



FEDERAL STRUCTURES AND ITS IMPEDIMENTS IN THE UNITED STATES AND INDIAN LEGAL SYSTEM: A COMPARATIVE STUDY

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ABSTRACT

The authors in the instant paper have discussed the structure of federalism of the United States of America (USA) and India. The paper entails a detailed study of the comparative analysis between the federal structure of USA and the federal structure of India. The authors have discussed about the differences in the electoral systems and state functions in both the countries followed by a discussion on the indestructible union. The paper also provides for a comparative discussion on the autonomy of states which includes, financial and legislative autonomy enjoyed by the states within the union. The paper is followed by a critical analysis of the above aspects comparing both the countries. Lastly, the authors conclude the research paper and additionally providing for suggestions and recommendations that can be undertaken by both India and USA so as to improve their current legal framework so as to achieve its purpose in its very essence.

Keywords: Federalism, Autonomy, Electoral System, Union, Legislative, Financial

INTRODUCTION

Federalism according to K.C. Wheare, is essentially a system which divides powers between general and regional governments so as to allow them to coordinate as well as be independent¹. It hence demarcates the society on the basis of powers and functions which arise from factors that can be attributed to the

¹ K.C. Wheare, *Federal Government*, Oxford University Press (1971)

economic, cultural, social and political circumstances.² Therefore, federalism can be said to be principled on the combination of “shared rule” and “self-rule,” linking individuals, societies, political systems in a type of union that can be considered limiting but sustainable enough to pursue the common goal of an ideal and developed society efficiently, while respecting the integrity of all stakeholders.³ It hence is a political principle that encompasses diffusion of power and administration with an arrangement respectful of the conduction of affairs.

Broadly, the most prevailing features of a federal structure involve a distribution of powers, a dual government at the central and state units, decentralization, supremacy of constitution etc⁴. Although these features are merely indicative, they do envisage the majority elements- that is, a dual polity with the central government exercising control over the entire country (and certain areas) and state government having jurisdiction defined with regards to their territorial boundaries.⁵ It is pertinent to note that the levels of government do not function in watertight compartments but can either function in the spirit of asymmetry, cooperation or competitive federalism.⁶ The interaction is inter-governmental and can be dynamic in nature (for instance, political systems of one party system have been observed to have tendencies unitary in nature⁷) with the ultimate objective being to find the right balance to tackle the complexities of administration, governance and development of Nation.⁸

The United States of America (USA), one of greatest democracies of the world, follows the presidential form of government wherein the power is shared amongst the federal government and the state governments. The country follows a two party system. The constitution of USA has created three branches of the government, namely; first the executive branch controlled by the President, Vice President and the Cabinet; second the judicial branch controlled by state and federal courts and finally the legislative branch whose powers are vested upon the Congress, comprising of House of Representatives and the Senate. India, on the other hand, is *quasi federal* and follows a parliamentary form of government, wherein also the power is shared amongst the central government and the state governments, however, in case of conflict the central government rules prevail.⁹ Indian democracy follows a multi-party system. India also has majorly three branches of the government, first the executive branch, controlled by the President, Vice President, Prime Minister and the Union Council of Ministers, where most of the decisions are actually undertaken by the Prime Minister himself; second the judiciary branch, controlled by the three tier independent judiciary comprising of Supreme Court, High Courts and District/Trial Courts; and thirdly the

² W.S. Norman, *Justice and stability in Multinational democracies*, Cambridge University Press (2001)

³ I.K. Duchacek, *Comparative federalism: territorial dimension of politics*, Rinehart & Winston (1970)

⁴ Daniel Elazar, *Federalism theory and its application*, HSRC press (1995)

⁵ V. Verney, *Federalism, federative systems and federation : US, Canada and India*, Publius (1995)

⁶ D. Tarlton, *Symmetry and asymmetry as elements of federalism: a theoretical speculation*, Journal of Politics (1965)

⁷ A.T. Stepan, *Arguing comparative politics*, Oxford university press (2001)

⁸ S. Lakoff, *Between either/or and more/less: sovereignty vs autonomy under federalism*, Publius (1994)

⁹ *KesavanandaBharti v. State of Kerala*, AIR 1973 SC 1461 (1973)

legislative branch controlled by the Parliament comprising of Lok Sabha (Lower House) and Rajya Sabha (Upper House).¹⁰

STATEMENT OF PROBLEM

United States and India comprise to be two of the most poignant examples in the structure of federalism. As the world's oldest and largest democracy, both the nations have entrenched their respective political systems in consonance with federalism. As U.S. adopted federalism in toto as a republic state constitutionally in 1789, India came to be known as a Sovereign, Socialist, Secular Democratic republic as late as 1950. It is pertinent to note that both the nations are federal republics¹¹ as both the nations as independent dominions had several smaller states within that were associated by a union with the centre as a federal government.

The drafters of the constitution had a choice to choose between the presidential form of government and the parliamentary form of government for their country. The drafters, in their opinion, chose a structure which was more democratic and worked on the basic democratic principle that a government is of the people, for the people and by the people.

The author in this research paper tries to analyse and compare the federal structure and various clauses of the American constitution with the Indian constitution and how a few of the provisions can be adopted into the Indian constitution to improve the same. The author mainly focuses upon the concepts of Elections and Autonomy of States (financial and legislative) of the American system and whether they can be incorporated in the Indian setup so that it actually benefits the Indian parliamentary structure. In this paper the author also focuses on the aspect of as to how the various setups of the American constitution can be implemented in India and what all nuances shall be created by it and how they can be tackled effectively so as to give rise to a more or less parliamentary form of government along with the added advantages of the federal form of government which are currently seen to be missing in the Indian scenario.

The differences, albeit often debated, have been elucidated upon in this research article by an examination on the essential features of both the federal systems with regards to their implementation, the rationale of it and demonstrating the fallacies and benefits thereof. Further, this paper attempts to analyse the key features of the federal structure according to the yardsticks of federalism¹² and functioning between the two polities and elaborate particularly on aspects that are comparative in nature.

¹⁰ D.D. Basu, Comparative Federalism (2nd ed. Wadhwa and Company, Nagpur. 2008)

¹¹ Balveer.Arora, Multiple Identities in a Single State: Indian Federalism in a Comparative Perspective, Konark Publishers (1995)

¹² Ivor. D. Duchacek, Comparative Federalism, Rinehart and Winston (1970)

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The model adopted by the nations is analyzed under three broad categories as follows with respect to the research objective of this paper :

EXECUTIVE AND LEGISLATURE: STATE FUNCTIONS

The first aspect analyzed herein is with reference to the functioning of the central authority and its exclusive jurisdiction. What becomes pertinent to analyze is whether the exclusive control of the Centre over matters such as diplomacy and defense actually benefit a nation state and allows for the development of more exclusive and intimate relations between nations.¹³ In a federal state, the National government or the Centre is the primary leader with respect to conduction of affairs in the international arena and its deciphering as well as defense. However, the tasks of armed forces and diplomacy are built in consonance with the objectives of the federal government rather than the Nation's overall territorial interests.¹⁴ By the term "Legislative Autonomy", the author refers to the freedom of the states to draft and implement their own separate laws. The United States, being a decentralized federation, the states have a huge amount of power in respect to drafting new laws within the state with the federal government at the centre not having much control over it. In addition to this, there are a few matters which as such do not find place within the purview of federal government or the state government. In such scenarios, the state government has the right to make laws on said subject.¹⁵ In India, the law making power upon a certain subject is as per the three lists that are imbedded in the Indian Constitution.¹⁶ As per these lists, items under List I are under the purview of Central Government, items under List II are under the purview of State Government and subjects under List III are under the jurisdiction of both state as well as the central government. Additionally, in India the items which do not find place in any of the three lists, i.e. the residuary subjects,¹⁷ are within the purview of the central government.¹⁸

ELECTORAL SYSTEM

The electoral system in the US is somewhat very different to that in India. In USA, firstly, primary elections are conducted to choose the Presidential and Vice Presidential candidate from the two parties, i.e. the Democrat and the Republican, respectively. In the main elections, the electors are required vote via a ballot paper for the President & the Vice President and their representative in Congress separately. Thereby meaning that, the elector has the power to choose the President & the Vice President of a particular party and their representative to the Congress of another party.¹⁹ Further in regards to the

¹³*Ibid*

¹⁴ R. Watts, *Executive federalism: a comparative analysis*, Institute of intergovernmental relations (1989)

¹⁵ Constitution of United States, Xth Amendment (1787)

¹⁶ Constitution of India, Seventh Schedule (1949)

¹⁷ *M. Karunanidhi v. Union of India*, 1979 SCR(3) 254 (1979)

¹⁸ Constitution of India, Article 248 (1949)

¹⁹ Shugart, M., "Elections": *The American Process of Selecting a President: A Comparative Perspective*, *Presidential Studies Quarterly*, 632, 655 (2004)

Presidential election, each state out of the total fifty states has a particular number of electoral votes and if a nominee wins more than 50% votes, all the electoral votes are considered to be in favour of that candidate. This particular provision varies in a few states depending upon their state law. This kind of liberty which the citizens of US enjoy, of having to vote for the President and for their representative in the Congress, of two different parties is something not available in India. In India, the electoral system is very much different. The general elections held in the country are for indirectly choosing the Prime Minister of the country who takes most of the executive decisions of the country.²⁰ However, in these elections the electors are expected to vote for their representative in the lower house of the parliament (Lok Sabha) and the majority of these parliamentarians belonging to a particular party forms the government. The majority party then elects its leader, who in turn is appointed by the President to become the Prime Minister of India.²¹ Another very significant difference between the Indian and the American electoral system is that in the American setting, Presidential elections being direct elections, the President candidates are to be mandatorily declared by the parties, which is not the case in India.

Hence the US legal system in its Constitution explicitly provides for the abovementioned provisions stating that “No state shall enter into any Treaty, Alliance or Confederation.....No State shall, without the consent of Congress, keep Troops, or Ships of War in time of Peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded or in such imminent danger as will not admit of delay.”²² On the other hand, the Indian Constitution provides a detailed mechanism for the same. Article 246 read with Schedule VII envisage a distinct separation of power between the central and state government in the form of the III lists. Entries such as 1, 2, 4, 10, 14 and 15 provide for exclusive control of the central authority whereas entries such as 5, 6, 7, 9, 12, 16, 17, 18, 19, 37 and 41 are supportive of the Union powers²³. Further, Articles such as 352, 353, 355, 53(2) are concomitant towards the strengthening of the central authority. It is evident that the Indian constitution is far more elaborate with respect to division of governance between the federal and states.²⁴

Further, another yardstick of federalism envisaged is with respect to powers not granted in the Constitution, also known as “residuary powers”.²⁵ The United States encompasses these powers to the state government. Article 1 of the U.S. Constitution²⁶ provides for a cut-out of 18 subjects to be legislated upon by the centre, thereby further restricting its domain and granting these powers to the State. The

²⁰ Bag, Amartya, Indian Federalism: Examining the Debate, *SSRN Journal*, 51, 59 (November 5, 2009).

²¹ Constitution of India, Article 75 (1949)

²² Constitution of the United States, Article 1 Section 10 (1787)

²³ Madubhushi Sridhar, Evolution and philosophy behind the Indian Const, PCCI

²⁴ C. Taylor, Multinational democracies, Cambridge University Press (2001)

²⁵ Yogesh Singh, Comparative federalism : testing indian constitution on the yardstick of I.D. Duchacek, Rostrum Legal (2016); available at : <http://rostrumlegal.com/comparative-federalism-testing-indianconstitution-on-the-yardsticks-of-ivo-d-duchacek/> [Accessed on 9th december, 2020]

²⁶ Constitution of the United States, Article 1 Section 8 (1787)

Indian Constitution apart from containing the three lists sends the residuary powers at the hands of the Union instead of the state. The provisions in Schedule VII provide a demarcation of powers exhaustively, such that the question of residuary powers did not arise incidentally²⁷. However, in any case, Article 248 states the clear authority of the Union in such matters. Within this yardstick, the Indian Constitution reflects unitary features²⁸ as the Union can make laws with respect to state matters as well (in national interest, at the time of emergency, to implement any international treaty²⁹ etc.)

Further, with regards to amend ability of the Constitution and the power to retain the veto, considered as an extremely reliable yardstick, the US model requires ratification by 3/4th states at least- irrespective of the nature of the amendment being federal or non-federal.³⁰ In India, however, the power of amendment has been laid down primarily under Article 368, as well as Article 4 and Schedule VI. Irrespective of the nature of the matter, an amendment requires initiation of the Centre with the ratification of only half states by simple majority, being subject to certain conditions- that is, amendment of provisions affecting federal structure which constitute to be some 58 articles and 2 schedules.³¹

INDESTRUCTIBLE UNION : DESTRUCTIBLE OR INDESTRUCTIBLE STATES?

The very nature of a federal structure in terms of its capacity to dissolve by secession becomes an important yardstick. Although the formation of the United States is said to be contractual in nature in the form of a indestructible union of indestructible states,³² the Constitution does not contain an explicit interdiction of secession. However, it can be interpreted from the Preamble of the Constitution that stresses on “more perfect union” read with the Articles of Confederation which had been amended to include thirteen of its states in a perpetual union. However, the doubts with regards to right of national self-determination which prevailed in the initial years of the formation of the United States were settled in the landmark ruling by the United States Supreme Court in *Texas v. White*³³ which clarified that the states are indestructible indeed despite it being a model of “coming together.” In India, however, secession since its inception has never been considered a possibility. Article 1(1) of the Constitution reads “India, that is Bharat, shall be a union of States,” with Dr. B.R. Ambedkar distinctly clarifying in the debates of the Constituent assembly that the use of the word “union” instead of “federal” in itself explicitly lays down that the states have no freedom to secede from it, hence being a “holding together” model. Additionally, Article 2 and Article 3 essentially allow the Central legislation to redraw the entire political

²⁷ Austin, *Indian Constitution: Cornerstone of a Nation*, Clarendon Press (1966)

²⁸ S. Agarwal, *The Indian federalist*, Notion Press (2014)

²⁹ Constitution of India, Article 249, Article 250, Article 253 (1949)

³⁰ Constitution of the United States, Article 5 (1787)

³¹ Constitution of India, Article 368(2) (1949)

³² Sawyer, *Modern federalism*, Pitman Publishing (1969)

³³ *Texas v. White*, 74 U.S. 700 (1869)

map of the country.³⁴ The recent abrogation of Article 370 can be interpreted in the light of the abovementioned argument.

AUTONOMY OF STATES

When discussing about the issue of autonomy of states in both India and USA, there are two sub heads within the two which are needed to be considered, namely:

Financial Autonomy

The author shall elaborate upon the tax structure in this particular section. In USA, the states are empowered to levy tax upon individuals along with the federal government. In addition to this there are also states which levy state income tax, and these tax rates vary from state to state. Interestingly, there are also a few states which levy 0% state income tax.³⁵ Additionally, the states also have power to charge sales tax on sale of goods or services within its territory; this particular aspect of sales tax is similar to that of Indian tax structure, where Goods & Services Tax (GST) collected by the states as well as the central government. However, India doesn't have any provision for state income tax. The income tax levied upon individuals is in consonance with the Income Tax Act, passed by the parliament of India and doesn't give any special treatment to the citizens of any state on the face of it. Furthermore, the states also have the power to prepare their own state budgets and using such financial resources for the benefit of the public.³⁶

Legislative Autonomy

By the term "Legislative Autonomy", the author refers to the freedom of the states to draft and implement their own separate laws. The United States, being a decentralized federation, the states have a huge amount of power in respect to drafting new laws within the state with the federal government at the centre not having much control over it. In addition to this, there are a few matters which as such do not find place within the purview of federal government or the state government. In such scenarios, the state government has the right to make laws on said subject.³⁷ In India, the law making power upon a certain subject is as per the three lists that are imbedded in the Indian Constitution.³⁸ As per these lists, items under List I are under the purview of Central Government, items under List II are under the purview of State Government and subjects under List III are under the jurisdiction of both state as well as the central government.

³⁴ Berubari Union v. Unknown, AIR 1960 SC 845 (1960)

³⁵ Kim, S., "Fiscal autonomy and stabilization: an empirical analysis of US state governments", *Journal of Financial Economic Policy*, 707, 719 (2020)

³⁶ Constitution of India, Article 282 (1949)

³⁷ Constitution of United States, Xth Amendment (1787)

³⁸ Constitution of India, Seventh Schedule (1949)

Additionally, in India the items which do not find place in any of the three lists, i.e. the residuary subjects,³⁹ are within the purview of the central government.⁴⁰

CRITICAL ANALYSIS

With regards to the executive and legislative function demarcation between India and US, it can be evidently stated out that a strict federal nature was adopted in the United States whereas India is essentially quasi-federal. Hence the fundamental difference cannot be undermined but features that may enhance the efficiency of services and governance are often directly linked with decentralization of power. USA gives a very high amount of autonomy to States to make their laws and implement them. Some states even have different rules and regulations within their states for presidential elections. Such amount of autonomy is not available in India. Recently, there has been an instance where farm law ordinances which was an item in List II of Schedule VII of the Constitution, was legislated upon by the central government and the a new bills were passed on that particular subject without any explicit consent from the concerned state governments. Such issues effect the constitutional power sharing structure of India and tries to jeopardize the very federal fabric of the Indian constitution. Therefore, India should adopt the legislative autonomy for the states similar to that of USA. In the Indian model of federalism, it is pertinent to note that despite this division of power elaborately put in the form of lists forth the Indian democracy has seldom seen conflicts with respect to executive division of power. For instance, in the wake of the COVID-19 pandemic, a constant tussle between the issuance of containment zones was observed⁴¹ as Disaster management as an explicit entry was not provided for under any list and entry 23 of the concurrent list was interpreted for passing orders. Hence, despite elaborate entries envisaged, it is pertinent to have a distinct demarcation of functions in consonance with the modern day administration complexities.

Additionally, residuary power as well as issues relating to the state list matter adjudication has often been a contentious issue. The very recent controversy pertaining to the passing of Farm bills⁴² has put the whole nation on a standstill with the State governments such as that of Punjab are even so attempting to override the same by passing contradictory bills. The clear demarcation of powers has not only been coherent in the United States, but as also been clarified by the Supreme Court through the evolvement of Doctrine of

³⁹ M. Karunanidhi v. Union of India, 1979 SCR(3) 254 (1979)

⁴⁰ Constitution of India, Article 248 (1949)

⁴¹ States told to consult centre to impose lockdown outside containment zones, The Hindu (10 November 2020) available at: <https://www.thehindu.com/news/national/coronavirus-states-told-to-consult-centre-to-impose-lockdowns-outside-containment-zones/article33178015.ece>

⁴² Pragati K.B., Why are the agriculture bills being opposed, The Hindu (16 sept 2020); available at : <https://www.thehindu.com/news/national/explainer-why-are-the-agriculture-bills-being-opposed/article32618641.ece>

Colourable legislation and has been reiterated by the recommendations of Sarkaria Commission wherein it was stated that the states must be consulted on matters pertaining to concurrent laws.⁴³

The election as practiced in the United States is quite different and much more democratic as compared to what is practiced in India. In India, citizens should have the freedom to choose a Prime Minister and their representative in parliament in the parliament from two different parties. The author is not in favour of the two party system as practiced in USA, *per se*, but supports the idea of the way the elections are held wherein they can choose the representative of their constituency depending upon his credentials without having any influence of the same on the election of the Prime Minister. The appointment of the PM must be *via* a direct election as practiced in the United States. In India, there have been numerous instances where the local representative/candidate of a party is not good enough but he/she belongs to the party of the leader whom the individual supports as the PM, thereby the individual is forced to do injustice to their decision making for either the local candidate or the prime ministerial candidate. Further, the concept of Electoral College so as to decide each state is something which is not viable in a country like that of India. However, the concept of Electoral College can be implemented in the country as a whole so as to decide the Prime Minister. Additionally, the concept of Electoral College also needs to be amended a bit when compared to USA so as to implement it in India. The conventional concept of Electoral College as per the US Presidential system, a candidate needs to gather more than 50% of the votes so as to win a state.⁴⁴ But, given the demographic situation of India and that India doesn't follow a two party rule, the winner must be decided upon the consideration of who gathers the maximum number of votes and not who gather more than 50% of the votes.

The autonomy of states provided to the states in the United States is much more than what is provided to the states in India. Although both the countries provide financial and legislative autonomy, the degree of independence given to the states in USA is much greater than that in India. In regards to the financial autonomy, the author is not in favour of having separate income tax rates in India for each state resident as is the case in USA. However, the author opines that India should adopt the mechanism of sales tax similar to that of United States, where the sales tax varies from state to state and directly goes to the treasury of the state government. Currently the scenario of tax regime in India, due to the new Goods & Services Tax (GST) is such that the state governments are waiting for their share of the tax to be sanctioned in their favour from the central government by way of GST compensation. Additionally, since GST advocates for one nation one tax, this in turn creates issues for the state governments separately. The state governments usually fix tax rates on different items depending upon the trade structure within their state so as to gather at least a certain amount of money *via* tax in their treasury. However, the current GST structure which

⁴³ Justice Sarkaria, Inter state council secretariat, Ministry of Home Affairs, available at : <http://interstatecouncil.nic.in/sarkaria-commission/>

⁴⁴ Bush v. Gore, 531 U.S. 98 (2000)

hampers the State's autonomy in regards to the amount of tax to be collected coupled with the issue of delay in GST compensation on part of the central government asks for a systematical change in the financial autonomy of the state, on lines of the sales tax regime as practiced in USA. Hence the financial autonomy of states suffers from various lacunas. Even before the implementation of GST, the provisions regarding Grant in aid often suffered from the ills of favoritism resulting in asymmetric federalism. But the GST implementation certainly encompasses a unitary feature with respect to federalism aspect. Although federal states such as Canada also envisage such a system⁴⁵, its unitary feature cannot be undermined, especially in the context of India wherein the recent controversy pertaining to GST Compensation Fund during COVID -19 slowdown⁴⁶ has only weakened the cooperative federalism structure as the States demands of the Centre taking responsibility for the deficit caused due to the economic slowdown has not being fulfilled leading to a potential trust deficit.

CONCLUSION AND RECOMMENDATIONS

The ultimate yardstick for determining the functioning of a federation is dependent on the ideology, history, culture and the actual political scenario. Irrespective of its leaning towards unitary features or federalism features- the principle of cooperation, mutual respect for integrity, trust and restraint in abuse is what accentuates federations to work efficiently. Additionally, features such as political party system, linguistic and cultural groups and minorities and diversity- also determine how the dominant voice should include or exclude characteristic features of federalism. If not tackled in a sensitive manner, they could lead to demands for secession or potential civil wars, such as in the case of USSR and its consequent disintegration not just geographically but also in terms of its superpower status which can be attributed to over centralization and domination in the hands of a single entity.⁴⁷ Even developed countries that have survived waves of extreme conflicts such as Canada (in case of a conflict between French speaking and English speaking regions⁴⁸) have had to witness the breakdown in the fallacies of their federal structure. Although the United States has not faced drastic challenges with regards to accommodation of diversity, but it has faced turmoil at the time of the New Deal.

On the other hand, a country like India has faced the turmoil of partition in 1947 and even today faces the challenges of secession (eg, Demand for a separate Nagaland⁴⁹) in contemporary forms. Hence as a land containing such varying diversities, it is nothing short of an achievement to have managed to handle such tendencies and threats to the integrity of the nation as the common sentiment of "unity in diversity" has

⁴⁵ R. Watts, *Comparing federal systems*, McGillQueen's University Press (1999)

⁴⁶ Suresh Seshadri, *What is the GST compensation due to States?*, The Hindu (05 september 2020), available at : <https://www.thehindu.com/business/Economy/what-is-the-gst-compensation-due-to-states/article32531827.ece>

⁴⁷ R.S. Stevens, *Asymmetrical federalism: the federal principle and survival of small republic*, Publius (1977)

⁴⁸ Leo Panitch, *The Canadian state: Political economy and political power*, University of Toronto Press (1977)

⁴⁹ Press trust of india, *No Separate flag, Constitution for Nagaland, says Governor*; The Hindu (01 December 2020) available at : <https://www.thehindu.com/news/national/other-states/no-separate-flag-constitution-for-nagaland-says-governor/article33216745.ece>

always prevailed. However, the Indian constitution has seldom been criticized as a unitary one, especially in recent times but it is pertinent to note that federalism having been the founding structure of Indian Constitution has withstood the test of time and functioning of the Government and by and large a harmonious relationship between the Centre and States. However, the independent Jurisdiction of the Centre and the States in matters of legislation, taxation and administration do lead to generation of difference of perception, opinion and political compulsions. Such differences may thus hinder implementation of progressive developmental programs. The GST, the very recent farm bills are examples wherein the federal structure has had an impact or imposed delay in furtherance of national aim.

The author feels that for any democracy to function properly and in its right spirit, there needs to be a coordination between the Central and the State Government. This, at the end of the day helps in forming a strong democratic foundation coupled with the enabling the welfare of the general public at large, which is the very motive of any form of democratically elected government. It is the duty of the three branches of the government, i.e. the legislature, the executive and the judiciary to make sure that the morals of democracy are followed in its true letter and spirit. If considered separately, both the parliamentary as well as the presidential system shall require a plethora of changes so as to be fully democratic and to ensure that the voices of the citizens are heard and they have the liberty to choose their leader. Therefore, the best way to work this out, is by ensuring that both the state government and the central government work hand in hand, without the intent of displaying their superiority over the other. A particular subject that is disputed in regards to who amongst the two governments shall have jurisdiction upon must be cordially dealt with both the governments and decision should be reached upon keeping the welfare of the country and public at large, at a priority.

The author is of the opinion that no particular structure or form of government is perfect in every sense, each system has its own advantages and even nuances, which get resolved over a period of time with the help of amendments and other steps taken by different functionaries of the constitution. It is the various functionaries of the government which make up any democracy and the leadership is the one who guides it along. Just by implementing a few provision of the parliamentary setup in the presidential government and vice versa would not really help the cause of serving the people and building up a democracy. Even the citizens should have an active role in the same along with the government and must have a say in all democratic procedures in the country.

It hence can be said that the both the models of federalism have come across challenges but have rightly emerged strongly. The structures differ vastly but are a consequence of varying features as discussed above. Although India cannot adopt the US federal structure in toto, The US constitution offers thought provoking features with respect to financial autonomy as well as power to executive and legislate, which must be discussed for a developed and mature democracy. India has to progress towards a stronger

structure of decentralization- including the third tier of government. Recommendations of Sarkaria Commission as well as Punchhi Commission hence become of primary importance as they envisage an approach towards cooperative federalism involving the stakeholders from both- centre and state. Although the NITI aayog's tactic of competitive federalism amongst states has reaped benefits- it has to be remembered that an approach which is mutually exclusive of both would work in the best interest of the citizens- the ultimate receipts of a well-governed or badly-governed society.

Ultimately, federalism has to strike a harmonious balance which is often difficult to maintain between the centre and states and no institutional formula can guarantee a smooth functioning. The only anecdote which leads to lesser chances of jeopardizing are perhaps inculcation of a culture of trust, cooperation and toleration. National integrity cannot be built without acknowledging and including differences- which are celebrated rather than forced.

