

**GIFT DISCUSSION PAPER SERIES**

**2025**

**11/2025**

**The Evolution of Fiscal Federalism in  
India: Assessing the Transformative  
Impact of the 101<sup>st</sup> Constitutional  
Amendment and GST**

**Vidya V Devan**



Gulati Institute of Finance and Taxation  
Thiruvananthapuram, Kerala, India

The discussion paper series of GIFT provides a vehicle for the preliminary circulation of the research undertaken.

The papers are subjected to blind reviewing prior to publication. It is intended to stimulate discussion and critical comment.

The views expressed in this publication are those of the author(s). Publication does not imply endorsement by the institute of any of the views expressed.

This article can be cited as Vidya V Devan (2025). The Evolution of Fiscal Federalism in India: Assessing the Transformative Impact of the 101st Constitutional Amendment and GST (GIFT Discussion Paper Series 11/2025). *Gulati Institute of Finance and Taxation*.

GIFT discussion papers are freely downloadable from the website [www.gift.res.in](http://www.gift.res.in)

**The Evolution of Fiscal Federalism in India:  
Assessing the Transformative Impact of the  
101st Constitutional Amendment and GST**

**Vidya V Devan**

Assistant Professor

Gulati Institute of Finance and Taxation, Trivandrum.

## **Abstract**

Federalism is a governance structure that integrates multiple tiers of government, National and State or Provincial, within a unified political framework while preserving the autonomy of its constituent units. Fiscal federalism, a vital dimension of this system, pertains to the allocation and sharing of financial powers between these levels of government, including the authority to levy, collect, and appropriate taxes. In India, fiscal federalism has undergone a significant transformation since 1950, with the decade from 2010 to 2020 witnessing a particularly notable shift following the 101st Constitutional Amendment of 2016, which introduced the Goods and Services Tax (GST). This paper traces the evolution of India's fiscal federalism, with special reference to how the introduction of GST has redefined the financial relationship between the Union and the States.

**Key Words:** Fiscal Federalism, Revenue sharing, State Autonomy, Goods and Services Tax (GST)

*United we stand, divided we fall*

*- John Dickinson<sup>1</sup>*

## **1. Introduction**

Federalism represents a system of governance that operates through multiple tiers of government, one at the national level and others at the state or provincial level. It serves as a mechanism to unify several autonomous and diverse units, each with distinct identities and powers, into a single political union<sup>2</sup>. The Constitution of federal countries articulates how powers and responsibilities must be shared and how they ought to work effectively within their allotted jurisdictions. Both units co-exist as sovereign powers and accomplish their duties independently.

Currently, nearly 40% of the global population resides in about 26 countries that follow a federal system of governance, encompassing some of the world's largest and most complex democracies, such as India, the United States, Canada, Australia, Brazil, Germany, and Mexico<sup>3</sup>. In federalism, essentially seen in democratic countries, the Constitution grants the authority and powers to the Central Government and the Provincial Government. Executive, legislative and financial powers, which are core powers of the sovereign, are shared or allocated among the Centre and the State perspicuously by the Constitution. Fiscal federalism denotes the sharing of financial powers between the Centre and the State. As part of the federal system, the States were given authority to raise revenue and manage their public finances. Levying, collecting, and appropriating taxes forms a key aspect of fiscal federalism.

India's concept of fiscal federalism has significantly evolved since 1950. The decade from 2010 to 2020 marked a period of profound change, particularly with the enactment of the 101st Constitutional Amendment in 2016, which paved the way for the implementation of the Goods and Services Tax (GST). This article explores the evolution of fiscal federalism in India, with a major focus on assessing how the 101st Constitutional Amendment and the introduction of GST have transformed the financial relationship between the Union and the States.

## 2. Federalism

“*Fedous*,” the Latin word, which signifies ‘treaty or agreement’ is the parental word of Federation. This term represents the philosophies of promise, obligation, and undertaking.<sup>4</sup>

Ancient Rome used the term “*Fedous*,” in more than one allied form (*foederati*)<sup>5</sup>. The agreement encompasses numerous situations that establish the perpetual social relations of the contracting parties. “*A foedus aequum was a bilateral agreement recognising both parties as equals obliged to assist each other in defensive wars or when otherwise called upon, in perpetuity. A foedus iniquum defined Rome as superior, the second party being bound to assist Rome in offensive wars, thus limiting the ally's sovereignty*”. This itself is imbibed in the concept of federalism that two units exist by maintaining fair mutual relations while at the same time assisting each other in some form of federalism and recognising the superiority of the Centre in some other form of federalism.

A century ago, Alexis de Tocqueville expressed that, “*The federal system was created with the intention of combining the different advantages which result from the magnitude and littleness of nations*”

Two types of federations exist in the world, formed by “coming together” and “holding together.”<sup>6</sup> The first type arises when certain provisional units voluntarily enter into a treaty or agreement to coexist within a federation characterised by a strong union. Here, the independent States realise that it is beneficial for them to remain united for their safety and development without surrendering their entire sovereign powers. Each provisional unit retains its identity and enjoys equal rights.

The socio-economic and political conditions made the unitary States realise that they could survive external threats only by joining together. This awareness led them to form a union so they could collectively address shared challenges.<sup>7</sup>

In the second model, due to the extremely diverse features, the country decides that, for proper governance and progress, it is virtuous to share powers and responsibilities between the Centre and the constituent units so that regional interests are adequately represented. Here, the Centre retains more power than the provincial units or States. India’s federation is in the form of “holding together.” The Centre and States exercise their sovereign powers within their respective jurisdictions, ensuring that neither intrudes upon the authority of the other.

K.C. Wheare, who is known as the father of ‘contemporary federal theories’ vocalises federalism as *“the method of dividing power so that general and regional governments are each within a sphere co-ordinate and independent.”*<sup>8</sup>

## **2.1. History of federalism in the world**

Early traces of federalism are evident in ancient Greece, “rather than constitutional design, federalism was a system of cooperation which involved sentiments of common primordial descent and

ethnic togetherness, and their ritual expressions.”<sup>9</sup> The Greek federal units were known as *koinon* or *sympoliteia*. Even rearing in integration *koinon* upheld certain political prerogatives and privileges that emphasised the features of a genuine political community.

In the modern political era, **Johannes Althusius** (1557–1630) introduced the idea of federal governance.<sup>10</sup> In his work in 1603, *Politica Methodice Digesta*, often regarded as the first comprehensive published theory of federalism, Althusius argued for the autonomy of his city, Emden. He advocated that Emden should be free from interference by both its Lutheran provincial lord and the Catholic Emperor, emphasising the city’s right to self-governance. Althusius preferred a non-sectarian, non-religious and contract-based political theory of federations over theocracy. He was against the State intervention, though it is for the genuine progress of the State and belief.

**Ludolph Hugo** (1630–1704) was the foremost one to “differentiate confederations based on alliances, decentralised unitary States such as the Roman Empire, and federations, characterised by ‘double governments’ with territorial division of powers”, in his work *De Statu Regionum Germanie* (1661).

Through *The Spirit of Laws* (1748) **Baron de Montesquieu** (1689–1755) “argued for confederal arrangements as combining the best of small and large political units, without the disadvantages of either.” He believed that small States are convenient for the efficient administration and to avert the possible misuse of authority. The small units also get protection from the national government. Montesquieu, though he doesn’t use the word ‘federal’, favors a ‘natural empire’ which functions through an array of intermediary institutions and local authorities instead of a multifaceted web of overlapping jurisdictions.<sup>11</sup> He articulates that the moderate form of

government lies between this trifling balance of anarchy and harmony. Through his book: *L'esprit des lois* (1748), he prescribed a theoretical foundation for the modern confederation.<sup>12</sup>

**Immanuel Kant (1724–1804)** examined the concept of federation more deeply, in a wider angle and seriously than any other political thinker. He believed that a universal *fodus pacificum* (pacific federation) of republics was essential for public legal justice,<sup>13</sup> which could create eternal peace, and *“If public legal justice perishes, then it is no longer worthwhile for men to remain alive on this earth.”*<sup>14</sup> In his work *Perpetual Peace: A Philosophic Sketch* (1795), Kant explicated the idea that only a “Federation of Free States” can secure everlasting peace at the international level.

### **John Stuart Mill (1806-1873)**

John Stuart Mill his book ‘Considerations on Representative Government’ (1861), emphasises that a stable federal government depends on three fundamental conditions.<sup>15</sup> The First precondition is sufficient mutual sympathy among the members. He says that the race, language, religion and political institutions can act as the basis for mutual harmony. Secondly, he articulates that the realisation of inter-dependence on other countries for preserving themselves against external aggression itself is the main pre-pre-condition for a secure federal government; otherwise, the individual States will not sacrifice their independence, and thirdly, the uniting States may not be internally strong to exist as an independent Nation.

J.S. Mill emphasises that the existence of an independent judiciary is essential for the effective functioning of a federal government.

“Under the more perfect mode of federation, where every citizen of each particular State owes obedience to two

governments, that of his own State and that of the federation, it is evidently necessary not only that the constitutional limits of the authority of each should be precisely and clearly defined, but that the power to decide between them in any case of dispute should not reside in either of the governments, or in any functionary subject to it, but in an umpire independent of both. There must be a Supreme Court of Justice, and a system of subordinate courts in every State of the Union, before whom such questions shall be carried, and whose judgment on them, in the last stage of appeal, shall be final.”

The concept of federalism gained widespread recognition with the establishment of the American federal system. Progressing through the Classic Confederation, which was entered to by the colonies in 1770, the American federal system was established through the Declaration of Independence of the United States of America in 1776.<sup>16</sup> The Constitution of the United States was drafted in September 1787 and was adopted on June 21, 1788.<sup>17</sup> The establishment of the Federal government in America cured the flaws of the preceding confederation period and ensured the rights of the constituent States as well as the people.<sup>18</sup>

In the initial period of the Constitution in 1788, a system of dual federalism was established where the States and the Federal/Central government were equally strong and entertained responsibilities which rarely overlapped, and hence this system is referred to as 'layer cake federalism'.<sup>19</sup>

By the Fourteenth Amendment in 1868, significant position was granted to the federal government, and the citizenship of the United States was supreme to the citizenship of the constituent States.<sup>20</sup> In the late 20th and early 21st centuries, the concept of New Federalism gained prominence. This approach aimed to

restore greater power and autonomy to the states, a shift that began under President Ronald Reagan in the early 1980s and persisted until 2001.<sup>21</sup> Afterwards, despite the dominance of a centralist approach, the states retained significant powers that enabled them to coexist within the federal framework.

Daniel Elazar, while highlighting that liberty can be well preserved in the federation States, voices that *“the central interest of true federalism in all its species is liberty,” adding that although the system of federalism established by the United States Constitution recognises “State liberties”, its real aim is the preservation of individual liberty.*”<sup>22</sup>

In 1975, an American political scientist, William H. Riker, described that *“Federalism is a political organisation in which the activities of government are divided between regional governments and a central government in such a way that each kind of government has some activities on which it makes final decisions.”*<sup>23</sup>

Riker emphasises that political bargaining plays a crucial role in federalism, as states may sacrifice some independence to form a union for territorial expansion or protection against external aggression.

## **2.2. Kinds of federalism**

Different countries adopt different modes of federalism according to their socio-economic and political situations. The most common types of federalism prevailing in federal countries are

1. Dual federalism (layer-cake federalism)
2. Cooperative federalism (marble cake federalism)
3. Creative federalism
4. Competitive federalism.

### **2.2.1. Dual federalism**

It represents the form of government where the national and state governments have exclusive authority within the specifically demarcated spheres of jurisdiction.<sup>24</sup> The constituent units possess equal powers without overlapping. It is compared to the layers of a cake, where the components do not intermingle with one another. That is why it is known as layer-cake federalism. The best example of this mode of federalism is the traditional Constitution of the United States of America. The factors which led to the origin of the concept of federalism are the United States Supreme Court rulings, which prohibited the encroachment by the federal government and the State governments into each other's jurisdictions, and economic policies adopted by the governments are against the mutual interference. This concept developed around 1870, when both the Federal Government and the State governments derived their authority from the Constitution, which also demarcated the powers and responsibilities of each unit. Both units act within their respective spheres without overlapping. As both units possess autonomy, the phenomenon is also known as dual sovereignty. The United States Constitution also mitigated the rigid separation between the two units gradually.

### **2.2.2. Cooperative federalism (*marble cake federalism*)**

In this mode of federalism, apart from the distribution of powers, the constituent units move together by cooperating and coordinating. This is beneficial for both the units and the country as a whole. In certain countries, this was adopted out of necessity to face the economic depression and the external aggressions. While functioning in coordination, several powers and duties overlap or intermingled between the Centre and the State, and this is resembled of the marble cake, hence the term 'marble cake

federalism.’ The development of cooperative federalism occurred during the period of the 1930s.

Cooperative federalism may pave the way for strengthening national authority by diluting the demarcated authorities through overlapping of powers between the Centre and the State governments, resembling the mixing layers in a marble cake.

Granville Austin voices that the Indian Constitution was the first country to adopt cooperative federalism from its initial period.<sup>25</sup> Only cooperative federalism can ensure the development of every area of the country, and only the local government can assess the weakness of the local areas and make up it. Sharing resources and offering grants-in-aid to states are key illustrations of cooperative federalism, demonstrating the central government’s concern for the welfare of state governments.

### **2.2.3. Competitive federalism**

In competitive federalism, there will be the presence or desirability of competition among the federal government and the States and also between the States.<sup>26</sup> This type of federalism is common in countries that do not follow strong centralisation policies and where the self-governing rights of the States are much prevalent. Here, the central and State governments may compete for greater economic benefits and increased foreign investment.

There are two types of competitive federalism, intergovernmental and inter-jurisdictional. In inter-governmental competition, the competition is between different levels of government, i.e between the central government and the State government, the State government and the local government. Even though the aggressive competition is not a healthy one, the competition with

true spirit can create accountability among the different levels of government.

Competition between governments, enjoying equal powers in a federal system, is called inter-jurisdictional competition, e.g., the competition between the provinces or the States (inter-state competition) and competition between local authorities (inter-local competition). These types of competitions are also known as horizontal competition. This type of competition may develop effective and disciplined fiscal relations, better productivity and novelty.

Though the common belief is that competitive federalism destroys the unity of the country and overall development of the nation will be stagnated, other arguments favour it, like it brings about effectiveness in administration & boosts developmental activities. Albert Breton, in his work, mentioned “that competition is good for a federal system as it is the only mechanism that can ensure that a system operates to the benefit of citizens, not to that of governmental officials.”<sup>27</sup>

#### **2.2.4. Creative federalism**

In Creative Federalism, more power is exercised by the central government, which also determines the needs and functions of the States. The federalism of predominance of the centre is also known as ‘picket fence restricts’, because it restricts and controls the autonomy of the State, as the fence confines the yards of the home.<sup>28</sup> This type of federalism originated in the 1960’s which paved the way for the weakness of the States.

### 3. Fiscal federalism

A nation's effective functioning largely relies on its financial resources. It is essential to ensure that funds reach every part of the country to support welfare and developmental activities. True national progress can only be claimed when growth extends to every region. Since it is difficult for the Centre to manage every detail across all areas, Indian federalism facilitates this through a three-tier system—Centre, State, and Local bodies. Fiscal federalism pertains to the distribution of revenue between the Central and State governments to enable them to perform their respective responsibilities.<sup>29</sup>

The Indian Constitution establishes a solid economic foundation for the nation by providing a detailed framework for financial sharing between the Centre and the States. Fiscal federalism describes the financial relationship between the Union and its constituent States. The American economist Richard Musgrave pioneered the term fiscal federalism in 1959.<sup>30</sup> In 1999, Wallace E. Oakes said that fiscal federalism *“is concerned with understanding of which responsibilities and instruments are best centralised and which are best placed in the sphere of three decentralised layers of government. The concept applies to all forms of government: unitary, federal and confederal.”*<sup>31</sup>

Under fiscal federalism, the Indian Constitution allocates financial power to the three levels of Government to levy, collect and appropriate the taxes through a schematized approach. Both governments should possess authority and sources for accruing the financial resources required for performing their administrative, as well as developmental and welfare functions.<sup>32</sup>

In the words of Amaresh Bagchi, *“the art of federalism lies in designing institutions with appropriate assignment of powers and functions among different orders of government and rules to regulate their relationship, especially*

*in the fiscal arena that can strike the right balance among different objectives and resolve tensions.”*

#### **4. Evolution of Indian fiscal federalism**

Article 1 of the Indian Constitution states, “India, that is Bharat, shall be a Union of States.” As one of the world’s lengthiest written constitutions, it begins by emphasising this foundational principle. In doing so, the framers envisioned a governmental framework that blends both unitary and federal features. India stands as a prominent model of federalism, notable for its vast number of constituent units and remarkable diversity. The framers consciously opted for a federation with a strong central authority, fearing that a weak Centre could lead to the risk of states breaking away from the union. Indian federalism possesses several distinctive features. While federal in nature, it maintains a considerable level of centralisation. The evolution of fiscal federalism in India can be broadly categorised into two stages: the pre-independence period and the post-independence development.

##### **4.1. Development of fiscal federalism till 1947**

India never had a history of effective reign from a single place and under uniform laws, owing to its large size and diversity.<sup>33</sup> Instead, the region was historically administered by numerous independent kingdoms across various territories.

The Maurya dynasty (322B C-180B C), which originated in the Maghada period, integrated numerous kingdoms and republics, which can be considered as the first federation in the history of India.<sup>34</sup> For administrative convenience, decentralisation was followed and local administration was carried about independently from the Centre unless centralized specifically. Kautilya had

followed the principle of fiscal federalism by specifying to maintain separate revenue sources for the central government and for the villages.<sup>35</sup> The main source of revenue for the village was charges for grazing and fines for non-participation in public works.

During the Gupta period, local administration was entrusted to *kumaramatyas* (head of province) and *ayuktas* (district head). More freedom was given to them than in the Maurya period. A Council was created for each city, ensuring local representation.

When the Mughals started their reign, they ruled India through *Subbadars* and *Devans* in *subhas* (provinces). The Mughal administrative arrangement of governing by dividing the empire into Subhas or provinces was a perfect example of federal government. During this period also South India was also ruled by different small kingdoms.

From the Mauryan to the Mughal period, the traces of federalism that are evident were implemented solely for administrative convenience. The constituent units were under the supervision of the king, who is the sovereign power, and were never granted full autonomy to the units.

The East India Company commenced trade in India under a charter granted by Queen Elizabeth, and later initiated governance in India through charters issued by the Crown. The initial form of centralised governance was established in 1773 by the Charter of 1773, which gave the Calcutta Presidency authority over the presidencies of Madras and Bombay.<sup>36</sup> It was only in 1833 that a Central fiscal authority with presidencies as constituent units was established. With the implementation of the Charter Act of 1833, the Governor-General of Bengal was redesignated as the Governor-General of India.<sup>37</sup> The administration was centralised

under the Governor General of India, and legislative and financial powers were entrusted to him. Presidencies were treated as administrative units.

After the 1857 revolts, the First War of Independence, the British crown took over the power from the East India Company and established its sovereign power in India.<sup>38</sup> To establish their power and control a strong centralised rule was adopted in the initial years.<sup>39</sup> But later, analysing the Indian situation, they realised that it would not be effective to govern such a vast area with such diversity by a single centralised governance.<sup>40</sup> Some sort of decentralisation of administration and revenue was essential for the governance, and decided to entrust responsibilities and some powers to the provinces.

It was Samuel Laing who first recommended and highlighted the need for the allocation of financial powers, including the power to tax, to the provinces.<sup>41</sup> He suggested that the constituent units should have access to revenue sources sufficient for their effective functioning.

#### **4.1.1. The mayo settlements**

The decentralisation of finances in India was initiated for the first time through Lord Mayo's Resolution issued on December 14, 1870. Under this scheme, certain responsibilities and services such as jails, police, education, medical services, roads, and civil works were assigned to the provinces, a system that continues in principle to this day. The finances for carrying out these duties were also allocated to the provinces through the Provincial *Financial Settlements*. The financial year of April 1st to March 31st was adopted in India, and the first budget according to the new arrangement was presented in 1860-61. The success of the Mayo Scheme prompted the government to proceed in this direction.

More powers were allotted to the provinces, which were annually revised. Revenue was organised into “India, Provincial and Divided”, which can be considered as the initial form of Union List, State List and Concurrent List. Gradually, the system of *divided heads of revenue* evolved.

The process of decentralisation was further advanced by Lord Lytton in 1877, who transferred administrative control over areas such as stamps, excise, land revenue, and law and justice to the provinces. To enable them to carry out these responsibilities effectively, certain revenue sources—such as excise duties and licence fees—were also assigned to the provinces.<sup>42</sup>

Lord Rippon, who followed liberal and democratic ideals, headed the decentralisation policy more admirably by dividing the revenue sources into imperial, provincial and divided, which continued till 1919.<sup>43</sup> The imperial items were administered by the Centre and the provincial by the provinces, and the divided heads of income were equally distributed between the Centre and the provinces. Lord Rippon was the pioneer of local self-government in India. Local bodies were created, and the financial powers were provided under the strict superintendence of the government. The financial policies and sharing of powers were initially reviewed annually, and later on, from 1882, it was made quinquennially.

Lord Curzon, though a supporter of strong centralisation, continued the decentralisation policy for effective governance. Rather than withdrawing the surplus funds from the provinces, he permitted them to retain the amount for the following year and granted additional funds for the development of education and agriculture.<sup>44</sup> The quasi-permanent settlements of revenue sharing were initiated by Lord Curzon in 1904 to cure the flaws of the quinquennial system. Under the new arrangement, some subjects

were placed under the exclusive control of the Government of India and the Provinces, while certain other specified subjects were shared between them. Following the recommendations of the Royal Commission on Decentralisation (1909), steps were taken to reorganise administrative structures, marking a significant move towards decentralisation during Lord Hardinge's tenure. During his tenure from 1910 to 1916, Lord Hardinge implemented several administrative reforms, notably in the area of land revenue. Around this period, quasi-permanent settlements were being formalised in provinces such as Punjab to ensure greater stability and continuity in revenue administration.

#### **4.1.2. Government of India Act, 1919**

The Montague-Chelmsford reforms, which resulted in the Government of India Act, 1919, is the next milestone in the evolution of Centre-State financial relations.<sup>45</sup> By this Act Diarchy was introduced in India. The "*divided heads*" of financial sharing followed till then was withdrawn, and a new form of distribution of heads of income was adopted, which provided better administrative individuality and powers to the provinces. Sources like income tax, non-alcoholic excises including salt, customs, currency and mint, and contributions from railways, and post and telegraph were administered by the Central government, and sources like land revenue, alcoholic excises, irrigation charges, judicial stamps, forest receipts and registration fee were allocated to the provinces, which enabled them to raise the revenue needed for them. The revised revenue-sharing arrangement enabled the provinces to generate resources for their administrative needs and even accumulate surplus revenue. Progressive measures such as granting the right to levy taxes and the authority to borrow marked a significant milestone in the evolution of federal finance in India. The Government of India Act, 1919, classified the administrative subjects into Central and Provincial.<sup>46</sup> The

provincial was again classified into transferred subjects and reversed subjects. The revenue sources were also distributed between the Centre and the Provinces. It was the beginning of presenting separate budgets for the Centre and the Provinces. The arrangement resulted in a budgetary deficit for the Government of India, while the provinces experienced revenue growth. Consequently, it was proposed that the provinces should share a portion of their revenue with the Centre.

The 'Finance Relations Committee,' headed by Lord Meston, was entrusted to enquire and submit the proposals regarding the financial relations, especially the sharing of revenue.<sup>47</sup> They submitted the reports in 1920, which dealt with budgetary plans of the coming years, contributions from the Provinces to the Centre, etc.<sup>48</sup> The Committee's view was that the extra revenue of the Province was due to the new developments in sharing, which may not last long. They recommended a scheme of contributions in the initial period which may later on converted into a standard contribution within 7 years. This prevailed till 1928-1929. The positive outcome of this scheme in favour of provinces was the recommendation for the sharing of the proceeds of the income tax.

### **4.1.3. Simon commission**

The Indian Statutory Committee, with Sir John Allsebrook Simon as chairman, was appointed in 1927<sup>49</sup> to evaluate the working of the Government of India Act, 1919 submitted its reports in 1930. The report suggested the purging dyarchy in the provinces and advocated for instituting the central administration. The report was against the arrangement of subjects into "reserved" and "transferred." The report laid out a novel scheme for the apportionment of resources among the Central and the Provincial

Governments, and also suggested the expansion of the tax base by a levy of new taxes.

Sir Walter Layton, the Financial Advisor of the Commission, suggested the categorisation of taxation powers as

- “(i) Taxes collected and appropriated by the Centre;
- (ii) Taxes collected and appropriated by the provinces;
- (iii) Taxes collected by the Centre and distributed among the provinces based on origin; and
- (iv) Taxes collected by the Centre and distributed among the provinces based on population.”<sup>50</sup> This distribution is a legacy that is followed even today with slight modifications.

#### **4.1.4. Nehru report**

Indian national leaders were unhappy with the Government of India Act of 1919 and began demanding greater freedom and self-rule. They boycotted the Simon Commission and continued their protests until its report was released in 1930. Frustrated by these protests, Lord Birkenhead, the Secretary of State for India, challenged the national leaders to draft a constitution for the country. The challenge was accepted by Indian political leaders who appointed a committee to prepare the draft with Motilal Nehru as its chairman. The draft Constitution was prepared by the committee, which was known as the “Nehru Committee Report.” The Nehru Report, submitted on August 10, 1928, was really a prelude to the present Constitution of India. The highlighted feature of the report was the federal form of government. Dominion status was suggested for both levels of government. A federal pattern of Government in which the

residuary powers were entrusted with the Centre was proposed by the national leaders explicitly before the Government of India Act 1935.<sup>51</sup> Bicameral legislation, independent judiciary, nineteen fundamental rights, no separate electorate, etc were other suggestions.<sup>52</sup>

#### **4.1.5. Peel committee I**

In 1931, the first Peel Committee was formed under the chairmanship of Viscount Peel to examine issues related to the distribution of revenue sources between the Centre and the provinces. The committee made several recommendations,<sup>1</sup> including the view that all income tax revenues should be allocated to the provinces, a suggestion that none of the later committees supported.

#### **4.1.6. The Percy committee**

The Percy Committee of 1932, headed by Lord Percy, criticised the scheme of dispersal of revenue based on “origin”, “population” and “collection” as it was not equitable. After a thorough examination of the income tax system, the committee

---

<sup>1</sup> Recommendations were

“(i) Income Tax should be levied and collected by the central Government, but the entire proceeds of it should be assigned to the provinces; (ii) Central tax revenues should be mostly derived from indirect taxation; (iii) Any resultant central deficit should be met from provincial contributions which should not continue beyond fifteen years; (iv) If after fifteen years there was any surplus in the central finances, the central government should allocate the surplus to the units instead of reducing taxation; (v) Constitution itself should lay down the proportions in which such funds should be divided among the units; and (vi) an expert committee should be appointed to lay down the criteria by which the proceeds of income tax should be allocated among the provinces.”

recommended that the allocation process should be comprehensive, simple and easily manageable. Rather than allotting the entire proceeds to the provinces, it must be shared by the federal government and the provinces. It should imbibe the ideals of autonomous constituent units of the federation. He also expressed the view that a major part of the revenue can be accumulated from the consumption taxes.

#### **4.1.7. The peel committee II**

The Peel Committee II in 1932 was a subcommittee appointed by the third-round table conferences. It was presided over by Viscount Peel, who stressed a two-fold distribution of revenue from the taxes on income. One share to the federal government and the other share exclusively for the provinces, allotted on a permanent basis by the constitutional provisions.

The government issued the *White Paper on Constitutional Reforms* in December 1931, which suggested a “*New Indian Constitution with an accountable government in the provinces and the principle of dyarchy at the Centre*”<sup>53</sup>. It also gives due importance to the financial sharing and recommends the allocation of revenue derived from the income tax to the provinces, not less than half of the total revenue and not more than three-fourths of the total revenue. The Percy Committee also recommended equal powers for the Federation and the Provinces to impose surcharges on income tax to meet their respective needs. Key suggestions included: (i) agricultural income tax and corporation tax should go to the provinces and the Centre respectively; (ii) the Centre should share proceeds of salt duty, excise on Central List items, and export duties with the provinces; and (iii) terminal taxes and death duties should be collected by the Centre but distributed among the provinces.

#### **4.4.1.8. Joint parliamentary committee on Indian constitutional reforms, 1934**

The Committee appointed by His Majesty's Government was also in conformity with many of the proposals of the White Paper, except for two things. It was of the view that there is no need to go further than 50 % share of income tax to the provinces, and also did not favor granting of power to provinces to impose the surcharges.

#### **4.4.1.9. Government of India Act, 1935**

The Government of India Act, 1935, was the second revolutionary and innovative measure towards a responsible self-governing government in India and in the advancement of Centre-State financial relations. Being the lengthiest Act of British India, it consists of 321 Sections and 10 schedules.<sup>54</sup> By this Act, dyarchy at the Provincial level was withdrawn; instead, dyarchy was introduced at the Centre.<sup>55</sup> An All-India Federation was established, and provincial autonomy was strengthened.

The British Government, by analysing the functioning of the Government of India Act, 1919 and reports of the Simon Commission and other sub-committees, formally accepted that India needs a new form of Government which incorporates all the constituent units, i.e British India and the Princely States<sup>56</sup>. For this, a federal type of government was most suitable, in which the Princely States in India are provided with autonomous powers in their respective spheres. The formation of the federation was never completed as the princely States did not concede to merge with the federation, as it was not compulsory for them to join the federation.

Centre – State relations were encompassed with more precision, and the powers were clearly demarcated under three lists like:

“Federal List (for Centre, with 59 items),

Provincial List (for provinces, with 54 items) and

Concurrent List (for both, with 36 items).

The Viceroy was entrusted with the Residuary powers.” This is the base pattern which followed in the Constitution of India when it was drafted in 1950. In terms of financial relations, the existing system was revised. Following the approach of the Meston Settlement, the taxation powers were structured accordingly.

- a) Taxes levied, collected and retained by the Federal government<sup>2</sup>
- b) Taxes levied, collected and appropriated exclusively by the provincial governments.<sup>3</sup>

---

<sup>2</sup> Taxes like corporation tax, currency and coinage, receipts from railways and post and telegraphs, import and export duties and military receipts were the main revenue source for the federal Government.

<sup>3</sup> Excise duties on alcoholic liquors, opium, Indian hemp and other narcotic drugs, narcotic and non-narcotic drugs, medicinal and toilet preparations manufactured and produced in the Provinces, land revenue, irrigation, duties in respect of succession to agricultural land, taxes on mineral rights, capitation taxes, taxes on professions, trades, callings and employments, taxes on animals and boats, taxes on sale of goods and on advertisement, cesses on the entry of goods into the local area, taxes on luxuries, entertainments, amusements, betting and gambling, stamps and registration, duties on passengers and goods carried on inland waterways, tolls, fees in respect of any of the matters in the provincial list but not including fees taken in any court were the major subjects assigned exclusively to the Provinces.

- c) Taxes levied and collected by the Federal government but allotted to the provinces.<sup>4</sup>
- d) Taxes levied and collected by the Federal government but shared with the province.<sup>5</sup>
- e) Grants-in-aid.”- These types of arrangements continue to shape India’s fiscal federal structure.

The provisions for writing off the debt due to the Centre governments attained before 1935 were included, the practice which was followed by certain Finance Commissions after independence. The Act comprised provisions for deciding the percentage of revenue to be allocated to the Provinces, the rules regarding grants-in-aid, administration of the accounts for their own purposes by the provinces, separate budget arrangements for the federal government and the provinces, etc. The Government of India Act, 1935, provided the rudimentary pattern for Indian fiscal federalism.

#### **4.4.1.10. Indian financial enquiry report, 1936**

Although the Government of India Act, 1935, addressed federal–provincial financial relations, some issues remained unresolved. To address these, Sir Otto Niemeyer was appointed in January

---

<sup>4</sup> Duties on succession to property other than agricultural land, stamp duty on bills of exchange, cheque, promissory notes, bills of lading, letters of credit, insurance policies, proxies, receipts, terminal taxes on goods or passengers carried by railway or air and taxes on railway fares and freights were proposed to be levied and collected by the Federal Government but net proceeds of such duties and taxes was allocated to the Provinces.

<sup>5</sup> A specific percentage of the net proceeds of taxes on income other than agricultural income, salt duties, excise duties on tobacco and other goods not included under the State excise duties anti export duty on jute and jute goods were distributed among the Centre and the Provinces.

1936 to recommend improvements.<sup>57</sup> His mandate included determining the provinces' share of central tax revenue and setting procedures for grants-in-aid. Following the White Paper, he proposed allocating at least 50% of income tax revenue to the provinces and emphasised special consideration for certain regions. His recommendations were implemented through the Government of India (Distribution of Revenues) Order, 1936, which remained in effect with minor changes in 1940 due to World War II until 1947. During the war, the Centre retained Rs. 4.5 crores from the provincial income tax share to strengthen its finances.

#### **4.4.2. Revamping fiscal federalism during the making of the constitution.**

In 1946, the newly elected Labour Government in England, headed by Clement Atlee, decided to make arrangements for transferring the power to Indian leaders and for this, the Cabinet Mission Plan was constituted with three cabinet ministers as its members; it is considered a declaration of Indian Independence. They recommended creating an Indian union *which is limited to maintaining its own affairs, including defence, foreign affairs and communications*. The Constituent Assembly was constituted and entrusted with the responsibility of drafting the Constitution for India.

The first meeting of the elected members of the Constituent Assembly was commenced on 9th December 1946,<sup>58</sup> which concluded with the adoption of the Constitution in 1950. Even though the drafting committee was progressing in the line of suggestions made by the imperial commission for more provincial autonomy and limited powers to the Centre, some further events, like the partition of India- Pakistan, persuaded the framers of the Constitution to adopt a strong centralised government. They

recognised that excessive provincial autonomy alongside a weak Centre could result in fragmentation among the constituent units, leading them to opt for a Constitution with quasi-federal features<sup>59</sup>.

At the Constituent Assembly debates, Shri Jawaharlal Nehru highlighted the need for a strong center that *“it would be injurious to the interests of the country to provide for a weak central authority which would be incapable of ensuring peace, of coordinating vital matters of common concern and of speaking effectively for the whole country in the international sphere and hence we come to the conclusion that the soundest framework for our Constitution is a federation, with a strong Centre.”*<sup>60</sup>

#### **4.4.3. National integration and constitutional fiscal federalism since 1947**

At the advent of independence, India was not in a united form, it consisted of British provinces and Princely States governed by the Indian royals.<sup>61</sup> Lord Mountbatten was entrusted with the duty to hand over the sovereign power to the Country by settling the unrest prevailing at that time. By the Mountbatten Plan, which got the assent on 18th July 1947, British India was partitioned into the two new independent dominions of India<sup>62</sup> and Pakistan<sup>63</sup>. India was designed into a federation of States with a strong Centre. Later the States were reorganised on the linguistic basis in 1956.<sup>64</sup> Thus, with extensive differences in the administrative powers, especially the financial powers, India adopted asymmetric federalism.<sup>65</sup> Asymmetric federalism means federalism based on unequal powers and relationships in political, administrative and fiscal arrangements spheres between the units constituting a federation. In India, the administrative and fiscal powers vary widely with the Centre and the States, the Union Territories with a legislature, and the Union Territories without a legislature.”

India stands unmatched in its level of diversity compared to any other country. While reorganising the vast diversity, it was decided to give considerable autonomy to the States so that they can choose their own path of development based on their social conditions and practices.<sup>66</sup> This necessitated money at their disposal. Moreover, every State possesses its own peculiar features in financial, social, and educational conditions, which necessitate the determination of tax rates corresponding to their necessities. Allocation of the authority or the powers between the Centre and the States has been framed in the model of the Government of India Act of 1935<sup>67</sup> and drawn three lists, the Union List, the State List and the Concurrent List.

Several Indian states had independent financial arrangements, and maritime states collected their own customs duties, leading to internal tariff barriers. During national integration, it became essential to resolve these issues and create a financial framework that ensured state autonomy while maintaining central authority, due to its wider responsibilities. To draft the Centre–State financial relations in the Constitution, an expert committee was set up. The committee was chaired by Nalini Ranjan Sarker; the members were V.S. Sundaram and M.V. Rangachari. Realising the difficulty in bringing a uniform rate of tax in all forms of tax within a short period, they argued for a scheme in which the States can maintain their autonomous powers, subject to the economic policy of the Centre. The expert committee proposed that income tax, including corporation tax, be shared between the Centre and the States in a 40:60 ratio. They recommended ending the sharing of jute export duty with the States and suggested allocating a portion of the central excise duties to the States to support their revenue needs. The committee also advocated for the creation of a Finance Commission to oversee revenue distribution between the Centre and the States, and among the States.

The Indian States Finance Enquiry Committee, chaired by V.T. Krishnamachari and formed in October 1948, was tasked with addressing federal financial integration, particularly for merging princely states into the Indian Union. It reviewed the existing system and recommended a suitable and practical framework for unifying the financial structures of the Indian States with the rest of the Union.

As the Finance commission could not be established with immediate effect the decisions regarding the percentage of sharing and the matters relating to the grant -in -aid were taken under the order of the President. In December 1949, C.D. Deshmukh was assigned to frame a scheme for allocating income tax among Part A States, formerly known as British Indian provinces. The 'Deshmukh Award' was implemented with effect from April 1, 1950, and it continued till March 31, 1952.

Thus, the Indian Constitution attained a federal structure; the evolution to a federal form was gradual and evolved on the basis of recommendations by certain committees. The three main events which led to the framing of a federal structure in a Centralist pattern were the partition of India, the Second World War and the integration of princely States into the Indian union.

Many welfare and development-related subjects were assigned to the States without providing them with adequate financial resources. This created a vertical fiscal imbalance between the Centre and the States, making it necessary to set up a specialised body to assess the States' conditions and requirements and recommend the proportion of revenue to be allocated to them. The Finance Commission was constituted for this purpose.

#### 4.4.4. Centre-state financial relations under the constitution of India 1950

The world's lengthiest written Constitution was drafted by the expert Drafting Committee appointed by the Constituent Assembly in 2 years, 11 months and 18 days<sup>68</sup>. It took 165 days in 11 sessions to draft the Constitution with 395 articles and eight schedules. The Constitution of India came into effect on January 26, 1950, which was earlier adopted by the Constituent Assembly on November 26, 1949.<sup>69</sup> Even though the word 'federal' was not included in the Constitution, it clearly enshrined the principles of a federal Constitution. Dr B R Ambedkar mentioned that "*The Indian federation was not the result of an agreement by the States to join in a federation. the federation not being the result of an agreement, no State has the right to secede from it. the federation is a union because it is indestructible. Though the country and the people may be divided into different States for convenience of administration, the country is one integral whole, its people a single people living under a single imperium derived from a single source.*"<sup>70</sup> Ambedkar also clarified in favor of federalism that "*The States under our Constitution are in no way dependent upon the Centre for their legislative or executive authority. The Centre and the States are coequal in this matter. The chief mark of federalism lies in the partition of the legislative and executive authority between the Centre and the Units by the Constitution, and the Centre would override the States only in situations of emergencies.*"<sup>71</sup> And thus, the Constitution established dual sovereignty with single citizenship.

The Supreme Court in *State of West Bengal v. Union of India*, 1963 AIR 1241, 1964 SCR (1) 371, discussed the reason why we adopted the federal structure and its importance in these words

"A federal structure is mainly conceived to harmonise existing conflicting interests and to provide against future conflicts. in a federal structure with a strong bias towards the

Centre, while the Centre remains strong to prevent the development of fissiparous tendencies, the States are made practically autonomous in ordinary times within the spheres allotted to them. The Indian Constitution accepts the federal concept and distributes the sovereign powers between the coordinate constitutional entities, namely, the Union and the States. This concept implies that one cannot encroach upon the governmental functions or instrumentalities of the other, unless the Constitution expressly provides for such interference. The future stability of our vast country with its unity in diversity depends upon the strict adherence of the federal principle, which the fathers of our Constitution have so wisely and foresightedly incorporated therein. This Court has the constitutional power and the correlative duty difficult and delicate one, to prevent encroachment, either overtly or covertly, by the Union of State field or vice versa, and thus maintain the balance of federation.”

In the *Kesavananda Bharati v. State of Kerala*, (1973)4 SCC 225, which evolved the basic structure doctrine, the Supreme Court pronounced that any part of the Constitution is amendable without causing any alterations to the basic structure of the Constitution. Anything affecting the basic structure will be declared as unconstitutional.<sup>72</sup> The judges identified certain characteristics as the basic features of Indian Constitution out of which Justice S.M Sikri, Shelat and Grover identified the ‘federal character of the Constitution’ as the basic feature of the Constitution.

In *S R Bommai v. Union of India*, the Supreme Court observed that the federal feature of the Constitution, which comes under the ‘basic structure doctrine’ is not only applicable in the case of constitutional amendment but this has to be borne in mind while

taking every legislative and executive measures for the governance of the country.<sup>73</sup>

Justice Reddy and Justice Agrawal mentioned that “within the powers apportioned to them, States are supreme” and the interpretation of the Constitution may not lead to the truncate of the State’s power. At the same time, they acknowledge that the Union is entrusted with more power in certain areas, including taxation.

As per the Constitution, the legislative powers were vested in the Centre and the States on a territorial basis and on the basis of three lists mentioned in the Seventh Schedule of the Constitution of India. Being a federal country, the Constitution ensures the authority to the national and State governments to exercise autonomous power in their respective spheres.<sup>74</sup> The Constitution also ensure that both governments possess the financial resources to raise the revenue to meet their exclusive responsibilities. At the same time, it is evident from the very nature of the Indian Constitution that in the apportionment of powers between the Union and the States, there exists a firm inclination towards the Union. In the instance of an Emergency, the federal Government will transform itself into a unitary one.<sup>75</sup> Regarding fiscal federalism, the Constitution embraced the model of the Government of India Act 1935.

The taxation powers were so precisely demarcated that none of the matters in the list overlapped or none of the tax entries were included in the concurrent list. This measure was adopted to avoid possible conflicts between the two sovereign authorities. This system remained in place until 2016, when the 101st Constitutional Amendment granted both the Centre and the States concurrent powers to legislate on a common tax base for the implementation of the new Goods and Services Tax (GST).

Now we can analyse the distribution of revenue between the Union and the States, and the fiscal bodies and institutions since 1950 up to the 101st amendment of 2016.

#### **4.4.4.1. Distribution of revenue between the union and the states**

Taxation powers comprise of the authority to levy, collect and appropriate the collected revenue. The scheme of sharing of net proceeds of the tax, enshrined as per the Constitution of India, are:

1. *“Duties levied by the Union but collected and appropriated by the States. Article 268*
2. *Taxes levied and collected by the Union but assigned to the States. Article 269*
3. *Taxes levied and collected by the Centre and apportioned between the Union and the States. Article 269A, 270*
4. *Taxes exclusively for the Centre, Article 271*
5. *Taxes exclusively for the States.”*

Earlier the Centre enjoyed a discretionary power to share the revenue with the States by virtue of Article 272 of the Constitution under the head *taxes which are levied and collected by the Union and may be distributed between the Union and the States*. But by the Constitution (Eightieth Amendment) Act, 2000, omitted this provision and thereby curtailed the unrestricted power of the Centre to handle the tax revenue.

Before the 80th Amendment, the proceeds of central taxes shared with the States were limited to Union excise duties and income tax.<sup>76</sup> After the 80th Amendment in 2000, to implement the suggestions of the 10th Finance Commission, all central taxes and duties other than those mentioned in Articles 268 and 269 and

cesses and surcharges under Article 271, were brought into the divisible pool.

There existed a disproportionality in the allocation of taxation powers and the functional responsibilities of the Centre and the States. While the Centre is allotted more revenue accruing from taxes, the States perform more functional responsibilities. The Central Government handle the fields of national importance like *defence, foreign affairs, foreign trade and exchange management, money and banking* etc, which require a uniform policy throughout the country<sup>77</sup>. *Agriculture and industry the welfare activities like health, education, police services, State roads and infrastructure* etc are the responsibility of the States as these items have to be implemented considering the situations of each State.

In India, the third tier of government, the local self-government, is responsible for providing essential public services such as *water supply, sanitation, local roads, and electricity*, which can be better administered by the people acquainted with the local issues and circumstances. With the trend leaning towards greater centralisation, financial strength largely remains with the Centre, which has access to more revenue sources than the States. Apart from taxes, the Centre also earns through interest receipts, dividends, profits, and income from commercial departments. However, it is obligated to share a certain portion of this revenue with the States.

#### **4.4.4.2. Finance commission**

The vertical fiscal gap can be answered only by the intergovernmental transfer of revenue. To maintain the vertical and horizontal symmetries, the Constitution of India bestows an institutional mechanism called the Finance Commission to give advice on the utilisation of tax revenue by the Centre.<sup>78</sup> The

Finance Commission is a constitutional body established within two years of the commencement of the Constitution and thereafter reconstituted every five years by the President of India. The First Finance Commission of India was established by the order of the President dated November 22, 1951, with K.C. Neogy as its chairman, on April 6, 1952.<sup>79</sup> Thereafter, at every interval of five years, the Finance Commission was reconstituted. Now the 16th Finance Commission analyses the financial status of the country. As per Article 280(3)(a), the Finance Commission is constitutionally mandated to recommend to the President how tax revenues should be distributed between the Centre and the States (vertical) and among the States themselves (horizontal). It shall along with other matters specifically referred to it, provide the opinion concerning the grants- in -aid to the States to make up the developmental deficiencies. Transfer of funds other than tax revenue was made for any public purposes, based on suggestions made by the Planning Commission.

#### **4.4.4.3. Planning Commission and National Development Council (NDC)**

The Government of India constituted the Planning Commission in March 1950 through a Cabinet Resolution, despite divergent and opposing views expressed by several national leaders.<sup>80</sup> Jawaharlal Nehru served as the Chairman of the first Planning Commission. Its primary objective was to secure a rapid improvement in the standard of living and overall well-being of the people through the optimal utilisation of the country's resources.<sup>81</sup> The fundamental functions of the Planning Commission were to analyse the available resources of the country and how it should be properly distributed and utilised for the development of each and every place in the country. The first five-year plan was issued in 1951.

The Planning Commission comprised the Prime Minister as its Chairman, the Deputy Chairman, the Finance Minister, and the Planning Minister as ex officio members, along with several other central ministers such as the Ministers of Finance, Home, and Defence who served as part-time members. In the Planning Commission, there were four to seven full-time members who were experts in fields of industry, economics, general administration and science, with the rank of a Minister of State. However, such a fixed number of members is not followed in NITI Aayog. The Commission also consist of a member-secretary, a senior IAS officer. The Commission, with the Prime Minister who is the chairman, the deputy chairman and other members, formulate the annual plans and five-year plans, in coordination with and guidance of the National Development Council.<sup>82</sup>

National Development Council (NDC), created by the Government of India on August 6, 1952, through a Cabinet Resolution, is an executive body.<sup>83</sup> It does not entail the status of a Constitutional body or a statutory body. NDC comprised of Prime Minister as the ex officio chairman, the deputy chairman and members of the Planning Commission, the cabinet ministers of the Union Government, the chief ministers of all the States, and representatives of the Union Territories. Since the members were more than fifty, it was difficult to hold the meetings and other procedures frequently. Hence for administrative convenience, a standing committee which consisted of nine chief ministers and fewer union ministers was established in November 1954. The National Development Council (NDC) was assigned key functions including: setting guidelines for formulating the National Plan, reviewing and approving the Plan prepared by the Planning Commission, assessing and suggesting ways to augment resources for its implementation, addressing major socio-economic policy issues, periodically reviewing the Plan's progress,

and recommending measures to achieve its objectives. The NDC, which was created to enhance the balanced economic development of the country and which once served as “the highest decision-making authority”<sup>84</sup> is now replaced by the Governing Council when NITI Aayog was introduced in place of the Planning Commission. Jawahar Lal Nehru considered NDC as forum for “intimate cooperation” between the Centre government and the State governments to augment the progress of the nation.

#### **4.4.4.3. 1. Gadgil- Mukherjee formula**

Till 1969, the share of tax revenue and the ‘grant-loan’ from the Centre to the States were decided according to the approved projects. States often complained that such arrangements were arbitrary and politically influenced, viewing the Planning Commission as a tool for the Union Government to assert dominance over them. D.R. Gadgil, Deputy Chairman of the Planning Commission, found a solution for this by introducing a formula<sup>85</sup> for revenue sharing, which was named after him, and the NDC also accepted it. As per the formula, assistance was provided as special-category States were allotted 90% by means of grants and 10% by loans and for general-category States, 30% by grants and 70% by loans. Later in 1991, the formula was modified by Pranab Mukherjee during his tenure as Deputy Commissioner of the Planning Commission, and the formula was called as Gadgil-Mukherjee formula, which was followed till 2014-15.

Initially, formula-based fund transfers ensured smooth allocation and satisfied the States, but their share declined with the shift to Centrally Sponsored Schemes, causing discontent. Over time, it became increasingly evident that the Five-Year Plans and Annual Plans were falling short of achieving their intended objectives.

The Planning Commission and the implementing authorities blamed each other for failing to achieve the expected results. While the Planning Commission efficiently facilitated the transfer of planned funds from the central government to the states and among the states, its functioning still drew discomfort and criticism from many leaders. The Planning Commission was also criticised for encroaching upon the autonomy of the States.<sup>86</sup> Another argument was that centralised planning was against the spirit of federalism. The Planning Commission's failure to adapt to changing economic circumstances made reform necessary. In August 2014, Prime Minister Narendra Modi announced that the Planning Commission would be wound up.

#### **4.4.4.4. National Institution for Transforming India (NITI AAYOG)**

NITI Aayog, established on January 1, 2015, by a Union Cabinet Resolution, replaced the Planning Commission. It is an advisory body or 'Think Tank' on policy at the topmost rung of the government of India to render guidance to the government, especially on intergovernmental relations. NITI Aayog is a commission that consists of experts, to frame the policies and projects and to monitor their proper implementation, in the concerned area entrusted by the Government for the transformation of India.

Planning commission consists of the Prime Minister who acts as the chairperson, the vice chairperson and other members as may be prescribed. The Governing Council encompasses the Chief Ministers of all the States and the Lt. Governors of Union Territories. The novel provisions are the membership of experts and specialists in various fields, the invitees of the Prime Minister and the creation of regional Councils.<sup>87</sup> The NITI Aayog is entrusted with the most significant functions, such as enhancing

the economic development of each and every part of the country and promoting cooperative federalism by providing a substantial role and consideration to the component States. The primary objective of NITI Aayog is to adopt a new working approach suited to changing economic conditions, act as a catalyst for development, and ensure smooth intergovernmental relations to advance national progress.

NITI Aayog does not possess the power to allocate funds to the States like its predecessor, the Planning Commission.<sup>88</sup> Now, fund allocation power is entrusted to the Department of Expenditure of the Ministry of Finance. The chief concern of NITI Aayog is to create long-term policies that can foster the activities for transforming India into a dynamic and economically vibrant nation. After its first meeting in February 2015, NITI Aayog formed three sub-groups of chief ministers with assigned duties, signalling regional involvement. However, non-implementation of their recommendations and the unclear outcome of State suggestions from the July 2017 conference cast doubt on the organisation's effectiveness despite its high aspirations.

### **Indirect tax reform and the impact**

Under British rule, taxation was governed by statutory laws, leading to multiple levies that caused a cascading “tax on tax” effect, ultimately burdening consumers. Diverse sales tax laws among states sparked “rate wars,” creating fiscal barriers that hampered domestic trade and reduced India's global competitiveness. Post-independence, reforms began with the 1953 Taxation Enquiry Committee led by Dr John Mathai, followed by numerous committees such as L.K. Jha (1976), Raja Chelliah (1991), and the Expert Group on Taxation of Services (2001), all recommending a Value Added Tax on goods and services. Dr.

Vijay Kelkar significantly advanced GST through his leadership in the Task Force on Indirect Tax and the Thirteenth Finance Commission. Key milestones like MODVAT (1986), CENVAT (2000), VAT in sales taxes (2005), and service tax (1994) laid the foundation for the implementation of GST in 2017.

India's indirect tax reform journey started in 2000 under Prime Minister Atal Bihari Vajpayee<sup>89</sup> and was advanced in 2006 with Finance Minister P. Chidambaram's announcement of GST through the budget speech. Intended to simplify the complicated tax structure that hampered economic growth and burdened taxpayers, the reform required a Constitutional amendment to give both the Centre and States concurrent taxing powers, absent in earlier tax laws. For this, the 115th Constitution Amendment Bill was introduced in the Lok Sabha in 2011 but lapsed due to the dissolution of the Lok Sabha.<sup>90</sup> Bill was reintroduced in 2014 with some modifications as the 122nd Amendment Bill and got enacted as the 101<sup>st</sup> Constitutional Amendment Act 2016.<sup>91</sup>

The 101st Constitutional Amendment Act 2016 has far far-reaching impact upon the federal feature of the Constitution. By this amendment, the Union Parliament as well as the State legislature attains the right to impose tax on the 'supply of goods and services.'<sup>92</sup> The amendment essentially altered the mode of revenue collection and revenue sharing. A Constitutional body known as the GST Council was created to administer the GST laws and to decide all matters relating to the levy of GST on goods and services.<sup>93</sup>

Based on the 101st Constitutional Amendment Act 2016, the dual GST was enforced in India through five legislations on 1<sup>st</sup> July 2017.<sup>94</sup> A comprehensive, broad-based and destination / consumption-based goods and services tax, which encompassed seventeen Central and State taxes and 23 cesses, entirely

transformed India's indirect taxation regime. The reform has consequences on the tax revenue of the Centre and States. GST aimed to unify India into a single market, establish a comprehensive tax on goods and services, ensure uniform tax rates across the country, eliminate the cascading effect of multiple taxes, and abolish the entry taxes levied by individual States on goods entering their jurisdiction.<sup>95</sup> The rates of tax are fixed by the GST Council, which is uniformly applicable to all the States and Union Territories in India. GST consolidated tax rates into four main slabs 5%, 12%, 18%, and 28% with additional rates for specific items like 3% on gold, 0.25% on precious stones, and certain goods exempted.

After the rate rationalisation as per the 56th GST Council, the number of rates has been reduced to 3. i.e with effect from 22nd September 2025, the GST rates are 5%, 18% and 40%. The compensation cess is also withdrawn except in tobacco products.

It was certain that States would face revenue losses during the transition to GST due to the subsuming of State taxes. The authority to determine State tax rates, particularly sales tax once a key tool for balancing their revenue and expenditure, was transferred to the GST Council. As a result, States lost the autonomy over rate-setting and related matters that they had exercised for many years. In a diverse country like India, the States owing unique characteristics, and the needs of States are different; their food habits and clothing habits vary widely. The climate-related needs are also different. Due to the geographical and climatic variations, the agricultural products and consumption also vary. These diverse needs were fulfilled by raising and spending resources differently according to the needs. This facility is now taken up by the GST. The argument that 'one size fits all is not good for a country like India.'<sup>96</sup>

In India, the governance is effectively done under a three-tier system since 1992 i.e by the Centre, State and local bodies. This fiscal power is also distributed among the three. The local bodies also enjoy the taxation powers of levying and collecting taxes, but the GST has completely left out the local bodies, which may have adverse effects. This will even affect the main policy of one nation, one tax. The entertainment tax, except imposed by the local bodies, is subsumed under GST.<sup>97</sup> But the entertainment tax levied by the local bodies exists even now, which causes the cascading effect or double taxation.<sup>98</sup> For example, the theatres working within the jurisdiction will be liable to pay the GST and the entertainment tax levied by the local bodies.

#### **4.6. The 101<sup>st</sup> constitutional amendment act 2016 and its impact on fiscal federalism of India**

The Constitution (122<sup>nd</sup> Amendment) Bill, 2014, got the assent of the President on 8th September 2016, after passing it from both houses and was enacted as the Constitution (101<sup>st</sup> Amendment) Act, 2016.<sup>99</sup> That marked a pivotal moment for India's fiscal federalism and indirect tax system, as the constitutional framework for taxation was restructured to replace the exclusive taxing powers of the Centre and States with concurrent powers.<sup>100</sup>

##### **4.6.1. Inception of article 246A**

Article 246 of the Indian Constitution, by ensuring the federal principles, had demarcated the law-making powers of the Centre and the States by providing exhaustive lists under the Seventh Schedule of the Constitution. The Union government was authorised to make laws relating to the subjects itemised in List I, the State government under List II, and both Union and State governments entertained the power of lawmaking on subjects declared in the List III, the Concurrent List. Till 2016, the power

of enacting taxing statutes was clearly demarcated, and it was ensured that no overlapping or encroachment was made. To make it more certain and to avoid further collusions, no taxing matters were brought under the concurrent list.

The implementation of the GST necessitated that the concurrent powers were to be granted to the Parliament as well as the State legislature to enact legislation for imposing and collecting taxes on goods and services, as India was adopting the dual GST model. With this intention, Article 246A was inserted by the 101st Constitution Amendment Act, 2016, which bestows the Parliament and the State legislature with the authority to enact laws to levy tax on goods and services by the Union or the State. Insertion of a novel clause(12A) in Article 366 of the Indian Constitution, the GST is defined as *“the goods and service tax means any tax on supply of goods, or services or both, except taxes on the supply of the alcoholic liquor for human consumption.”* The amendment also defined ‘services’ in Article 366 (26A)<sup>6</sup> and ‘States’ under Article 366 (26B)<sup>7</sup> for the purpose of GST.

Article 246A of the Constitution of India is the game-changer for taxation as well as federalism. The Parliament and the State legislature, which formerly restricted themselves to their demarcated area, are now enacting laws, levying and collecting the tax on a common base, which was a novel concept. Many criticised that the provision is fading away the federal concept of India, but theoretically it never takes away any power from the Centre or the State, instead giving both the concurrent powers,<sup>101</sup> whereby actually enlarging the tax base of both the Centre and the States. Earlier, the Centre didn’t possess the authority to levy tax

---

<sup>6</sup> Services means anything other than goods.

<sup>7</sup> State with reference to articles 246A, 268, 269, 269A and article 279A includes a Union territory with Legislature

on the intra-state sale; by GST, the Centre acquires the power to tax the intra-state supply of goods and services.<sup>102</sup> Likewise, in the pre-GST era, the States didn't possess the authority to levy the tax on services, and now the services also come within the taxation power of the States. Theoretically, the authority remains with the concerned governments; reality is that enacting law under Art. 246A is subject to the decisions of the GST Council.

Article 246A (2) bestows the central government with exclusive power to enact laws to levy the tax on the inter-state supply of goods and services tax, and Parliament, by this authority, enacted the Integrated Goods and Services Tax Act, 2017 (IGST), which took the place of the Central Sales Tax Act, 1956 (CST). Under CST, even though the law is legislated by the Parliament, the right to collect and appropriate the tax revenue was with the States in which the sale originated.<sup>103</sup> By virtue of Article 246 A (2), the IGST Act, 2017, is enacted by the Parliament. As per Article 269A, the Government of India levies and collects the IGST and the revenue is shared between the Union and the States according to the proportions mentioned by the GST Council. The revenue apportioned to the States and a certain other amount allotted for specific functions will not be accounted to the Consolidated Fund of India. IGST is advantageous for the Centre. In the pre-GST period, even though CST was levied by the Centre, the revenue was completely allotted to the States in which the inter-state sale originated.

By an explanation to Article 246A, it also makes it clear that the provisions of GST laws (i.e. is of CGST, IGST, SGST and UTGST) will be applicable in case of petroleum crude, high-speed Diesel, motor spirit (petrol), natural gas, and aviation turbine fuel only from a future date decided by the GST Council. These are the subjects which are now, for the time being, excluded from the ambit of GST.

#### **4.6.2. Alteration in exclusive powers of the centre for materialising GST**

Articles 248, 249 and 250 were the exclusive powers of the Centre by which they had the advantage of law-making in the residuary matters, in national interest and at times of emergency, on any subjects, irrespective of the Union list, State list and Concurrent list. By Sections 3, 4, and 5 of the 101st Constitutional Amendment Act 2016, Articles 248, 249 and 250 are amended respectively, so that the exclusivity of the Parliament is exempted in subjects with regard to GST. Even though the Parliament enjoys special rights to legislate according to Articles 248, 249 and 250, these cannot restrain the authority of the States to legislate in matters of GST, i.e powers guaranteed under Article 246A.

The words “and such duties of excise on medicinal and toilet preparations” is omitted from Article 268,<sup>104</sup> and this is now taken out of the revenue allotted exclusively to the States prior to GST, is now brought within the ambit of GST and hence, the Centre and the States draw income from this.

Article 268A of the Indian Constitution, by which the services were taxed, is omitted by the Constitutional Amendment Act 2016, and the service tax is now subsumed under the GST. This sub summation is advantageous for the States as they can levy tax on the supply of ‘services.’ It also makes it convenient to tax certain goods and services as one component. This was not practical under the erstwhile tax laws, which often led to double taxation by the imposition of VAT on the sale of goods and service tax on the rendering of services. Eg, Food from the restaurant, computer appliances, etc. Now, by SGST, the States can tax the ‘services’ and take the revenue directly without being

compiled by the Union Government and distributed among the Centre and States as in the pre-GST era.

By slightly modifying Article 269, it makes it clear that every inter-State trade and commerce on which GST is leviable will be dealt with according to Article 269A. On all other sales or purchases of goods, GST will be levied by the Centre government and the concerned State legislature, except for the goods that are excluded from the ambit of GST.

In 2000, through the Constitution (Eightieth Amendment) Act, by adopting the recommendations of the Finance Commission, all central taxes except a few were brought to the divisible pool by Article 270.<sup>105</sup> The 101st Constitutional Amendment Act of 2016 makes it obligatory for the Central Government to share the taxes collected by way of CGST with States. IGST share of the Central Government is also combined to the divisible pool.

Article 271 of the Indian Constitution speaks about the Parliament's power to impose surcharges on taxes and duties, but the amendment clarifies that there can be no surcharges on the GST. This is also a very positive move for the States, as surcharges do not come in the divisible pool. Normally in case of surcharge, the benefit of surcharge is reaped only by the Centre and the burden has to be suffered by the common man. Given this situation, withholding the power to levy a surcharge on GST is beneficial, especially at a time when the number of existing surcharges and cesses is already excessive and poses a significant challenge to the principles of federalism. At present, a cess may be imposed solely to raise funds for compensating States that face revenue losses during the transition to GST, but such a levy is not intended to continue beyond this specified transition period.

### **4.6.3. Revenue sharing in the Pre-GST and Post-GST period**

Before revolutionary reforms in the taxation regime, the revenue sharing according to the Indian Constitution was as follows: the Central Excise, Service Tax and additional duties on the excise and customs were imposed and collected by the Centre and were apportioned between the Centre and the State according to Article 270 and as per the percentage recommended by the Finance Commission. The Central Sales Tax, i.e the tax on the inter-state sale and purchase, was levied by the Centre and the power to collect and appropriate was given to the States. VAT, Purchase Tax, Luxury Tax, Entry Tax (all forms), Entertainment Tax and Amusement Tax (except those levied by the local bodies), Taxes on advertisements, Taxes on lotteries, betting and gambling, etc, were levied and collected by the States.

After the introduction of GST, which subsumed all the prior taxes, the taxes prevailing are CGST, SGST/UTGST and IGST. Here, the CGST and SGST/UTGST are levied as per Article 246A and IGST as per Article 269A of the Constitution of India. Since 2017, the entire taxation proceedings have been administered through the GST common portal by GSTN. The CGST portion, which goes to the centre, is apportioned between the Centre and the states. The UTGST will be administered by the Centre for the concerned Union territory from where it accrues or arises. The STGST portion, which goes to the concerned states based on the destination principle and will be administered by the concerned States. As per Article 269A, the inter-state supply is taxed IGST, Act, and this is levied and collected and apportioned by the Centre Government between the Centre and the States.

### **4.6.4. GST council**

Article 279A, introduced through the 101st Constitutional Amendment Act of 2016, created the Goods and Services Tax Council, a new constitutional body that fundamentally transformed India's fiscal framework. The Constitution has empowered the President to constitute the GST Council, within sixty days of the amendment, which is a permanent body to make recommendations to the Union as well as the States. The Council was to make necessary steps to facilitate the implementation of GST, which was executed properly and is moving in a direction of stabilising the GST laws.

GST Council is a unique body comprising representatives from both the Union and the States. It is chaired by the Union Finance Minister and includes the Union Minister of State for Revenue or Finance, along with the Finance or Taxation Minister or any other Minister nominated by each State Government, making a total of 33 members. From among these members, one is chosen to serve as the Vice Chairperson. The Council functions as the apex authority responsible for decisions on all matters related to GST, including amendments to the law, tax rates, and procedural issues.<sup>106</sup> In the GST Council, the representation is ensured for all the States and Union Territories in India, which provides a platform for the Centre and State to interact with each other and to arrive at a consensus on matters relating to GST. This is the best example of cooperative federalism.

The functions entrusted on the Council are to provide recommendations on the areas of “the taxes, cesses and surcharges that may be subsumed, the goods and services that are to be exempted from GST; Model Goods and Services Tax Laws, principles of levy, apportionment of Goods and Services Tax levied under Article 269A and the principles that govern the place of supply; The threshold limit of turnover below which goods and services may be

exempted; Rates, floor rates, band, special rates; Special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand Date on which GST be levied on petroleum crude, HSD, Petrol, natural gas and ATF and Any other matter relating to the goods and services tax, as the Council may decide.”<sup>107</sup>

The Council was in an effort to frame a ‘flawless GST’, recognising the fact that it was never flawless in any country in which it was implemented<sup>108</sup>. As it is impossible to anticipate all future economic challenges, the GST framework requires ongoing review and amendment. Accordingly, the Council has accomplished major preliminary tasks, including drafting the model GST framework, identifying the taxes to be merged, and establishing threshold limits, and has implemented multiple amendments in the last eight years to make the system more efficient. The major hurdle in attaining the expected broad-based, distortion less taxation regime, which is free of the cascading effect, is (i) many of the petroleum products were out of the net of GST, and (ii) the exempted goods. Input tax credit, the central pillar of the GST framework, cannot be availed in respect of exempted goods. Consequently, taxes paid on inputs or earlier stages of production cannot be credited, resulting in a break in the ITC chain. Globally, efficient tax systems therefore emphasise maintaining a minimal list of exemptions.

The word ‘recommendations’ used in clause (4) of Article 279A was a point of controversy, whether the recommendations are binding or whether it is a mere recommendation which the Union and the State governments have discretion to deviate from it or to accept it<sup>109</sup>. But at the same time, the word ‘decision’ is used the

clauses 9 and 10 of Article 279A. Certain arguments were that the word should be interpreted in the context in which it occurs and hence the word ‘recommendations’ leans to mean the decision itself.<sup>110</sup> The reality that GST is an actual proponent of cooperative federalism may be the reason behind using the word ‘recommendations.’ In *Union of India v. Mohit Minerals Pvt. Ltd.* (2022), the Supreme Court ruled that GST Council recommendations are advisory and have only persuasive value, not binding force, on Parliament or State Legislatures under Articles 246A and 279A of the Constitution. This interpretation preserved the federal balance by affirming the legislative autonomy of both the Centre and States, marking a landmark clarification in India’s GST framework.

The GST Council is an unparalleled and unique body created for protecting the federal features of the country. It ensures that the interests of the states are not ignored.

#### **4.6.4.1. Quorum of the meeting and percentage of majority votes for arriving at a decision**

Article 279A (7) states that the quorum of the meeting is determined as one-half of the total number of members of the Council. All the decisions should be arrived at by a majority of not less than three-fourths of the weighted votes of the members present and voting.

One-third of the total votes cast is the weightage of the vote of the Central Government, and two-thirds of the total votes cast is the weightage of the votes of all the State Governments taken together.<sup>111</sup> This clause, which prescribed the voting mechanism and weightage of vote, was not included in the 115th

Constitutional Amendment Bill introduced in 2011; instead only suggested the consensus for arriving at a decision<sup>112</sup>, and it was added in the 101st amendment in 2016 based on recommendations made by the standing committee of the Lok Sabha. The critics point out that this shows the centralising tendency where the central government is owing a weightage of 33.33% of votes against the 66.67% of weightage provided to the State as a whole. Many of the States were against this and also against providing equal weightage to all the States. Perceiving that the enormous diversity of Indian States will cause hurdles for the States to pass each and every decision with a majority, it is advisable to keep a higher weightage with the Centre. But this does not fade the federal feature as a sufficient number of States have to vote in favour in order to reach a decision. Out of thirty-one States, the vote of twenty-one States is essential for passing a resolution if the meeting is a full quorum. Also, the States can exercise a kind of veto, so that if 12 States vote against the proposal, it will not be passed. Likewise, even if many of the States favors a proposal, it cannot be passed without the vote of the Union. As the quorum of the meeting is 50% the meeting will not be possible without the presence of sixteen States. The States can present their demands and concerns in the GST Council meetings. The important proposals will be passed in the meeting if it receive the consensus of other members<sup>113</sup>. So it is quite an effective mechanism where the States are given proper representation, at the same time the potential to the Union Government to pass constructive decisions with consensus of the States. If twelve States joined for a decision against the view of others, they can exercise the veto power. The GST Council is bound to work with an aim for the realisation of a synchronised configuration of goods and services tax and for the advancement of a unified national-level common market for goods and services,

which is capable of enhancing the economic development of the country.

Concerns were raised regarding the weightage of the vote possessed by the Central Government, by many States in the select committee meetings. Their contention was to reduce the Central Government's vote weightage by one-fourth of the total votes cast, and that of the States should be increased to three-fourths of the total votes cast. AIADMK's quest was, the weightage of vote allotted to each State's vote must be according to the representation of the States in the Rajya Sabha.

But the select committee decided that the representation for every State is provided in the GST Council through their Finance/ Revenue/ Taxation minister, without regard to the size of the State, is an apt and ideal one which ensures all the States equal status. It's also not practical to conduct a meeting like the GST Council meeting with a huge participation, which may result in the entire process being in vain.

In a vast country with extreme diversity like India, it will not be possible to materialise any decision without having a significant percentage of votes with the Centre.

#### **4.6.4.2. GST council meetings**

GST Council, a permanent constitutional body which is a joint forum of the Centre and the states, was constituted by the President according to the power granted by Article 279A (1). The

GST Council office is established at New Delhi. Revenue Secretary holds the position of ex officio secretary of the GST Council.<sup>114</sup> Officers from the central and state governments are appointed on deputation to the GST Council Secretariat. Expenses of the meeting are borne by the Central government. CBIC is the permanent invite to the GST council meetings without voting rights.

The first meeting was conducted at New Delhi in the 22nd and 23rd of September, 2016, and till now 56 GST Council meetings have been held. Till now, all the decisions has been made with the consensus of the States. Whenever there were differences of opinion, it was amicably settled through deliberations. Every decision is drawn from the consensus between two layers of government.

#### **4.6.5. Dispute resolution authority**

Article 279A(11) empowers the GST Council to constitute a mechanism for resolving disputes between the Centre and States, between groups of States, or among States themselves, relating to its recommendations and decisions. Initially, the Constitution (115th Amendment) Bill, 2011 proposed Article 279B, allowing Parliament to create such an authority, but States objected that it could override Parliament and State Legislatures, undermining fiscal autonomy. Accepting these concerns, the Standing Committee recommended its omission, and the Constitution (122nd Amendment) Bill, 2014, introduced the current Article 279A (11), reflecting cooperative federalism. Any amendment to Article 279A i.e GST Council, can be made only with the ratification of not less than one-half of the States by resolutions which is passed by the Legislatures of the States.

Although the Constitution provides for this mechanism, it has not been established, as Council decisions have largely been consensus-based; however, since 2020, growing differences have heightened calls for its creation to ensure effective GST functioning.

By Section 20 of the 101st Constitutional Amendment Act 2016, the President is empowered to adapt or modify any provisions of the Constitution as amended by this Act or law in order to remove the difficulties and to pave the way for the smooth running of the GST Laws for three years. Within three years, no such situation arose that necessitated the exercise of this provision by the president, which shows that there is nothing absurd in the amendment.

#### **4.6.6. Compensation scheme and federalism**

The 101<sup>st</sup> Constitutional Amendment empowered Parliament to enact a law compensating States for revenue losses during the first five years of GST. In response, Parliament passed the Goods and Services Tax (Compensation to States) Act, 2017, outlining the compensation mechanism. This legislation was introduced to address States' concerns about potential revenue loss arising from the shift to a destination-based tax system, the subsuming of several State taxes under GST, and the uncertainty around their share of service tax revenues.

The nominal growth rate was assumed as 14% per annum for the transition period. 2015-16 financial year will be considered as the base year for calculating the compensation for the revenue loss and it was decided to release the amount at the end of every two

months for initial five years i.e for a period from July 2017 to June 2022.

To raise the money needed for compensating the States, the Centre was allowed to levy a GST compensation cess on certain luxury and sin goods, including cigarettes and other tobacco products, pan masala, caffeinated drinks, coal, and specific passenger vehicles.<sup>115</sup> The Act insists that the Centre is to maintain a separate GST Compensation Fund to which the GST cess revenue has to be credited out of which the amount has to be allotted to the States.

The compensation scheme functioned smoothly at first, but soon the release of funds began to slow down. Around the same time, the COVID-19 pandemic struck, bringing the entire world to a standstill. To control the spread of the virus, India, like many other countries, imposed a nationwide lockdown. The first lockdown lasted from 25 March to 30 June 2020, which severely affected the country's economic situation. Both the Centre and the States experienced a major drop in revenue, while their responsibilities increased sharply.

At the time when the pandemic hit the economy, the Centre was already lagging in releasing compensation to the States. In 2020, there was a shortfall of Rs 2.35 lakh crores, the Union government took the shelter of "Act of God" for reverting from their promise to compensate the States for the revenue loss. The Union argued that only the shortfall of 97,000 crores is caused due to the GST, the rest 1.38 lakh crore is caused by the pandemic.<sup>116</sup> In the 41st meeting of the Goods and Services Tax (GST) Council, two options were proffered before the States to resolve the vehement issue of compensation shortfall, which was

valued at Rs 2.35 lakh crore.<sup>117</sup> Out of the two options proffered by the Centre, one was to borrow from the RBI the GST shortfall of Rs 97,000 crore, which can be repaid after 2022, i.e. on completion of the five-year compensation period, so that it will not cause any burden to the States. The second one was a window to borrow the entire shortfall of Rs 2,35 lakh crores, i.e., the shortfall due to GST and the pandemic, under a special borrowing window provided by the RBI. In the second option, the borrowing terms offered is not as favourable as the first option. In this case, only the principal amount will be provided out of the compensation fund, and the interest of which has to be borne by the States themselves.<sup>118</sup>

The States were very disappointed by this move of the Centre; they demanded that the Centre to procure it from the RBI and allot it to the States. The opposition ruled States reacted vociferously, while others marked their protest. It was considered as a huge blow against cooperative federalism.

At this juncture, after certain months and after the 42nd GST Council meeting, the Centre took an appreciable move to solve the issue of compensation, that is, the Centre announced on February 19, 2021, that it would borrow 1.1 trillion rupees, which is the expected revenue shortfall and will be allotted to the States. The decision of the Centre was welcomed by the experts in the field of GST and economists, since it had many advantages. The first one, being the ideals of cooperative federalism, is boosted by this measure, and this can instill States' confidence that the Centre will go in consensus with the States. Secondly, when the Centre is borrowing, the rate of interest will be the same for all the 31 States, and also the borrowing interest rate of the Centre is lower by 50-60 basis points. This will not create any burden on the

State, as this amount has to be paid out of GST cess after 2022. For this, the GST compensation cess collection was extended up to 31st March 2026. The issue of shortfalls in compensation is thus settled by the Centre. The matters related to compensation that arose in 2020 was finalised by 2022. But the issue may arise between the Centre and the States in the future also. A long-term solution for these types of disputes is essential for the smooth functioning of the GST. A dispute resolution body within the Council itself will be a proper remedy.

#### **4.6.7. Issues considered while passing the amendment Act**

##### **4.6.7. 1. Revenue of the local bodies**

The concerns regarding the financial position of the local bodies were raised by many of the States and stakeholders. They were concerned about the revenue loss due to the subsumption of Entry 54 List II of the Indian Constitution in GST.<sup>119</sup> Many States earned much from the octroi charges, and this was apprehended to affect the efficient functioning and the developmental activities taken up by the local bodies.

The States derive the authority to levy taxes from the Constitution of India, and the States delegate the power to levy taxes on certain specific matters to the Panchayats under Article 243H and Municipalities under Article 243X. As it is within the domain of States to confer by law the taxation powers upon Municipalities and Panchayats, it is argued that while considering the amendments for GST, the instances of Panchayats and Municipalities need not be considered. Since the revenue generation of Panchayats and Municipalities is the responsibility of the State, the States shall decide on the matters after the States

are empowered with the simultaneous power to levy GST according to Article 246A. The select committee took such a decision, acknowledging the fact that encroachment into the State List will interrupt the federal system, which may disrupt Centre-State relations. The government, in the spirit of the Constitution, is duty-bound to guard the interests of the local bodies. Hence, the committee recommends that, in accordance with the principle of cooperative federalism, the Centre, States, and local bodies should address their issues collectively and cooperatively by adopting the requisite measures.

#### **4.7. Fiscal federalism swerving or reinforcing**

*‘Federalism isn’t about states’ rights. It’s about dividing power to better protect individual liberty.’- Elizabeth Price Foley.* For the greater objective of protecting individual liberty, a host of countries follow the federal form of government. Every country has adopted federalism in the form and the manner that is suited for the country’s peculiar characteristics. India, being a country of immense diversity, adopted a federal system even though it possesses strong centralisation tendencies. Though the word ‘federal’ has never found a place in the Constitution of India, the division of powers between different levels of government manifests the federal glimpse. Fiscal federalism in India is passing through a much divisive age.

In the current decade the federalism in India is a heated topic; many criticise that fiscal federalism in India is fading away due to many of the changes adopted by the recent government. The introduction of NITI Aayog in place of the Planning Commission, GST and the constitutional amendment for the implementation of GST are the reasons behind this. GST or

VAT, the terms which are used interchangeably, is adopted by more than 165 countries in the world. But none of the systems is identical; each of the countries has adopted the GST according to the peculiar features of their indirect taxation structure and are modifying it to adapt to their local demands. Enormously diverse, India was vigilant in adopting the GST aimed at 'One Nation, One Tax' to our highly multifaceted federal system. The ample caution was taken not to adversely affect the fiscal federalism of India, and for this, the dual GST model was adopted. A dual GST structure empowers the Centre and the States to levy the taxes simultaneously on the supply of goods and services and to appropriate revenue so collected. Hence, the revenue will not be seriously affected. The main loss that the States may have to suffer is that of the entry tax and a reduction in revenue due to the changeover from the origin-based tax to the destination-based tax. But this will be temporary, within the transition period, GST laws will be stabilised to collect more revenue. As the tax base is enlarging due to the subsummation of more taxes, tax revenue will be augmented. To overcome the revenue loss in the transition period, a compensation scheme has been implemented to support the States for the initial five years.

The 'autonomy of the States' is the contentious point raised against the GST. The actual loss of the State is the power to determine the rates of the taxes, the substances to be taxed, and what matters may be exempted. Now the decision about these points will be taken by the GST Council with the consensus of the Centre and the States. The Centre and States had surrendered these powers for procuring uniformity in these matters, which was indispensable in this economically augmenting era; otherwise, India would remain stagnated in the international market. A uniform rate of taxes was a requisite for ending the 'rate war' that existed between the States, only by which Indian domestic trade

could be advanced. So, fiscal autonomy is compromised with a larger objective of attaining tax harmony, which is essential for the regional as well as national development.

GST Council provides a platform for every State to raise their needs and demands, which will be discussed there to attain a consensus to form a decision. It is also a mis- misconception that even if the States may jointly have some say in the GST Council, the grievances of a single State will not be considered.<sup>120</sup> Every State has the freedom to raise its demands and can negotiate at the GST Council meeting about the importance and need, and can get the consensus of other States and the Centre. Here, the economic integration of India is achieved by the negotiation between the Centre and the States.

Moreover over the Supreme Court has laid down the fundamental principle in

*State of Rajasthan v. Union of India, 1977 AIR 1361, 1978 SCR (1) 1*, that “Indian union is federal, but the extent of federalism in it is largely watered down by the needs of progress and development of a country which has to be nationally integrated, politically and economically coordinated, and socially, intellectually and spiritually uplifted. In such a system, the States cannot stand in the way of legitimate and comprehensively planned development of the country in the manner directed by the Central Government.”

What the States have to analyse is that the legitimacy of measures taken by the Central Government is for the development of the nation, and it has not resulted in any type of arbitrariness or superseding of the autonomy of the States. So far, GST has not

hindered national development. In fact, India achieved a strong V-shaped economic recovery even after the severe impact of the pandemic, something that would not have been possible under an inefficient tax system.

What has to be done now is ensuring transparency in GST apportionment so that States obtain the revenue due to them under the destination-based taxation system. Since GST collections should accrue to the State where consumption occurs, a clear, accountable, and timely mechanism for calculating and transferring these amounts is essential. This would prevent disputes, strengthen fiscal trust between the Centre and States, and uphold the integrity of the GST framework.

#### **4.8. Conclusion**

The definitive object of fiscal federalism is to accomplish equal economic development for all the constituent units. The journey through the evolution of federalism shows how federalism in India strengthened within a centralised constitutional framework. The Indian Constitution embraced a detailed arrangement of Centre –State financial relations. Two significant features of this scheme were “(i) a complete separation of Central –State Taxing powers, and (ii) transfer of funds from the Centre to the State.”<sup>121</sup> The 101st Amendment of the Constitution in 2016, for materialising the GST, has revolutionised this important feature of the Indian Constitution by granting concurrent powers to the Centre and State on matters of taxation.

Only a common market with free flow of goods and services can ultimately benefit the nation's progress. For this, the barrier between the constituent sovereign units has to be abolished, which the GST has accomplished now. The free flow of revenue from the Centre to the States is stimulated by the GST by giving

the share in almost all types of taxes, like service tax, which was lacking in the erstwhile indirect tax regime.

Real federalism implies safeguarding the vertical and horizontal balance among the Centre and States, and upholding the fiscal autonomy of States. The States and the Centre should enjoy equal status, which can augment the development of the nation.

India, which adopts pragmatic federalism to proceed and keep pace with the changing world very effectively, imbibes the essential change into it. It can never be considered as adversely affecting the fiscal federalism. The dual GST structure had given the concurrent powers to the Centre and the State. The GST Council meetings provide a productive platform where the States get the opportunity to raise their demands and concerns. Every decision in the meeting will be reached by consensus. What is needed to protect the autonomy of the States is to adopt a pragmatic federal approach by the States, whereby the rates of taxes and other matters can be fixed by proper negotiation and consensus at the GST Council meetings. Now the requirement for the better rights of the States are to keep a check on the over-powering of the Centre and an effective body to resolve the disputes between the Centre and the States. The GST Council meetings are called by the Centre. The States can also request for conduct the meetings. As the 43rd meeting on May 28, 2021, was sought by the States like Punjab and Chhattisgarh for deciding on reducing the rates of medical essential items to battle the second wave of COVID-19. The 45th GST Council was an excellent paradigm of nurturing fiscal federalism, as greater consideration was given to the interests of States. Though not good news for the common man, petrol and diesel were not brought under the GST, considering the opinion of the States. The Centre should

ensure that every State gets an opportunity. The States should also act responsibly by finding alternative sources rather than putting a heavy burden on the common man.

For attaining the proposed harmonised tax structure, which is free of distortions and cascading effects, it is essential that all the products that are kept out of the GST should be brought within the ambit of GST for escalated efficiency.

Adapting and changing according to the pace of time is crucial in this modern, technologically advanced era. Thus, the Centre–State financial relationship embraces the principle of cooperative federalism and mounts into new dimensions, fostering mutual trust, flexibility, and shared responsibility. In the context of GST, this means not only working together to address emerging fiscal challenges but also ensuring fairness, transparency, and efficiency in revenue sharing. By evolving collectively, the Centre and States can strengthen the federal fabric, enhance economic resilience, and position India more competitively in the global market.

## **References**

- 
- 1 Collin Gaston, Editorial: United We Stand, Divided We Fall, 6 WBRC (May 15, 2018), <https://www.wbrc.com/story/38196399/editorial-united-we-stand-divided-we-fall/#:~:Text=>.
  - 2 M.P. Jain, Indian Federalism, Seminar On Constitutional Developments Since Independence The Indian Law Institute, New Delhi April 1973, [http://14.139.60.114:8080/jspui/bitstream/123456789/1315/1/015\\_Indian%20Federalism.Pdf](http://14.139.60.114:8080/jspui/bitstream/123456789/1315/1/015_Indian%20Federalism.Pdf).
  - 3 Federal Countries, Forum Of Federations The Global Network On Federation And Devolved Governance, <http://www.forumfed.org/countries/>.
  - 4 Pragna Bansal, *Federalism In India – Analysis Of The Indian Constitution*, Ipleaders (Aug. 29, 2018), <https://blog.ipleaders.in/federalism-in-india/amp/>.
  - 5 Foedus, Britannica <https://www.britannica.com/topic/foedus>.
  - 6 Ambar Kumar Ghosh, The Paradox Of ‘Centralised Federalism’: An Analysis Of The Challenges To India’s Federal Design, (Sept.17, 2020), Observer Research Foundation, <https://www.orfonline.org/research/the-paradox-of-centralised-federalism/>.
  - 7 Mamta Roa, *Constitutional Law 6* (EBC Publishing (P) Ltd. 2<sup>nd</sup> Ed. 2021).
  - 8 Niharika Tanwar, *Federalism Under The Indian Constitution*, Ipleaders, (Oct. 6, 2018), <https://blog.ipleaders.in/federalism-under-the-indian-constitution/>.
  - 9 Hans Beck, *Greek Federal States*, Oxford Bibliographies, (Oct. 26, 2015), <https://www.oxfordbibliographies.com/view/document/obo-9780195389661/obo-9780195389661-0204.xml>.
  - 10 K Malan, Johannes Althusius' Grand Federalism, The Role Of The Ephors And Post-Statist Constitutionalism, Saflii (Dec. 5, 2017), <http://www.saflii.org/za/journals/PER/2017/59.html>.
  - 11 Lee Ward, Montesquieu On Federalism And Anglo-Gothic Constitutionalism, 37: 4, THE Journal Of Federalism, (2007). Doi:10.1093/Publius/Pjm018.
  - 12 Gabriel Lanre Adeola, The Philosophy And Theories Of <https://www.researchgate.net/publication/347253230>.
  - 13 Patrick Riley, *Federalism In Kant's Political Philosophy*, 9: 4 *Federalism As Grand Design*, 43-64, (1979), <http://www.jstor.org/stable/3329867> (Last Visited Feb. 8, 2021).
  - 14 Patrick Riley, *Federalism In Kant's Political Philosophy*, 9: 4 *Federalism As Grand Design*, 43-64, (1979), <http://www.jstor.org/stable/3329867> (Last Visited Feb. 8, 2021).

- 
- 15 Roger B. Porter, John Stuart Mill And Federalism, 7: 2 *Publius: The Journal Of Federalism*, (1977), <https://doi.org/10.1093/oxfordjournals.pubjof.a038440>.
- 16 Elazar, Daniel J. *The Evolving Federal System*. 34: 2 *Proceedings Of The Academy Of Political Science*, 5–19 (1981), JSTOR, [www.jstor.org/stable/1173787](http://www.jstor.org/stable/1173787).
- 17 Louis Gentilucci, *The Day The Constitution Was Adopted*, *Constitution Daily*, (June 25, 2015) <https://constitutioncenter.org/blog/the-day-the-constitution-was-adopted>.
- 18 Sun Hao, *Evolution Of American Federalism*, <https://www.atlantispress.com/article/24123.pdf>.
- 19 Claudia. F, *The Evolution Of American Federalism: 1787-1937*, <https://study.com/academy/lesson/the-evolution-of-american-federalism.html>.
- 20 Lee Epstein & Thomas G. Walker, *Constitutional Law For A Changing America. Rights, Liberties, And Justice*. 21 (Sage Publication, 9<sup>th</sup> Ed. 2015).
- 21 *Federalism In United States*, [https://en.wikipedia.org/wiki/Federalism\\_in\\_the\\_United\\_States#cite\\_ref-19](https://en.wikipedia.org/wiki/Federalism_in_the_United_States#cite_ref-19)
- 22 Luke Philip Plotica, *Federalism, Devolution, And Liberty*, *The University Of Chicago Press Journals*, <https://www.journals.uchicago.edu/doi/full/10.1086/689858> .
- 23 Craig Volden, *Origin, Operation, And Significance: The Federalism Of William H. Riker*. 34: 4 *Publius* 89-107. (2004), <http://www.jstor.org/stable/20184927>.
- 24 *The Evolution Of American Federalism*, *Lumen American Government*, <https://courses.lumenlearning.com/amgovernment/chapter/the-evolution-of-american-federalism/> .
- 25 Shri M. Venkaiah Naidu, *Do Not Settle For Short-Term Populist Measures; Focus On Long Term Economic Model: Vice President Tells States* (Nov.22, 2018), *Presents India Today State Of State Awards 2018*, <https://pib.gov.in/Newsite/PrintRelease.aspx?Relid=185916#:~:Text=According%20to%20Granville%20Austin>.
- 26 John Kincaid, *Competitive Federalism*, *Centre For The Study Of Federalism*, (July 26, 2018), [https://encyclopedia.federalism.org/index.php?title=Competitive\\_Federalism](https://encyclopedia.federalism.org/index.php?title=Competitive_Federalism).
- 27 Albert Breton, *Protecting Citizens Against Cooperative Collusion*, <https://library.unt.edu/gpo/acir/reports/information/M-157.Pdf>.
- 28 *Different Types Of Federalism (With Examples And Pros & Cons)*, *E Law Talk*, <https://elawtalk.com/types-federalism/#:~:Text=Creative%20federalism%20refers%20to%20the,Direct%20control%20over%20Statewide%20programs>

- 
- 29 Teresa Ter-Minassian, Fiscal Federalism In Theory And Practice 7 (Teresa  
Ter-Minassian, International Monetary Fund 1997).
- 30 Naim Kapucu, Fiscal Federalism, Britannica,  
<https://www.britannica.com/topic/fiscal-federalism>.
- 31 Shri N. K. Singh, Fiscal Federalism: Ideology And Practice, Reserve Bank  
Of India  
<https://www.rbi.org.in/scripts/publicationsview.aspx?id=19340>.
- 32 K C Wheare, Federal Government 96 (Oxford University Press 3<sup>rd</sup> Ed.  
1953).
- 33 M. P Singh, Constitution To SC: How The Federal Doctrine Evolved,  
Hindustan Times, [https://m.hindustantimes.com/India-  
News/Constitution-To-Sc-How-The-Federal-Doctrine-Evolved/Story-  
JCCDW0q2rXq0BhUV6FXSYM\\_Amp.Html](https://m.hindustantimes.com/India-News/Constitution-To-Sc-How-The-Federal-Doctrine-Evolved/Story-JCCDW0q2rXq0BhUV6FXSYM_Amp.Html).
- 34 Romila Thapar, A History Of India 82 (Penguin: Harmondsworth, 1966).
- 35 B. S. Sihag, Kautilya On Principles Of Taxation. 25:1, HUMANOMICS,  
55–67. (Feb.20, 2009). Doi:10.1108/08288660910934772.
- 36 Y.V Reddy & G.R Reddy, Indian Fiscal Federalism 2 (Oxford University  
Press 2019).
- 37 Governors - General Of Bengal (1757 -1833).Cdr, [https://s3-us-west-  
2.amazonaws.com/visionresources/Infographics/Governor-Generals-  
Of-Bengal-\(1757-1833\).Pdf](https://s3-us-west-2.amazonaws.com/visionresources/Infographics/Governor-Generals-Of-Bengal-(1757-1833).Pdf)
- 38 East India Company And Raj 1785-1858, UK Parliament,  
[https://www.parliament.uk/about/living-  
Heritage/evolutionofparliament/legislativescrutiny/parliament-and-  
Empire/parliament-and-the-american-colonies-before-1765/east-  
India-Company-And-Raj-1785-1858/](https://www.parliament.uk/about/living-heritage/evolutionofparliament/legislativescrutiny/parliament-and-empire/parliament-and-the-american-colonies-before-1765/east-india-company-and-raj-1785-1858/).
- 38 K. Gopa Kumar, Historical Evolution Of Federal Finances In India,  
Federal
- 39 K. Gopa Kumar, Historical Evolution Of Federal Finances In India,  
Federal Governance A Graduate Journal,.
- 40 M M Sury, Tax System In India Evolution And Present Structure 24 (New  
Century Publications 2015)
- 41 D.D. Basu, Introduction To The Constitution Of India 8 (Lexisnexis 24th  
Ed. 2018).
- 42 Administration Of Lord Lytton (1876-1880), Sansar Lochan, (May 28,  
2020), <https://www.sansarlochan.in/en/lord-lytton/>.
- 43 S. Priyadarshni, Reforms Brought By Lord Ripon – Discussed! History  
Discussion [https://www.historydiscussion.net/history-of-  
India/Reforms-Brought-By-Lord-Ripon-Discussed/2563](https://www.historydiscussion.net/history-of-india/reforms-brought-by-lord-ripon-discussed/2563)
- 44 Lord Curzon: Reforms And The Administrative Measures, Sansar Lochan,  
(Oct. 15, 2020), [https://www.sansarlochan.in/en/lord-curzon-  
Reforms-And-The-Administrative-Measures/](https://www.sansarlochan.in/en/lord-curzon-reforms-and-the-administrative-measures/).

- 
- 45 Puja Mondal, Montagu-Chelmsford Reforms And Government Of India Act, 1919, Your Article Library, <https://www.yourarticlelibrary.com/history/montagu-chelmsford-reforms-and-government-of-india-act-1919/23357>.
- 46 Tej Bahadur Sapru, The Indian Constitution. 145: 2 The Annals Of The American Academy Of Political And Social Science 9-18, (1929). <http://www.jstor.org/stable/1016881>
- 47 Rajesh Kumar, Evolution Of Fiscal Federalism In The Colonized India, Centro Studi Sul Federalismo Perspectives On Federalism, [http://www.on-federalism.eu/attachments/322\\_319\\_Download.Pdf](http://www.on-federalism.eu/attachments/322_319_Download.Pdf)
- 48 Shivam N, Public Finance In India, Economic Discussion, <https://www.economicdiscussion.net/india/public-finance-india/public-finance-in-india/21262>
- 49 Indian Statutory Commission, [Round Table Conferences, 1930-1932](http://www.open.ac.uk/researchprojects/makingbritain/taxonomy/term/473#:~:text=In%201930%2C%20the%20Commission%20published.Government) Making Britain <http://www.open.ac.uk/researchprojects/makingbritain/taxonomy/term/473#:~:text=In%201930%2C%20the%20Commission%20published.Government>.
- 50 East India (Constitutional Reforms) 50 (His Majesty's Stationery Office H.M. Stationery Office London 1930) Government Of India's Despatch On Proposals For Constitutional Reform, Dated 20th September, 1930.
- 51 M. P. Jain, Nehru And The Indian Federalism. 19: 4 Indian Law Institute 392-418, (1977) <http://www.jstor.org/stable/43950497>.
- 52 Shakeel Anwar, Key Features Of Nehru Report, Jagranjosh, (May 24, 2016), <https://www.jagranjosh.com/general-knowledge/key-features-of-nehru-report-1446457281-1>.
- 53 [Pragya Bansal](#), Federalism In India – Analysis Of The Indian Constitution, (Aug. 29, 2018).
- 54 Deepthi Tiwari, Government Of India Act 1935: Main Features, <http://magadhmahilacollege.org/wp-content/uploads/2020/05/Government-Of-India-Act-1935-Converted-1.Pdf>.
- 55 Government Of India Act 1935: Main Features, (Nov 8, 2017).
- 56 Benjamin N. Schoenfeld, Federalism In India, 20: 1 The Indian Journal Of Political Science, 52-62, \_\_\_\_\_ (January-March, 1959), <https://www.jstor.org/stable/42743497>.
- 57 Gopakumar. K, Centre-State Financial Relationship- The Constitutional Precepts And Practices: A Study Of The Fiscal Federalism Under Indian Constitution With Special Reference To The State Of Kerala, Shodhganga@INFLIBNET <http://hdl.handle.net/10603/6626id>.

- 
- 58 The Making Of Indian Constitution: 9 December 1946 To 26 January 1950, Google Arts And Culture, <https://artsandculture.google.com/exhibit/the-making-of-the-indian-constitution-%C2%A09-december-1946-26-january-1950-nehru-memorial-museum-library> .
- 59 M. Govinda Rao, A Review Of Indian Fiscal Federalism, Research Study Submitted, Supplementary Volume-II, [http://interstatecouncil.nic.in/wp-content/uploads/2015/06/Suppl\\_Volii\\_Research\\_Studies.Pdf](http://interstatecouncil.nic.in/wp-content/uploads/2015/06/Suppl_Volii_Research_Studies.Pdf).
- 60 Constituent Assembly Debates, Volume V, 20 August 1947, <https://indiankanoon.org/doc/1478375/>.
- 61 Adrija Rovchowdhury, Five States That Refused To Join India After Independence, The Indian Express, (Aug. 17, 2021) <https://indianexpress.com/article/research/five-states-that-refused-to-join-india-after-independence/>.
- 62 How Was India Formed: Princely States And Jammu And Kashmir, FINOLOGY LEGAL? <https://www.youtube.com/watch?v=Fqgzb9yaaw> (Last Visited On Feb. 5, 2021).
- 63 Partition Of India, India Quarterly: A Journal Of International Affairs, Sage Journals, (July 1, 1999), <https://journals.sagepub.com/doi/10.1177/097492849905500304>.
- 64 Y V Reddy & G R Reddy, Indian Fiscal Federalism 9 (Oxford University Press 1<sup>st</sup> Ed. 2019).
- 65 M. Govinda Rao And Nirvikar Singh, Asymmetric Federalism In India (April 2004), [https://people.ucsc.edu/~B\\_Oxjenk/Wp/Asymmetric\\_Federalism.Pdf](https://people.ucsc.edu/~B_Oxjenk/Wp/Asymmetric_Federalism.Pdf).
- 66 Arun Kumar, Ground Scorching Tax 11 (Penguin Random House India Private Limited 2019).
- 67 Constituent Assembly Debates, Volume V, 20 August 1947, <https://indiankanoon.org/doc/1478375/>.
- 68 B K Manish, Making Of The Indian Constitution: A Simplified Brief, Down To Earth, (Dec. 8, 2016), <https://www.downtoearth.org.in/coverage/governance/making-of-constitution-a-simplified-brief-56529>
- 69 Constitution Of India, India Gov.In National Portal Of India, <https://www.india.gov.in/my-government/constitution-india#:~:Text=The%20Republic%20is%20governed%20in,Force%20on%2026th%20January%2C%201950.>
- 70 Louis Tillin, Indian FEDERALISM 7 (Oxford University Press 2019).
- 71 When BR Ambedkar Defended Time Taken For Drafting Constitution, The Indian Express, Saturday, Feb. 6, 2021,

---

72 <https://Indianexpress.Com/Article/Research/When-Ambedkar-Defended-Time-Taken-For-Drafting-Constitution-4970935/>.  
Venkatesh Nayak, The Basic Structure Of The Indian Constitution, Constitution Net, <https://Constitutionnet.Org/Vl/Item/Basic-Structure-Indian-Constitution>.

73 1994 AIR 1918, 1994 SCC (3) 1.

74 Durga Das Basu, Commentary On The Constitution Of India 13342 (Lexis Nexis 9<sup>th</sup> Ed. 2018).

75 Elliot Bulmer, Federalism 37 (International IDEA Constitution-Building Primer 12, 2nd Ed. 2017).

76 Report Of The Commission On Centre-State Relations. March 2010 Volume - III Centre-State Financial Relations And Planning, <http://Interstatecouncil.Nic.In/Wp-Content/Uploads/2015/06/Volume3.Pdf> .

77 Manoj Panda, Purnamita Dasgupta, William Joe, Resource Sharing Between Centre And States And Allocation Across States: Some Issues In Balancing Equity And Efficiency. Study Prepared For 15th FC Of India, Delhi: Institute Of Economic Growth, (July 2019), [https://Fincomindia.Nic.In/Writereaddata/Html\\_En\\_Files/Fincom15/Studyreports/Resource %0](https://Fincomindia.Nic.In/Writereaddata/Html_En_Files/Fincom15/Studyreports/Resource%0).

78 Gayatri Mann, Central Transfers To States: Role Of The Finance Commission, Prs India, (Apr.11, 2018), <https://Www.Prsindia.Org/Theprsblog/Central-Transfers-States-Role-Finance-Commission>.

79 Finance Commission India, <https://Fincomindia.Nic.In/Showcontentone.aspx?id=8&Section=1>.

80 History, Planning Commission Government Of India.

81 Planning Commission: Members, Functions And Five Year Plan, Indian Money (Dec.19,2018), <https://Indianmoney.Com/Articles/Planning-Commission>.

82 Organization, Planning Commission Government Of India, <http://164.100.161.239/Aboutus/History/Index.Php?About=Aboutbdy.Htm>.

83 Summary Record Of Discussions Of The National Development Council (NDC) Meetings Five Decades Of Nation Building (Fifty NDC Meetings) Vol - I (1st To 14th Meetings), Government Of India Planning Commission, [https://Niti.Gov.In/Planning\\_Commission.Gov.In/Docs/Reports/ Genrep/50ndcs/Vol1\\_1to14.Pdf](https://Niti.Gov.In/Planning_Commission.Gov.In/Docs/Reports/Genrep/50ndcs/Vol1_1to14.Pdf).

84 Puja Mehra, NDC To Be Scrapped, NITI Aayog Council Likely To Get Its Powers, The Hindu. (Sept. 22, 2016), <https://Www.Thehindu.Com/News/National/NDC-To-Be-Scrapped-NITI-Aayog-Council-Likely-To-Get-Its-Powers/Article13975094.Ece>.

- 85 Sudhir Tewari, IES (1985), Gadgil-Mukherjee Formula, ARTHAPEDIA, (Oct.17, 2011) [http://Www.Arthapedia.In/Index.Php?Title=Gadgil-Mukherjee\\_Formula#:~:Text=The%20Gadgil%20Formula%20comprising%20](http://Www.Arthapedia.In/Index.Php?Title=Gadgil-Mukherjee_Formula#:~:Text=The%20Gadgil%20Formula%20comprising%20)
- 86 B L Fadia & Kuldeep Fadia, Public Administration In India 879 (Sahitya Bhavan Publications).
- 87 Introduction Of NITI Aayog In India, Toppr, <https://Www.Toppr.Com/Guides/Business-Economics-Cs/Overview-Of-Indian-Economy/Introduction-Of-Niti-Aayog-In-India/>.
- 88 NITI Aayog Open To Have A Role In Allocating Developmental Funds To States: Rajiv Kumar, The Economic Times (Feb. 4, 2019), <https://EconomicTimes.Indiatimes.Com/News/Economy/Policy/Niti-Aayog-Open-To-Have-A-Role-In-Allocating-Developmental-Funds-To-States-Rajiv-Kumar/Articleshow/67833294.Cms?From=Mdr>.
- 89 Shashank Kothiyal, GST: A Reform In Indirect Taxation, TAX GURU, (Jan. 15, 2021), <https://Taxguru.In/Goods-And-Service-Tax/Gst-Reform-Indirect-Taxation.Html>.
- 90 The Constitution (115th Amendment) Bill 2011 (GST Bill), PRS Legislative Research, <https://Prsindia.Org/Billtrack/The-Constitution-115th-Amendment-Bill-2011-Gst-Bill> .
- 91 The Constitution (122nd Amendment) (GST) Bill, 2014, PRS Legislative Research, <https://Prsindia.Org/Billtrack/The-Constitution-122nd-Amendment-Gst-Bill-2014>.
- 92 Amendment Of Indian Constitution For GST, Clear Tax, (Apr. 19, 2021), <https://Cleartax.In/S/Constitution-Amendment-Gst>.
- 93 Fiscal Federalism In India – The Changing Landscape, Lokniti, (July 19, 2020), <https://Mpp.Nls.Ac.In/Blog/Fiscal-Federalism-In-India-The-Changing-Landscape/>.
- 94 B. Viswanathan, Goods And Services Tax (GST) In India 11 (New Century Publications 2016).
- 95 Goods And Service Tax (GST) Concept & Status, Central Board Of Indirect Taxes And Customs (CBIC) Department Of Revenue Ministry Of Finance Government Of India As On 01 St August, 2019, CBIC, <https://Www.Cbic.Gov.In/Resources//Htdocs-Cbec/Gst/GST-Concept%20And%20Status01072019n.Pdf?sessionid=21A2B40D48C48A3818787B44EA9A49EA> .
- 96 Arun Kumar, Ground Scorching Tax 17 (Penguin Random House India Private Limited 2019).
- 97 GST Guide: Taxes To Be Subsumed Under GST, The Times Of India, (Aug. 23, 2021),

- 
- <https://Timesofindia.Indiatimes.Com/Business/Faqs/Gst-Faqs/Gst-Guide-Taxes-To-Be-Subsumed-Under-Gst/Articleshow/60192017.Cms>.
- 97 Balaji Theatre V. Chief Secretary Officer
- 98 Balaji Theatre V. Chief Secretary Officer Government Of Puducherry, (Madras High Court) W.P.No.33077 Of 2018 And W.M.P.No.38348 Of 2018, Judgment Dated 20/11/2019, <https://Taxguru.In/Goods-And-Service-Tax/Entertainment-Tax-Levied-Municipality-Is-Constitutionally-Valid-Gst-Regime.Html>.
- 99 Brief History Of GST, GST COUNCIL, <http://Www.Gstcouncil.Gov.In/Brief-History-Gst>.
- 100 M M Sury, GST And Fiscal Federalism In India 294 (New Century Publications, 2018).
- 101 Alok Prasanna Kumar, For A Mess Of Potage: The GST's Promise Of Increased Revenue To States Comes At The Cost Of The Federal Structure Of The Constitution, 28: 2 National Law School Of India Review 97-113, (2016) <http://Www.Jstor.Org/Stable/26201827>.
- 102 C.P Chandrasekhar, Girish Kumar R, GST: Fiscal Centralism In A Federal Polity 34 (Mahatma Gandhi University, Kottayam 2016).
- 103 Manish Sachdeva, GST: Suits – The Vices Therein, Tax Guru, (Mar. 10, 2019), <https://Taxguru.In/Goods-And-Service-Tax/Gst-Situs-Vices.Html>.
- 104 Pritam Mahure, Constitution Of India And GST Consult Ease (May 25, 2019), <https://Www.Consultease.Com/Wp-Content/Uploads/2019/05/Constitution-Of-India-And-GST-Handbook-25-May-2019-CA-Pritam-Mahure-1-4.Pdf>.
- 105 Sharing Of Union Tax Revenues, [https://Fincomindia.Nic.In/Writereaddata/Html/En/Files/Old/Commission.Html/Fcreport/Report Of 12th Finance Commission/Chapter%207.Pdf](https://Fincomindia.Nic.In/Writereaddata/Html/En/Files/Old/Commission.Html/Fcreport/Report%20Of%2012th%20Finance%20Commission/Chapter%207.Pdf).
- 106 GST Council - Meeting Live Updates On Notifications, Amendments, Dates & Members Of Council Body, Clear Tax, (Jan. 4, 2021), <https://Cleartax.In/S/Gst-Council#:~:Text>.
- 107 GST – Constitutional Provisions And Features Of Constitution (101st Amendment) Act, 2016, [http://Www.Nja.Nic.In/Concluded\\_Programmes/2017-18/P-1097\\_Ppts/1.GST%20Constitutional%20Provisions.Pdf](http://Www.Nja.Nic.In/Concluded_Programmes/2017-18/P-1097_Ppts/1.GST%20Constitutional%20Provisions.Pdf), See India Const. Art. 279A (4).
- 108 Pinaki Chakraborty, GST In India Simple Tax In A Complex Federal System 6 (Orient Black Swan 2019).
- 109 Prashant Shukla & Varun Kannan, Analysing The Working Of The GST Council From The Perspective Of Fiscal Autonomy Of The States, India

- 
- Law Journal, <https://www.indialawjournal.org/Analysing-The-Working-Of-Gst-Council.Php> (Last Visited Feb. 20, 2021).
- 110 Alok Prasanna Kumar, For A Mess Of Potage: The GST's Promise Of Increased Revenue To States Comes At The Cost Of The Federal Structure Of The Constitution, 28: 2 National Law School Of India Review 97-113, (2016) <http://www.jstor.org/stable/26201827>.
- 111 GST Formula - The Weighted Vote, TIOL, (Oct. 13, 2016), [https://taxindiaonline.com/RC2/Print\\_Story.Php?Newsid=28349](https://taxindiaonline.com/RC2/Print_Story.Php?Newsid=28349).
- 112 GST - From Consensus To Voting - Cooperative Federalism At Work? Tiol, (Oct.13, 2016) [https://taxindiaonline.com/RC2/Print\\_Story.Php?Newsid=28349](https://taxindiaonline.com/RC2/Print_Story.Php?Newsid=28349).
- 113 Nidheesh M.K., How A Dispute Over Taxing Lotteries Almost Derailed GST, Live Mint (June 21, 2017), <http://www.livemint.com/Politics/7Xc1k9YbZYRk1vH9WFMIaP/How-A-Dispute-Over-Taxing-Lotteries-Almost-Derailed-GST.Html>.
- 114 GST Council – Meeting Live Updates On Notifications, Amendments, Dates & Members Of Council Body, Clear Tax, (July 9, 2021), <https://cleartax.in/s/gst-council>.
- 115 Suyash Tiwari, The Issue Of The GST Compensation To States, (Aug.26, 2020), <https://www.cnbcv18.com/economy/explained-the-issue-of-the-gst-compensation-to-states-6741931.htm>.
- 116 The Big Picture – GST Short Fall: Centre To Borrow, Insights IAS, (Feb.20,2021) <https://www.insightsonindia.com/2021/02/20/the-big-picture-gst-shortfall-centre-to-borrow-2/>.
- 117 Aanchal Magazine, Compensation Shortfall: GST Dues Stuck, States Told To Borrow Via RBI, (Aug. 28, 2020) <https://indianexpress.com/article/business/economy/nirmala-sitharaman-gst-payment-states-rbi-6572835>.
- 118 Suresh Seshadri, What Is The GST Compensation Due To States? (Sept.6, 2020), The Hindu, <https://www.thehindu.com/business/Economy/What-Is-The-Gst-Compensation-Due-To-States/Article32531827.Ece>.
- 119 Report Of The Select Committee On The Constitution Second Amendment) Bill 2014 Presented To The Rajya Sabha On 22nd July, 2015, Prs India, <https://prsindia.org/billtrack/the-constitution-122nd-amendment-gst-bill-2014> .
- 120 Surajit Das, Some Concerns Regarding The Goods And Services Tax, 52 : 9 Economic And Political Weekly, Mar. 4, 2017, <https://www.epw.in/journal/2017/9/web-exclusives/some-concerns-regarding-goods-and-services-tax.html>.

---

<sup>121</sup> M P Jain, Indian Constitutional Law 569 (Wadhwa And Company Nagar 2007).