on Strict (Literal) interpretation

The Supreme Court have relied on certain have in certain cases refuse to accept Indian Constitution as a federal one. This section analyze those cases where the judicial interpreted the Constitution in a liberal way.

State of West Bengal v Union of India AIR 1963 SC 1241

In this case, the Supreme Court ruled in favor of Union government and accepted the supremacy of Parliament in national economic matters. The Court justified the decision by stating that India is not truly federal similar to United States and Australia. It was the first instance where the judiciary accepted that India having a strong unitary bias character, is not alike the traditional federation due to its dominant Union government.

State of Karnataka v Union of India & Anr 1978 (2) SCR 1

In this case, the Apex Court upheld the quasi-federal character of Indian Constitution. It described the Constitution as not strictly federal due to the existence of strong unitary bias such as emergency provisions, appointment of Governors and legislative dominance of Union. Thus, the Court relied on the judicial precedents while defining the nature of Indian Constitution.

**Satpal v State of Punjab (1982) 1 SCC 12**

The Constitution of India is a combination of federal structure with unitary features. The Court explained that Indian Constitution cannot be treated as a true federation despite the provision of federal features due to the existence of strong centre and more unitary tilt.

State of Uttar Pradesh v. Zaved AIR 1984 SC 1095

The Supreme Court characterized the Indian Constitution as hybrid one. It was held that Constitution of India is a combination of federal structure with unitary features thus, not purely federal not unitary. The division of power between union and State as a federal feature and the central supremacy as the unitary bias character were recognized in this case.

Miss Rita Nirankari v University of Delhi AIR 1984 SC 1429

This case reiterated the earlier position of judiciary on Indian federalism as the Court held that India is not a federal state in traditional sense of the term due to the existence of strong control especially in legislative and administrative sphere. In these spheres States have limited autonomy while in financial matters the Union has complete authority. Hence, the Constitutional provisions again and again advocate a quasi-federal structure of India.

The Supreme Court in the above judgements relied on strict interpretation thus, refused to accept the federal character. The Court relied on literal meaning of provisions accepting the unitary-bias feature, thus defined the Constitution of India as quasi-federal or unitary bias or a hybrid one.

(B) Judgements based on Liberal Interpretation

In this section, we will understand the judicial stance in cases where federation was not just accepted as a feature of the Indian Constitution but declared as an indispensable part. The Indian Supreme Court have with the time shifted from strict interpretation to liberal interpretation particularly in matters related to Union and State relations.

Kesavananda Bharati v. Union of India (1973)

This is the landmark case in the jurisprudence of Indian federalism. In this case, the Supreme Court of India gave the **Basic Structure Doctrine** which states that Parliament is empowered to amend whole of



the Constitution except the Basic Structure of the Constitution. In this very case, the Honorable Supreme Court held that Constitution of India is federal in character. In a federal structure, the existence of both Union and State government is indispensable. Thus, from this case, federalism was accepted as Basic part of Indian Constitution, hence unamendable by Parliament..

S.R. Bommai v Union of India AIR 1994 SC 1918

This is the most significant judgement in the federal jurisprudence. The Court accepted the federal nature of Indian Constitution but the following judgements still relied on the quasi-federal character for the judicial decisions and interpretations of Union State issues. In 1994, the Court explicitly declared federalism is the part of Basic structure of Constitution of India. This established the supremacy of Constitution and provided protection to the State autonomy against the Parliament's dominance. It also brought the imposition of President's Rule under the scope of judicial review.

Kudip Nayar v. Union of India (2006) 7 SCC 1

This case was related to omission of the word 'domicile' from qualification for becoming a member of Rajya Sabha, the upper house of the Indian parliament. The Supreme Court expressed its view that the Indian federalism is a unique federalism but not a rigid one. It is different from American federalism as here in India, the upper House of the Parliament do not represent the States as in case of the American Senate. Thus, it upheld the omission of condition of 'domicile' from the qualification as member of the Rajya Sabha.

The following table summarize the judgements defining the nature of Indian Constitution:

Sr. No.	Based on Strict Interpretation	Based on Liberal Interpretation
1.	State of West Bengal v UoI (1963) - Not truly federal	Kesavananda Bharati v. Union of India (1973) - accepted Federalism as part of Basic structure
2.	State of Karnataka v Union of India & Anr (1978) - Quasi-federal	S.R. Bommai v Union of India (1994) - enforced Federalism as part of Basic Structure though quasi-federal
3	Satpal v State of Punjab (1982) - combination of federal structure with	Kudip Nayar v. Union of India (2006) - A unique federation different



	unitary features	from traditional federations
4	State of Uttar Pradesh v. Zaved (1984) - hybrid model	
5	Miss Rita Nirankari v University of Delhi (1984) - Not federal in true sense	

From the above judgements, it has become crystal clear that judiciary completely nailed its role as sole arbiter of the Constitution of India. In initial years of independence, the Supreme court relied on the centralized provisions and made decisions in view of the quasi-federal image of the constitution. But with the rise of regional parties and coalition politics, judiciary acknowledged state sovereignty as an important federal feature. S.R. Bommai judgement explicitly established this fact that federalism is the part of Basic Structure of the constitution, hence cannot be undermined at any cost. Thus, a shift from strict interpretation of Constitution to liberal interpretation helped to strengthen the federal balance.

Findings

1. During early 1970s and early 1980s, the Court focused on the strong centralizing tendencies during its interpretations and described it as quasi-federal. Due to the reliance on strict interpretation of hybrid features, the Court refused to consider it similar to the classical federations. This stance of the judiciary became visible in its initial judgements as the Court made several Centre-favored judgements just because of strong unitary bias character of Constitution.
2. While after the rise of coalition politics and S.R. Bommai judgement, the Court shifted towards liberal interpretation of federal provisions thus protecting the autonomy of States. Along with the change in political circumstance and rise of judicial activism, the judicial position on federal issues also became much clear. The image of Court have turned from promoting centralization to the savior of State rights.
3. The scholarly interpretations had a key role in determining the nature of Indian Constitution. In early phases, the quasi-federal title given by K.C. Wheare became the dominant and invisible factor behind judicial interpretation of Union-State issues along with reliance on the constitutional text and precedents.
4. The post-Bommai judgements maintain a federal balance thus, corroborating cooperative federalism.



Conclusion

The scholarly work and judicial advancements have brought a clarity to the nature of Indian federalism. The quasi-federal label in scholarly works and judicial decisions had ignited the centralizing trends in the early years of independence. As a result, it authorized the Union government to encroach in the State's domain. The Basic structure Doctrine adopted in Kesavanand Bharti case and reinstated through Bommai judgement has played a significant role in federalism oriented judgements and interpretations. The upgradation of judiciary from strict interpretations to liberal interpretations have made all the difference. This judicial refinement from once centre oriented to preserving state autonomy has helped in maintaining the federal balance. This has brought harmony between the Union and States leading to more cooperative federal system. Indian federalism is unique in itself as origin of federalism in India was due to its political needs thus if it is judged from the classical lens, then it will lose its originality. Hence, the quasi-federal character is not different from the other federations, provided it doesn't deviate from its basic principle of shared and self-rule.

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