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ABSTRACT:

The Indian Constitution, often described as a '*Bag of Borrowings*', is a model adapted to best suit India's diversity in every aspect¹. Out of all, Federalism is one such design inspired by the United States of America Constitution, however, modified to accommodate India's ethnic mosaic². Unlike rigid dual federalism, India adopts a quasi-federal framework balancing regional autonomy with strong central authority³. In this paper, an intersection between B.R. Ambedkar's envisioning of 'Constitutional Morality' and the vertical division of powers between the Union and States under Articles 245, 248, and the Seventh Schedule is analysed⁴. The study explores legislative competence across the Union, State, and Concurrent Lists, delving further into discussions of different doctrines such as pith and substance, colourable legislation, and territorial nexus, alongside landmark pronouncements⁵. Additionally, the paper deals with legislative reforms such as *Goods and Services Tax (GST)*, *National Judicial Appointments Commission (NJAC)*, and many more to explore the boundaries of state and central powers⁶. These initiatives, on one hand, highlight and promulgate cooperative federalism; on the other, they illuminate the delicate tension between legislative ambition and constitutional limits. Constitutional morality demands that those entrusted with power exercise it with restraint, remain faithful to the larger spirit of the Constitution, and work to strengthen democratic values. When legislative reforms are assessed through this lens, their legitimacy depends not only on conformity with constitutional text but also on adherence to its ethical foundations. This paper argues that such an approach ensures that law-making remains anchored in principles of fairness, accountability, and respect for institutional boundaries. Within this framework, India's quasi-federal structure acquires a distinctive character: judicial review and constitutional morality together operate as safeguards, preserving both national unity and democratic ideals while leaving space for meaningful decentralisation. This ensures

¹ Granville Austin, *The Indian Constitution: Cornerstone of a Nation* (Oxford University Press 1966) 1–5

² M.P. Jain, *Indian Constitutional Law* (8th edn, LexisNexis 2019) 42–45.

³ K.C. Wheare, *Federal Government* (3rd edn, Oxford University Press 1964) 102–105.

⁴ B.R. Ambedkar, *Constituent Assembly Debates*, vol. 8, 4 November 1948, para. 780–782

⁵ Sujit Choudhry, *The Migration of Constitutional Ideas* (Cambridge University Press 2006) 202–205.

⁶ Ibid 210–212

that the Constitution operates as a living framework, protecting governance in a diverse and plural society, while carefully balancing the powers of the Centre and the States.

Keywords: Constitutional Morality, Quasi-Federalism, Vertical Division of Powers, Residuary Powers, Legislative Competence.

I. INTRODUCTION:

The Constitution is treated as a Grundnorm⁷. However, merely having an eloquent Constitution is not enough; particularly in India, with its immense diversity in social, cultural, and political aspects, constitutional principles must be actively practised and preserved. Dr. B.R. Ambedkar, drawing upon George Grote's⁸ formulation, reminded the Constituent Assembly on November 4, 1948, that democracy in India would survive only if guided by constitutional morality — a value not innate to any polity but one that had to be “established and diffused” through practice. He cautioned that constitutions may be perverted without formally altering their text, simply by subverting the spirit of administration. For Ambedkar, constitutional morality demanded self-restraint, as unchecked power could erode freedom under a constitutional government. Against this backdrop, this paper examines Grote's idea of constitutional morality from the Indian perspective, with particular reference to federalism. It argues that the success of Indian federalism depends on cultivating constitutional morality, where the judiciary plays a critical role as mediator — maintaining checks and balances and preventing the legislature or the executive from transgressing their boundaries. By analysing constitutional morality in relation to India's federal structure, this paper highlights how it acts as a safeguard against centralisation, preserves the autonomy of states, and sustains the democratic spirit envisioned by the framers.

⁷ Hans Kelsen, *General Theory of Law and State* (Russell & Russell 1945) 100–105.

⁸ Grote's work on constitutional morality: Book, *A History Of Greece*, 12 Vol

II. CONCEPT OF FEDERALISM:

“Federalism”- a term coined in year 1787 during the phase of drafting of U.S. Constitution. However, the concept as a whole has its earlier links, in an Ancient Greek and Roman thoughts. Plato (in The Republic and Statesman) and Aristotle (in Politics), while not explicitly defining separation of powers, their writings on different governmental functions laid the groundwork. Aristotle, for example, categorized governmental functions into deliberative (legislative), magisterial (executive), and judicial. Similar principles were reflected in the Roman Republic's structure, with different bodies holding distinct powers. Johannes Althusius laid down the foundation of Federalism in year 1603 in his work *Politica Methodice Digesta*⁹ and Montesquieu¹⁰ used the concept of the Separation of Power for the very first time his book “The Spirit Of Law” in year 1748¹¹. Federalism is a governance- system where the power is not centralised, rather it is divided between the union and its various sub-sects, with every level of government having its distinctive power to administer and legislate. ***If the legislative and executive authorities are one institution, there will be no freedom. There won't be any freedom anyway if the judiciary body is separated from the legislature and executive*** – Charles de Montesquieu¹².

III. FEDERALISM IN INDIAN GRUNDNORM:

⁹ Johannes Althusius, *Politica Methodice Digesta* (1603); William E. Scheuerman, ‘Althusius, Federalism, and Modern Democracy’ in Edward C. Page and Martin A. Golding (eds), *Federalism and Democracy* (Palgrave Macmillan 2001) 25–40.

¹⁰ Charles Louis Secondat, Baron de la Brède et de Montesquieu (1689–1755), usually known as Montesquieu, French philosopher and Enlightenment thinker, author of *Lettres persanes* (1721) and *De l'esprit des lois* (1748), who critiqued absolutism and argued that a strong nobility was necessary to uphold law and mediate between monarch and people.

¹¹ The Doctrine of separation of powers was propounded by Montesquieu, which signifies that one body of persons or person should not exercise all three powers in the domain of the government. In other words, all three organs of the government should remain within their ambit of power and should not interfere in the working of the other organs without any reason. This is done so that no single organ gains excessive power or misuses its authority. To maintain this balance, a system of checks and balances is present, ensuring oversight and coordination among the three organs for the smooth and proper functioning of the government.

¹² Montesquieu (n 10) bk XI, ch 6.

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The Indian Constitution is more than a legal text; it is the embodiment of constitutionalism, a principle that ensures that government is conducted within the framework of established laws and limitations, preventing arbitrariness and concentration of power¹³. As Justice K. Ramaswamy observed, constitutionalism signifies that “no organ of the State is above the Constitution, and every action of the State must derive its authority from the Constitution¹⁴.” This makes the Constitution the Grundnorm, the foundational norm, in Hans Kelsen’s sense, from which every other legal norm draws validity¹⁵. At the same time, India’s constitutional journey is also guided by the ideal of constitutional morality, a term first articulated by Dr. B.R. Ambedkar in the Constituent Assembly. According to Ambedkar, constitutional morality means “the respect for the forms of the Constitution, adherence to the spirit of constitutional methods, and a rejection of authoritarian shortcuts.” In other words, constitutional morality requires both institutions and citizens to operate within the limits of the Constitution while upholding values like equality, liberty, fraternity, and the rule of law. The Supreme Court in ***Government of NCT of Delhi vs. Union of India***¹⁶, reaffirmed that constitutional morality acts as a compass ensuring that constitutional principles are not reduced to hollow rhetoric but become living realities in governance. Against this philosophical background, the Indian Constitution is often described as a “***Bag of Borrowings***”, reflecting its eclectic nature¹⁷. Federalism, as one of its central features, was largely inspired by the United States, where powers are distributed between the federal and state governments¹⁸. Yet, the framers deliberately avoided a rigid model of “dual federalism¹⁹.” Instead, drawing also from the ***Government of India Act, 1935***, they crafted a quasi-federal model with a unitary tilt, conscious of India’s diversity and its need for strong national unity in the aftermath of Partition²⁰. Here, constitutionalism ensures that the allocation of powers is not absolute but

¹³ Granville Austin, *The Indian Constitution: Cornerstone of a Nation* (Oxford University Press 1966)

¹⁴ K. Ramaswamy, ‘Constitutionalism and Federalism in India’ (1999) 3 SCC J 21.

¹⁵ Hans Kelsen, *Pure Theory of Law* (Max Knight tr, University of California Press 1967).

¹⁶ *Government of NCT of Delhi v Union of India* (2018) 8 SCC 501.

¹⁷ Granville Austin, *The Indian Constitution: Cornerstone of a Nation* (Oxford University Press 1966).

¹⁸ K.C. Wheare, *Federal Government* (3rd edn, Oxford University Press 1963).

¹⁹ Ibid.

²⁰ *Government of India Act 1935*.

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subject to judicial review and constitutional limits, while constitutional morality requires both Union and States to exercise these powers with respect for the federal spirit²¹. The division of powers in India is twofold: horizontal (*between the Legislature, Executive, and Judiciary*) and vertical (*between the Union and the States*)²². While the horizontal division secures checks and balances among organs, preventing tyranny, the vertical division embodies the federal principle, distributing legislative competence across levels of government. This vertical allocation is anchored in Article 245, which lies at the heart of the legislative scheme²³. Article 245(1) empowers Parliament to make laws for the whole or any part of India, while State Legislatures may make laws for the whole or any part of their respective States²⁴. Article 245(2) clarifies that no law made by Parliament shall be invalid merely because it has extra-territorial operation²⁵. Importantly, Article 245 opens with the phrase “***subject to the provisions of this Constitution***”, a non obstante clause that subordinates legislative power to constitutional limitations such as fundamental rights, distribution of powers under the Seventh Schedule, and the basic structure doctrine²⁶. This non obstante phrase itself is a manifestation of constitutionalism — a constant reminder that even Parliament, despite its supremacy in law-making, is not sovereign in the Westminster sense but derives its legitimacy from the Constitution. Courts have consistently reinforced this view. In ***G.V.K. Industries vs. ITO***²⁷, the Supreme Court held that although Parliament’s extra-territorial competence is wide, it must bear a nexus with India’s interests, ensuring that legislative power is not exercised arbitrarily. In ***State of West Bengal vs. Union of India***²⁸, the Court famously declared that Indian States do not enjoy sovereignty comparable to their American counterparts; they are constitutionally subordinate to the Union. These judgments reflect that constitutionalism tempers legislative power while constitutional morality demands that such power be exercised in a spirit of federal

²¹ Granville Austin (n 1).

²² M.P. Singh, Indian Federalism: Structure and Process (Eastern Book Company 2004).

²³ Constitution of India, art. 245.

²⁴ Ibid, art 245(1).

²⁵ Ibid, art 245(2).

²⁶ Ibid, art 245.

²⁷ G.V.K. Industries v ITO (2011) 7 SCC 678.

²⁸ State of West Bengal v Union of India (1963) 2 SCR 855.

cooperation rather than domination. The Seventh Schedule operationalises Article 245 by dividing subjects into the Union List, State List, and Concurrent List²⁹. While Parliament legislates on matters of national importance (*defence, foreign affairs, banking*), *States handle local concerns (police, public order, agriculture)*, and both share competence over subjects in the Concurrent List (*criminal law, marriage, forests*). Here again, constitutionalism emerges in Article 254, which resolves conflicts between Union and State laws by granting primacy to Union law but allows State laws with Presidential assent to prevail within that State³⁰. Constitutional morality, in this context, calls for restraint and collaboration — neither the Centre nor the States should misuse their legislative competence to undermine the spirit of federalism. The allocation of residuary powers under Article 248 exclusively to Parliament further illustrates the centralising tendency of the Constitution. While critics view this as undermining federalism, the framers justified it as necessary to maintain unity in a rapidly modernising nation. As K.C. Wheare observed, the Indian Constitution is federal in form but unitary in spirit — what he termed a “*quasi-federal Constitution*³¹”. Yet, the true test of this design lies not merely in textual allocation but in its faithful practice through constitutional morality, ensuring that centralising provisions are not abused to stifle State autonomy. Although Articles 245–246 allocate legislative competence, constitutionalism requires more than textual distribution of power. It demands effective safeguards to prevent legislative overreach and ensure that neither Parliament nor State Legislatures transgress their constitutional boundaries. Over the years, Indian courts have evolved interpretative doctrines such as pith and substance, colourable legislation, territorial nexus, and repugnancy. These doctrines act as judicially crafted guardrails of constitutionalism, while simultaneously requiring legislatures to respect the spirit of constitutional morality by exercising restraint and cooperating rather than competing.

III.I DOCTRINE OF PITH AND SUBSTANCE:

²⁹ Constitution of India, Seventh Schedule.

³⁰ Constitution of India, art 254.

³¹ Constitution of India, art 248.

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The doctrine of pith and substance reflects the constitutional principle that what really matters is the essence of a law and not its outward form. Its focus is on the true character of legislation, ensuring that a law is tested on whether it substantially belongs to the field of the enacting body, even if it incidentally touches upon another field. In *State of Bombay v. F.N. Balsara*³², the Bombay Prohibition Act was questioned for crossing into the Union List dealing with import and export of liquor. The Court, however, upheld the Act, reasoning that in substance it related to public health, which falls under the State List. Similarly, in *State of Rajasthan v. G. Chawla*³³, the Court again clarified that incidental encroachment does not make a law invalid so long as its core purpose lies within the legislature's own competence. Thus, the doctrine prevents the rigid invalidation of laws on the basis of minor overlaps. At the same time, constitutional morality demands that legislatures act in good faith, staying true to their allotted fields, and not use this doctrine as a cover to mask encroachment or centralising tendencies.

III.II DOCTRINE OF COLOURABLE LEGISLATION:

The doctrine of colourable legislation is summed up in the maxim that what cannot be done directly should also not be done indirectly. It acts as a shield against laws that, on the face of it, appear valid but in substance go beyond the legislature's competence. In *K.C. Gajapati Narayan Deo v. State of Orissa*³⁴, the Supreme Court made it clear that this doctrine is not about questioning the motives of the legislature but about examining whether it had the power to make such a law in the first place. If legislature lacks competence, clever wording or indirect means cannot cure the defect. This approach reflects constitutionalism by ensuring that law-making powers remain confined within their constitutional limits. Alongside, constitutional morality requires legislatures to avoid camouflaging or disguising legislation for short-term political goals, and to respect both the letter and the spirit of the constitutional division of powers.

III.III DOCTRINE OF TERRITORIAL NEXUS:

³² *State of Bombay v F.N. Balsara* AIR 1951 Bom 1.

³³ *State of Rajasthan v. G. Chawla* (1959) 1959 AIR 544 1959 SCR Supl. (1) 904

³⁴ *K.C. Gajapati Narayan Deo v State of Orissa* AIR 1953 SC 123.

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Article 245(1) allows Parliament and State Legislatures to make laws “for the whole or any part of the territory of India.” However, constitutionalism makes it clear that such laws must have a real and reasonable connection with the territory to which they apply. In A.H. Wadia v. ITO (1949)³⁵ and later in Tata Iron & Steel Co. v. State of Bihar (1958)³⁶, the Court recognised that extra-territorial laws could be valid if there existed a sufficient territorial nexus. This interpretation maintains Parliament’s wide authority but at the same time ensures that law-making does not become arbitrary or overreaching. From the lens of constitutional morality, legislatures are expected to exercise restraint and avoid unjustified extensions of power, as such practices can undermine the autonomy of States or even disturb relations with foreign jurisdictions.

III.IV DOCTRINE OF REPUGNANCY:

Article 254 reflects the doctrine of repugnancy, which steps in to settle conflicts when both Parliament and State Legislatures make laws on subjects listed in the Concurrent List. As a rule, the Union law prevails, though a State law on the same subject may continue to operate if it has secured Presidential assent. In M. Karunanidhi vs. Union of India (1979)³⁷, the Supreme Court explained that repugnancy does not arise from mere overlap but only when both laws are otherwise validly enacted and there exists a direct, irreconcilable conflict between them. Through this lens, constitutionalism safeguards the primacy of Parliament in concurrent matters, while constitutional morality imposes a duty of restraint on the Union — reminding it not to exercise its superiority in a way that crushes state autonomy, but instead to nurture the cooperative spirit of federalism where dialogue and assent-based accommodation take priority.

III.V JUDICIAL REVIEW AS THE GUARDIAN OF FEDERAL BALANCE:

Ultimately, these doctrines reflect that the judiciary acts as the sentinel of constitutionalism, ensuring that the Grundnorm is not diluted. In Kesavananda Bharati vs. State of Kerala

³⁵ A.H. Wadia v ITO AIR 1949 Bom 314.

³⁶ Tata Iron & Steel Co. v State of Bihar AIR 1958 SC 452.

³⁷ M. Karunanidhi v Union of India (1979) 3 SCC 409.

(1973)³⁸, the Court read federalism into the basic structure doctrine, immunising it from legislative destruction. Similarly, in *SR Bommai v. Union of India* (1994)³⁹, the Court elevated federalism and constitutional morality by holding that President's Rule cannot be imposed for partisan ends.

IV. EMERGING CHALLENGES IN INDIAN FEDERALISM:

While historical and recent legislative episodes illustrate the interplay between constitutionalism and constitutional morality, contemporary India faces several challenges in maintaining federal equilibrium. These challenges arise when the Centre or States, driven by policy objectives or administrative efficiency, test the boundaries of constitutional authority. One recurring issue is the use of Ordinances. While ordinances serve as expedient instruments for urgent governance, their frequent or prolonged use can tilt the balance of power towards the Centre. Constitutionalism requires that such extraordinary powers remain temporary, necessary, and within the ambit of legislative competence, while constitutional morality calls for restraint, consultation with States, and avoidance of arbitrary interference⁴⁰. Similarly, the role of Governors in State administration has periodically emerged as a point of contention. Situations involving discretionary powers, such as recommending President's Rule, highlight the tension between ensuring constitutional compliance and respecting State autonomy. Constitutionalism demands adherence to legal boundaries and procedural propriety, whereas constitutional morality requires neutrality, fairness, and cooperation in Centre-State relations⁴¹. Legislative reforms affecting sensitive sectors have also prompted debates on federal balance. For instance, the National Education Policy 2020 and the Farm Laws 2020 triggered controversies regarding the extent of Union authority in traditionally State-controlled

³⁸ *Kesavananda Bharati v State of Kerala* (1973) 4 SCC 225.

³⁹ *S.R. Bommai v Union of India* (1994) 3 SCC 1.

⁴⁰ Constitution of India, art 123; S.P. Sathe, *Judicial Activism in India: Transgressing Borders and Enforcing Limits* (Oxford University Press 2002) 101–102.

⁴¹ Constitution of India, art 356; S.P. Sathe, *The Role of Governors in Indian Federalism* (Eastern Book Company 2015) 75–80.

domains⁴². While such laws aim to achieve national uniformity and efficiency, they underscore the need for meaningful consultation with States, reflecting both constitutionalism and constitutional morality. ***The Constitution (One Hundred and Thirtieth Amendment) Bill, 2025***, which proposes the automatic removal of the Prime Minister, Chief Ministers, and other Ministers if arrested for 30 consecutive days on charges punishable by imprisonment of five years or more, further illustrates the challenges of reconciling reform with constitutional safeguards⁴³. While proponents emphasize accountability and integrity, critics argue that it risks undermining the presumption of innocence and government stability. This debate exemplifies the delicate balance between enforcing ethical governance and respecting democratic principles. In all these instances, the principles of constitutionalism and constitutional morality operate as guiding frameworks. Constitutionalism ensures that legislative and executive action remains anchored within constitutional limits, while constitutional morality emphasizes self-restraint, cooperation, and adherence to the ethical spirit of the Constitution. Taken together, these principles serve as a normative compass, guiding India's quasi-federal system in addressing contemporary challenges while ensuring that the foundational values of constitutional governance are not undermined.

V. LEGISLATIVE ATTEMPTS TO TRANSGRESS

CONSTITUTIONAL BOUNDARIES: CONSTITUTIONALISM AND MORALITY IN INDIAN FEDERALISM:

The Indian Constitution sets out a clear framework for the separation of powers and for the federal distribution of legislative authority. Yet, in practice, these boundaries have repeatedly been tested by legislative actions that seek to stretch or even circumvent them. From the earliest years of the Republic, both Parliament and State legislatures have at times attempted to extend their reach—whether in the pursuit of socio-economic reform, the consolidation of political authority, or the swift implementation of policy. Such efforts highlight the constant tension

⁴² Ministry of Education, National Education Policy 2020

⁴³ Constitution (One Hundred and Thirtieth Amendment) Bill, 2025, Lok Sabha Bill No. 135 of 2025

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between constitutionalism, which requires that all law-making remain within the limits prescribed by the Constitution, and constitutional morality, which demands restraint, respect for the federal balance, and fidelity to the Constitution's spirit. In the years immediately after independence, some of the earliest constitutional tensions arose around land reform. State governments, determined to dismantle the zamindari system and ensure redistribution in favour of tenants, began passing wide-ranging legislation. These measures, however, often clashed with the constitutional protection of the right to property under Article 31. A turning point came in ***State of Bihar vs. Kameshwar Singh (1952)***⁴⁴, where parts of the Bihar Land Reforms Act were invalidated as unconstitutional. To overcome this judicial resistance, Parliament enacted the First Amendment in 1951, which introduced Articles 31A and 31B and created the Ninth Schedule. While this move was justified politically as a step towards social justice, it also signalled an early example of the legislature attempting to insulate its actions from constitutional scrutiny. The courts, invoking constitutionalism, recognized that while legislative aims may be noble, they must respect the boundaries established by the Constitution, a principle reinforced during the Emergency era through ***Kesavananda Bharati vs. State of Kerala (1973)***⁴⁵ and later ***Minerva Mills vs. Union of India (1980)***⁴⁶, which underscored that Parliament could not alter the basic structure, including the federal balance, under the guise of amendments. Subsequently, the enactment of the ***Anti-Defection Law (Tenth Schedule, 1985)*** illustrated a more subtle form of legislative transgression. By granting the Speaker extensive powers to decide on disqualifications, the legislature effectively positioned itself as the arbiter of internal parliamentary disputes, potentially undermining the independence of individual legislators. In ***Kihoto Hollohan vs. Zachillhu (1992)***⁴⁷, the Supreme Court upheld the law but clarified that judicial review could still intervene, restoring the check of constitutionalism and emphasizing the principle of constitutional morality — that legislators should exercise authority without subverting the integrity of the Constitution. Another domain where

⁴⁴ State of Bihar v Kameshwar Singh AIR 1952 Pat 248.

⁴⁵ supra

⁴⁶ supra

⁴⁷ Kihoto Hollohan v Zachillhu (1992) Supp 2 SCC 651.

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legislative encroachment became evident was the establishment of tribunals under Articles 323A and 323B. While intended to reduce the burden on regular courts, tribunals often assumed quasi-judicial powers, risking the dilution of judicial independence. In ***L. Chandra Kumar vs. Union of India (1997)***⁴⁸, the Supreme Court struck down provisions attempting to exclude judicial review of tribunal decisions, reiterating that judicial oversight is intrinsic to the Constitution's Grundnorm and cannot be bypassed by legislative fiat. A more contemporary illustration of legislative overreach can be found in the ***National Judicial Appointments Commission (NJAC) of 2014***. Through the 99th Constitutional Amendment, Parliament attempted to replace the collegium system with a commission that would include members of the executive and a set of "eminent persons." This design, however, raised immediate concerns because it introduced political elements into the process of judicial appointments. In ***Supreme Court Advocates-on-Record Association vs. Union of India (2015)***⁴⁹, the Supreme Court invalidated the amendment, holding that judicial independence forms an essential component of the Constitution's basic structure. The judgment underscored that any legislative measure compromising this independence runs contrary to the idea of constitutional morality. What emerged from this episode was the tension between Parliament's pursuit of greater accountability and the judiciary's insistence on safeguarding autonomy, a reminder of the fragile equilibrium between reform and constitutional fidelity. The introduction of the ***Goods and Services Tax (GST) in 2017*** stands as a striking example of how legislative reforms reshape federal dynamics. The GST framework, through the creation of the GST Council, aimed to unify the system of indirect taxation across India. While this initiative enhanced fiscal efficiency, it also raised concerns about curtailing the States' traditional fiscal autonomy under the State List. In ***Union of India vs. Mohit Minerals (2022)***⁵⁰, the Supreme Court clarified that the recommendations of the GST Council are advisory in nature rather than binding, thereby reaffirming the autonomy of States while promoting the spirit of cooperative federalism. This development highlights the duality of constitutional practice: Parliament's attempts to

⁴⁸ L. Chandra Kumar v Union of India (1997) 3 SCC 261.

⁴⁹ Supreme Court Advocates-on-Record Association v Union of India (2015) 5 SCC 1.

⁵⁰ Union of India v Mohit Minerals (2022) 2 SCC 482.

consolidate power for uniformity are tempered by constitutionalism and the ethos of federal morality, which function as safeguards against over-centralisation. The passage of the Aadhaar Act, 2016 provides yet another illustration of legislative overreach. By classifying it as a Money Bill under Article 110, Parliament effectively sidestepped the Rajya Sabha's role, thereby diluting bicameral scrutiny. In ***Justice K.S. Puttaswamy vs. Union of India (2018)***⁵¹, the Supreme Court upheld the scheme's core provisions for welfare delivery but expressed grave reservations about the procedural route adopted, with Justice Chandrachud memorably terming it a "***fraud on the Constitution.***" The case reaffirmed that even legislation aimed at promoting public welfare must adhere to procedural propriety to honour constitutional morality. A more recent illustration of this tension was the enactment of the three Farm Laws in 2020, which attempted to overhaul agricultural markets—a field that traditionally falls within the domain of the States under List II. Although the laws were later withdrawn, their passage drew widespread criticism as an instance of federal overreach. Many viewed the episode as undermining the principle that Union–State relations should be shaped by dialogue and cooperation, rather than unilateral assertion by the Centre. The controversy offers a broader reminder that constitutional morality is not confined to procedural compliance alone. It also has a normative dimension, requiring respect for the fragile balance between national authority and State autonomy that the Constitution envisions⁵². In conclusion, a review of developments ranging from the land reform laws of the early Republic to more recent legislative experiments reveal a recurring pattern: both Parliament and State legislatures, in pursuit of reform, efficiency, or uniformity, have at times pushed the outer limits of their constitutional competence. In response, the judiciary has consistently invoked the principles of constitutionalism to reinforce the Constitution's fundamental structure, ensuring that legislative power operates within its intended boundaries. At the same time, constitutional morality has served as a guiding ethic, reminding every organ of government that power must

⁵¹ Justice K.S. Puttaswamy v Union of India (2018) 10 SCC 1.

⁵² See *State of Gujarat v Union of India* (2018) 12 SCC 1 (upholding State competence in GST-related disputes and reiterating cooperative federalism); also see 'The Repealing of the Three Farm Laws' (Press Information Bureau, 29 November 2021).

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be exercised with restraint and in harmony with the larger purposes of the Constitution. Taken together, these experiences highlight that Indian federalism is not static but dynamic, demanding ongoing negotiation, institutional self-discipline, and fidelity to constitutional design. They reaffirm that while the vertical and horizontal division of powers is often tested, it continues to endure through a balance of authority and autonomy—allowing the Constitution to remain a living document capable of accommodating India's diversity and evolving governance needs.

VI. MOVE TOWARDS COOPERATIVE FEDERALISM:

Building on the discussion of India's quasi-federal design and the delicate balance it maintains between central authority and state autonomy, it becomes equally important to examine how the Constitution nurtures the idea of cooperative federalism. Unlike the rigid notion of watertight compartments, cooperative federalism envisions the Union and the States working together on matters of shared concern, rather than asserting unilateral dominance. Although the term itself does not explicitly appear in the Constitution, it has evolved in practice as a necessity in a country as diverse and complex as India. Its development is deeply connected to the principle of constitutional morality, which calls for governance that harmonises national unity with regional autonomy. The framers anticipated this by embedding mechanisms of collaboration to ensure that federalism worked not only in theory but also in day-to-day governance⁵³. A notable example is the Inter-State Council under Article 263, which empowers the President to establish a platform for dialogue among States on issues of common interest. This body institutionalises consultation and joint problem-solving, reflecting constitutional morality by emphasising respect, consensus, and cooperative engagement rather than unilateral directives from the Centre. Over the years, such mechanisms have played a key role in resolving inter-state disputes, managing river waters, and promoting joint development initiatives, thereby demonstrating how India's federal framework balances rigidity with

⁵³ Constituent Assembly Debates, Vol VIII, 1949 (Dr B R Ambedkar noting the need for Centre-State cooperation in governance).

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flexibility.⁵⁴ Another significant illustration is the Inter-State Water Disputes Act, 1956, enacted to address conflicts between States over shared rivers. While the Act gives adjudicatory powers to the Centre, it also creates a process that allows States to present claims and participate in tribunals. Here, the Union operates less as a dominating authority and more as a mediator or facilitator, ensuring that federalism functions as a collaborative partnership. **In Brijesh Kumar vs. Union of India (2007)**⁵⁵, the Supreme Court stressed that such frameworks should foster meaningful state participation, thereby realising the framers' constitutional vision of cooperative governance. The trend toward cooperative federalism was further consolidated with the rise of centrally sponsored schemes from the 1960s onward in areas like health, education, and rural development. Although initiated by the Union, these programmes required active participation by States in planning and execution. This demonstrates the constitutional philosophy that while the Centre may set broad national priorities, the States remain indispensable partners in implementation. Such arrangements embody constitutionalism by ensuring that both levels of government function within their constitutional limits, upholding equilibrium and preventing the overreach of either side⁵⁶. A contemporary and significant illustration of cooperative federalism is the implementation of the Goods and Services Tax (GST) through the 2017 Constitutional Amendment. The GST Council, created under Article 279A, represents an innovative federal arrangement in which both the Union and the States collaboratively determine tax rates, exemptions, and administrative protocols. Although the Centre holds considerable legislative authority, the Council functions on the principles of consultation, consensus, and proportional representation, reflecting constitutional morality and the ethos of cooperative federalism. Initial concerns suggested that GST might centralize fiscal power and undermine State autonomy; however, judicial scrutiny, notably in **State of Kerala vs. Union of India (2018)**⁵⁷, confirmed that the Council's consultative framework ensured meaningful State involvement. This case demonstrates how legislative design can harmonize

⁵⁴ Constitution of India 1950, art 263.

⁵⁵ Brijesh Kumar v Union of India (2007) 4 SCC 1.

⁵⁶ Granville Austin, *Working a Democratic Constitution: A History of the Indian Experience* (Oxford University Press 1999) 186–190.

⁵⁷ State of Kerala v Union of India (2018) 3 SCC 56.

administrative efficiency with the constitutional commitment to maintaining a balanced federal structure.

VII. CONCLUSION:

In conclusion, the Indian Constitution represents a careful equilibrium between national unity and regional diversity, seeking to harmonize a strong central authority with meaningful State autonomy. The structural and procedural design—embodied in Articles 245, 248, and the Seventh Schedule, and reinforced by doctrines such as pith and substance, colourable legislation, and territorial nexus—constitutes the backbone of India's quasi-federal system. Features that appear to strengthen central authority—such as residuary powers vested in Parliament, the extraordinary provisions for national emergencies, and the discretionary role of Governors—should not be seen merely as instruments of domination. Instead, they reflect the framers' pragmatic response to the realities of governing a diverse and often divided society. These safeguards were designed to preserve unity and stability in moments of strain, ensuring that the larger fabric of the nation remained intact while still leaving space for regional expression. At the same time, the evolution of cooperative federalism demonstrates that the Constitution was never meant to be static. It is a flexible framework that adapts to changing circumstances while holding firm to its core principles. Instruments such as the Inter-State Council, the Inter-State Water Disputes Act, centrally sponsored schemes, and the GST regime illustrate how collaboration is embedded within the federal structure. These mechanisms encourage consultation and participation, and their legitimacy rests on constitutional morality—the expectation that governance should be shaped by mutual respect, ethical restraint, and sensitivity to both national priorities and local needs. In this way, India's federal model embodies Dr. B.R. Ambedkar's vision of democracy not as a system of rigid legality but as one grounded in moral responsibility. Ultimately, the Constitution operates as more than a legal text. It is a living framework whose effectiveness depends as much on practice as on principle. Its success lies in the commitment of the legislature, executive, and judiciary to act within their defined spheres, while also recognizing the shared responsibility of maintaining federal balance, unity, and democratic values. Seen in this light, India's quasi-federal

experiment emerges as a distinctive achievement—an innovative blend of borrowed constitutional ideas and indigenous adaptations. It shows how constitutionalism, tempered by morality, continues to provide the means to manage pluralism without losing cohesion.

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