International Journal of Applied Social Science **RESEARCH ARTICLE**
(An International Double Blind Peer Reviewed / Refereed Research Journal of Social Science) ISSN : 2394-1405 (Print)
Volume 13 (9 & 10), September & October (2026) : 1111-1121 ***Website :*** www.scientificresearchjournal.com
Received : 21.08.2026; Revised : 07.09.2026; Accepted :21.09.2026 **DOI** : https://doi-ds.org/doilink/11.2026-72371621/IJASS/13.9&10/1111-1121

The Changing Federal–State Relations in the United States: Lessons for India

ANURAG MISHRA
Ph.D. Candidate
CSA, SIS, Jawaharlal Nehru University, New Delhi (India)

ABSTRACT

Federal constitutions are written once; federations are renegotiated continuously. Neither the division of powers in the United States Constitution nor the Seventh Schedule of the Constitution of India has changed in its essentials, yet the working balance of power in both federations has moved substantially — through fiscal instruments, judicial doctrine and party competition rather than through formal amendment. This paper traces the American trajectory across six phases, from dual federalism through New Deal cooperative federalism, devolution, coercive federalism, judicial rebalancing, and the present period of polarised or "uncooperative" federalism. It sets that trajectory alongside the Indian experience, in which a constitutionally centralised union has oscillated between assertion and accommodation of the States according to the configuration of the party system. The comparison yields a specific finding: the United States has developed a repertoire of doctrinal and institutional restraints on centralisation — the anti-commandeering rule, a coercion limit on conditional spending, statutory costing of intergovernmental mandates, and, for a time, a standing intergovernmental commission — which India has never possessed. The paper argues that the transferable element of the American experience is this institutional machinery, not the adversarial temperament that now accompanies it, and identifies which reforms India could adopt by convention or statute and which would require constitutional amendment.

Keywords: Comparative federalism, Fiscal federalism, Centre–state relations, Anti-commandeering, Conditional grants, India, United States

INTRODUCTION

There are formal aspects to a federation, and there are aspects of power dynamics in operation that are distinct from the formal architecture, and that operate at different speeds. In over two hundred years, the text of the U.S. Constitution has been amended just 27 times, of which only a few relate directly to the federal–state division of authority. The structure of the three lists in the Seventh Schedule of the Constitution of India has remained unchanged since it was set up in 1950, though there have been some changes at the edges. However, in both nations the day-to-day power distribution between the general government and the constituent units today would be barely recognisable to those who wrote either document. The tools of change have been fiscal and not constitutional, judicial and not legislative, political and not legal.

This is the analytical challenge that the paper aims to solve. If federal balance is achieved in ways other than directly in the constitution, then the constitution itself would not be a determinant of outcomes, and constitutional amendment would not fix them. The relevant question, for a country that is aiming to improve its federal practice, is not what its constitution says, but what institutional and doctrinal constraints govern the central government's actions as it uses the levers that really count.

The United States is a fruitful comparison for India just because the two federations started from different approaches and have somewhat come together. The

How to cite this Article: Mishra, Anurag (2026). The Changing Federal–State Relations in the United States: Lessons for India. *Internat. J. Appl. Soc. Sci.,* **13** (9 & 10) : 1111-1121.

American union was built up from polities which gave up a defined portion of their sovereignty; the Indian union was built down from a constituted centre, which it inherited, to keep a plural society together. In both, however, considerable fiscal centralisation has occurred, the judiciary has emerged as the main judge of federal conflicts, and in both it is the party system and not the Constitution that has been the real variable.

This paper presents three questions. In the first place, during what periods and in what ways have the relations between the federal and state governments in the United States altered? In the second place, what doctrinal and institutional devices has the American system evolved for withstanding centralization, and what have the results been? Third, which of these devices are transferable to the constitutional and political context in India, and which are not?

The argument goes that the United States has developed a body of constraints upon the central government, which India has almost none of, including a rule against commandeering the states' administrative machinery, a rule that limits the coerciveness of conditional grants as interpreted by the judiciary, a rule that requires an assessment of the cost of intergovernmental demands before they are made, and, until 1996, a permanent entity to monitor the federal balance. These are the elements that can be exported. By contrast, the litigious and acrimonious character of modern-day American federalism is due to party polarization, not to structural design, and is neither desirable nor easily transferable.

The method is doctrinal and comparative and relies on constitutional text, judicial rulings, official commission and budget-office reports and the secondary scholarly literature. The two accounts are presented in the same four frameworks: legislative/ jurisdictional, fiscal, administrative, and institutional-political. The American account starts in 1787, but focuses on events after 1933 when the modern pattern had been established, while the Indian account begins in 1950 and continues to the present. The third tier of government, namely American municipalities and Indian panchayats and urban local bodies as provided by the Seventy-Third and Seventy-Fourth Amendments, is excluded from the scope of the enquiry, which is limited to the relationship between the general government and the constituent units.

2. Conceptual Framework

The classical federal theory starts from Wheare's formulation, in which the general government and the regional government are both coordinate and independent in their spheres of activity (Wheare, 1963). The definition is stringent and Wheare doubted whether it was met by India; he called the Indian Constitution 'quasi federal'. Riker recast federalism as a bargain struck by elites for territorial expansion or defence, the terms of which were subsequently enforced by the shape of the party system, not the constitution (Riker, 1964). The most salient observation that can be made about the comparison is Riker's focus on parties.

The organising distinction of the paper is provided by Stepan. He distinguishes between federations that are "coming-together" (in the U.S., Switzerland and Australia, for example, "previously sovereign polities agree to give up part of their sovereignty") and those that are "holding-together" (in India, Belgium and Spain, for example, "leaders of a threatened unitary polity conclude that the best way — indeed, the only way — to hold their countries together in a democracy would be to devolve power constitutionally") (Stepan, 1999, pp. 20, 24). Stepan's main argument is that what he calls "the American model" is not the standard model that is generally assumed: "most democratic countries that have adopted federal systems have chosen not to follow the U.S. model" (Stepan, 1999, p. 22). This cautioning applies to the paper's last chapter. What students learn in the study of American federalism isn't a blueprint to follow.

Three additional themes guide the American story. Grodzins replaced the "layer cake" concept of sequestered governmental layers with the "marble cake" concept of overlapping and intermingled layers (Grodzins, 1966). Kincaid later claimed that its cooperative spirit was replaced by a more aggressive form, that of the federal government directly imposing regulations on the states through mandates, conditions on aid and preemption, which he termed "coercive federalism" (Kincaid, 1990, p. 139). Later, Bulman-Pozen and Gerken recognized an additional form, one in which the state uses its role as a servant, insider, and ally to the federal government to become a sometime dissenter, a sometime competitor, a sometime challenger to federal plans (Bulman-Pozen and Gerken, 2009).

The fiscal dimension is based on the usual tenets of fiscal federalism, namely that the decentralisation of expenditure powers normally exceeds the decentralisation

of revenue powers so as to create vertical fiscal imbalances and a reliance on transfers from the centre (Oates, 1972). It is the degree of that dependence, and the restrictions placed on the transfers — see sections 4 and 6 — that is the practical measure of a federation's fiscal autonomy, and the channel through which both federations have centralised.

The Original American Design

The basis of the American federal bargain is enumeration. Article I, Section 8 assigns Congress a list of specified powers, and the Tenth Amendment reserves to the States or the people whatever is not delegated to the United States nor prohibited to the States. This is contrasted with the Supremacy Clause of Article VI, which gives federal law authority within its scope, and the Necessary and Proper Clause, which provides the means to the ends of federal authority.

Two aspects of that bargain are particularly noteworthy for their absence in India. First, the States have their own constitutional and independent taxing power, and the Federal government cannot restrict what types of revenue they can collect. Second, Article V is a provision that gives States a decisive vote in constitutional amendment, for which three-fourths must ratify. Thus, the constituent units are assured fiscal capacity, and a veto over the terms of the union.

The Marshall Court had established the interpretive stance early and in a nationalistic way. McCulloch v. Maryland, 17 U.S. (4 Wheat.) 316 (1819), interpreted the Necessary and Proper Clause broadly, and ruled that the States lacked the authority to tax federal instrumentalities. Gibbons v. Ogden, 22 U.S. (9 Wheat.) 1 (1824), held that the Commerce Clause should be broadly interpreted. The instruments of twentieth-century centralization were available from the outset, however, and it was not the instruments themselves but the desire to use them that changed.

Phases of Change in American Federal–State Relations

Dual Federalism, 1789–1930s

The relationship between the two levels of government was a mostly separate one until the first one and a half centuries or so; it was the layer cake that Grodzins later criticized. The first great re-centralisation was the Civil War and the Reconstruction Amendments which put state action under federal constitutional control, via the Fourteenth Amendment, and established a federal enforcement power. In the economic arena the Court enforced the line very rigorously, and in Hammer v. Dagenhart, 247 U.S. 251 (1918), it declared invalid the federal child-labour regulation, which was an encroachment on the states.

Cooperative Federalism, 1930s–1960s

The dual-federalism settlement was shattered by the New Deal. In NLRB v. Jones & Laughlin Steel Corp., 301 U.S. 1 (1937), the Court sustained federal regulation of labour relations in manufacturing, and in Wickard v. Filburn, 317 U.S. 111 (1942), it extended the commerce power to wheat growing for on-farm use, reasoning that the total effect was significant. After these decisions, the enumerated-powers restriction on federal economic regulation ceased to be a viable constraint for the next fifty years.

Fiscal development was more meaningful. Federal grants-in-aid became the regular instrument the federal government used to pursue aims that were constitutionally within the States' domain — highways, education, welfare, health — by offering money on conditions. The Great Society expanded categorical grant programs, all relatively specific and their eligibility requirements individually tied to the program. Now, functions were truly shared and it was indeed a marble cake.

New Federalism and Devolution, 1969–1990s

Reaction followed. Conlan's study of the past 25 years of intergovernmental reform, beginning under Nixon, identifies two separate impulses: the General Revenue Sharing initiative was a transfer of funds with low strings attached; and the reform of narrow categorical grants into larger block grants with fewer resources, which occurred during Reagan's administration (Conlan, 1998). The devolutionary programme culminated with the 1996 welfare reform, which transformed the open-ended federal entitlement into a block grant, giving states broad discretion in how they administer the program. However, a decentralization of administrative authority did not necessarily restore state autonomy since the fiscal dependency that had been established in the preceding decades continued.

Coercive Federalism

The argument Kincaid made was that beneath the rhetoric of devolution the federal government was in fact

tightening its grip, substituting regulation of the states for regulation through the states (Kincaid, 1990, p. 139). This change was brought about by three instruments. The first was conditional spending: in South Dakota v. Dole, 483 U.S. 203 (1987), the Court upheld the withholding of a percentage of federal highway funds from States that failed to raise the minimum drinking age, treating the condition as a valid exercise of the spending power. The second was preemption, in which federally enacted laws supplant state laws in a jurisdiction. The third was the unfunded mandate: a federal law that required state and local governments to provide services, but did not provide any money to support them.

The third was answered by a bill, the Unfunded Mandates Reform Act of 1995, that mandated that the Congressional Budget Office draft statements of mandate for bills reported by authorising committees and calculate whether the cost of a mandate exceeds statutory thresholds — set at $50 million for intergovernmental mandates and $100 million for mandates on the private sector in 1996, adjusted annually for inflation to $82 million and $164 million respectively by 2019 (Congressional Budget Office, n.d.). The Act's limitation is more instructive than its reach. It does not include "duties that arise from conditions of federal assistance or that are tied to participating in voluntary federal programs" (Congressional Budget Office, n.d.). The costing discipline does not, therefore, impinge on the conditional grant, the main source of federal leverage over the States.

Judicial Rebalancing, 1990s–2010s

Starting in the mid-1990s the Court began to rebuild enforceable limits, though on a different axis from the pre-1937 jurisprudence. Having briefly revived and then abandoned a direct immunity for state governmental functions — National League of Cities v. Usery, 426 U.S. 833 (1976), overruled in Garcia v. San Antonio Metropolitan Transit Authority, 469 U.S. 528 (1985) — the Court settled instead on a structural rule regarding the use of state institutions.

The anti-commandeering doctrine is that rule. In New York v. United States, 505 U.S. 144 (1992), the Court ruled that Congress may not force a State to create or implement a federal regulatory program, and in Printz v. United States, 521 U.S. 898 (1997), it extended this principle to state executive officers. The doctrine reached its widest formulation in Murphy v. National Collegiate Athletic Association, 584 U.S. 453 (2018), where the Court reasoned that there is no meaningful difference between Congress preventing a State from repealing an existing law and Congress requiring a State to enact a new one, and struck down the federal prohibition on state authorisation of sports betting.

Concurrently, the Court modestly restored the enumerated-powers limit — United States v. Lopez, 514 U.S. 549 (1995), and United States v. Morrison, 529 U.S. 598 (2000) — though the limit proved narrow, as Gonzales v. Raich, 545 U.S. 1 (2005), confirmed by sustaining federal control of locally grown medical cannabis.

The most noteworthy change in comparison was the introduction of a coercion limit on the spending power. In National Federation of Independent Business v. Sebelius, 567 U.S. 519 (2012), the Court ruled that Congress may provide States with money to extend Medicaid coverage, but may not threaten the withdrawal of their entire existing Medicaid funds if they declined the expansion. Dole had established that conditions may be attached; Sebelius established that at some point pressure turns into compulsion and exceeds the spending power. That threshold, however imprecise, is the only judicially enforced limit on fiscal coercion in any major federation.

Polarised Federalism, 2010s–Present

The contemporary period is characterised less by doctrinal development than by the conversion of federalism into an instrument of partisan conflict. States administering federal programmes use the discretion those programmes confer to obstruct federal purposes, in the pattern Bulman-Pozen and Gerken describe; States decline to assist federal immigration enforcement; States legalise conduct that federal law prohibits.

The most measurable expression is litigation. State attorneys general filed a record 138 multistate lawsuits against the federal government during the first Trump administration, a figure that nearly doubled the combined totals of the Obama and Bush administrations, and 133 such suits were filed during the Biden administration (American Immigration Council, 2025; Ballotpedia, n.d.). The pattern is symmetrical and partisan: the party out of power in Washington litigates from the States. Substantive doctrine has also become entangled with this conflict — *Shelby County v. Holder*, 570 U.S. 529 (2013), released covered jurisdictions from federal preclearance of electoral changes, and *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215 (2022), returned

abortion regulation to the States, in each case redistributing authority over a contested question to a polarised state arena. A parallel development has constrained the federal side of the relationship: in *West Virginia v. Environmental Protection Agency*, 597 U.S. 697 (2022), the Court applied the major questions doctrine to limit an agency's authority to regulate in a field of vast economic and political significance without clear congressional authorisation, narrowing the administrative route by which federal policy had displaced state regulation.

Throughout, fiscal dependence has deepened rather than eased. Federal funds supplied 34.2 per cent of total state government revenue in fiscal year 2024, down from a pandemic peak of 36.7 per cent in fiscal 2021 but well above the 28.6 per cent average of the period from 1975 to 2010; federal grants to States exceeded $1 trillion for the third consecutive year, of which Medicaid alone accounted for 68.8 per cent (Pew Charitable Trusts, 2026). Roughly a third of state revenue arrives from Washington, and two-thirds of that is concentrated in a single programme.

Instruments and Institutions of American Intergovernmental Relations

Three legal instruments govern the relationship. Preemption displaces state law where Congress has legislated within its competence. Conditional spending induces state action that Congress could not compel directly, subject since 2012 to the Sebelius coercion limit. The anti-commandeering rule marks the outer boundary: Congress may regulate individuals directly, and may offer States inducements, but may not conscript state legislatures or executives into federal service.

The institutional dimension is thinner, and its history is cautionary. The Advisory Commission on Intergovernmental Relations was created by statute in 1959 as a permanent body drawing its membership from Congress, state governors, state legislators, mayors, county officials, federal executive officials and private citizens, with a professional research staff. For thirty-seven years it produced the empirical basis on which intergovernmental policy was argued. It closed on 30 September 1996, terminated by a Congress that had come to regard it as irrelevant to the issues before it and abandoned by an administration that had fallen out with it over the unfunded mandates question, while the state and local government associations that might have defended it remained neutral (McDowell, 1997). McDowell's assessment of the consequence was unambiguous: "the federal government's last resource for addressing broad intergovernmental issues — beyond the confines of individual programs — is gone" (McDowell, 1997, p. 111).

The American federation thus abolished its only standing institution for monitoring the federal balance at precisely the moment when coercive federalism was intensifying, leaving the judiciary as the sole umpire and litigation as the sole remedy. The manner of the abolition matters as much as the fact: no constitutional change was required, and no amendment could have prevented it. An appropriation was simply not renewed. The episode is as instructive for India as the Commission's creation.

Indian Federal–State Relations: A Parallel Account

The Constitutional Design

The Indian Constitution starts by stating that India is a "Union of States" (art. 1 of the Constitution of India), a term that was used to rule out the possibility that India was merely a loose alliance or federation of once independent states, therefore further confirming the "holding-together" nature of Stepan. The Seventh Schedule distributes legislative competence across the Union, State and Concurrent Lists, with Union law prevailing in the concurrent field (Constitution of India, arts. 246, 254), and residuary power vests in the Union.

Indian federalism is also asymmetric in its design, and this is also built into the Indian arrangement as opposed to being an exception to it (Tillin, 2019). The centralising features stand out more than the distributive features. Parliament can enact legislation on a State List entry in the national interest on a resolution of the Council of States (art. 249), under a Proclamation of Emergency (art. 250), or to give effect to an international agreement (art. 253). The Governor of a State is appointed by, and holds office at the pleasure of, the Union Executive. The senior administration of both levels is staffed by the All India Services. And Article 356 allows the Union to take over a State's government on a report that the constitutional machinery of the State has failed. The constituent units of India have neither an unconditioned taxing power nor a similar role in constitutional amendment comparable to Article V of the American Constitution.

Political Phases

As Riker's model would suggest, however, the

operating balance has shifted over time, depending on the party system. Until 1967 under single-party dominance, intergovernmental relations were controlled within the ruling party rather than between governments. The period from 1967 to 1989 saw the emergence of opposition state governments and, with them, the heaviest use of Article 356: of the 115 impositions of President's Rule recorded to 2016, 63 fell in the two decades from 1971 to 1990 — about three a year on average, with twelve in 1977 alone (Factly, n.d.). During the coalition period (1989–2014), there was considerable de facto decentralisation as the national governments relied on regional parties to stay in power. The period since 2014 has combined a restored single-party majority at the centre with an explicit vocabulary of cooperative federalism.

Fiscal Federalism

The vertical imbalance between the expenditure responsibilities of the States and their own powers of revenue generation has been a longstanding characteristic of Indian fiscal federalism, as has been transfer systems that are designed more in keeping with political bargaining than equalisation considerations (Rao & Singh, 2005). The Finance Commission makes the determination of vertical devolution. The Fourteenth Commission raised the States' share of the divisible pool of central taxes to 42 per cent; the Fifteenth Commission retained it at 41 per cent for 2021–26, the one-point reduction reflecting "the changed status of the erstwhile State of Jammu and Kashmir" into two Union Territories, and distributed the States' share by criteria weighted to income distance (45 per cent), population and area (15 per cent each), demographic performance (12.5 per cent), forest and ecology (10 per cent) and tax and fiscal effort (2.5 per cent) (Press Information Bureau, 2021).

The headline share, however, exaggerates what is received by the States, as cesses and surcharges collected by the Union are excluded from the divisible pool altogether. Their share of gross tax revenue almost doubled between 2011–12 and 2020–21, from 10.4 per cent to 20.2 per cent, before falling to 14.5 per cent in 2023–24 (Factly, 2024). The consequence is that the divisible pool has shrunk from roughly 87 per cent of the Union's gross tax revenue in the early 2010s to approximately 78 per cent, so that the gap between the devolution rate the Finance Commission recommends and the share the States actually obtain has widened materially (Bhapta, 2026). Because these levies are excluded from the pool, "any increase in them directly reduces the amount of revenue available for sharing with states" (Bhapta, 2026). India thus allows by simple law exactly the same unilateral narrowing of the shareable base which the American States are constitutionally protected against by their independent taxing power.

The Goods and Services Tax completed the transformation. It removed most of the States' independent power to levy indirect taxes and transferred rate-setting to the GST Council, in which the Union has one-third of the weighted votes and all the States together two-thirds of the weighted votes, with decisions requiring a three-fourths majority of the weighted votes (Constitution of India, art. 279A). The arithmetic is decisive: because one-third exceeds one-quarter, the Union alone is able to block any proposal; no combination of States can act without it.

Institutions

India's intergovernmental machinery is more elaborate on paper than in practice. The Inter-State Council was constituted under Article 263 in 1990 by Presidential Order, based on the recommendations of the Sarkaria Commission, as a committee headed by the Prime Minister with membership of all Chief Ministers, Union Territory administrators and six Union Ministers of Cabinet rank, and is slated to meet at least three times a year (Drishti IAS, n.d.). It has met only about a dozen times in thirty-five years and the meeting in 2016 came ten years after its previous meeting (Drishti IAS, n.d.; Ministry of Home Affairs, 2018). The NITI Aayog, established by the Cabinet resolution of 1 January 2015, replacing the Planning Commission, is termed as "an institutional platform to foster cooperative federalism by facilitating collaborative engagement among the States" (NITI Aayog, n.d.), but it does not have the power to allocate resources like the Planning Commission did. The GST Council, set up under Article 279A, is the only body of intergovernmental nature with decision-making powers — and the Union has a veto over all such decisions as demonstrated above.

The Judicial Contribution

The Supreme Court has been the main curb on the central power, though it has acted episodically rather than through a settled doctrine. S. R. Bommai v. Union of India, (1994) 3 SCC 1, subjected proclamations under Article 356 to judicial review and required that the majority

of a ministry be tested on the floor of the House; the frequency of President's Rule fell markedly thereafter: 63 impositions in 1971–90, 27 in 1991–2010, and five between 2011 and 2016 (Factly, n.d.).

Union of India v. Mohit Minerals Pvt. Ltd. (Supreme Court of India, 19 May 2022) held that Article 246A "embodies the constitutional principle of simultaneous levy as distinct from the principle of concurrence" (para. 29), and that the recommendations of the GST Council are persuasive rather than binding on the Union and the States (Business Today, 2022). The judgment takes back some of the bargaining power from the states, but at the expense of uniformity, the purpose of the tax.

On executive control, in the case of Government of NCT of Delhi v. Union of India (11 May 2023), a five-judge Bench held that the elected Government of the NCT of Delhi had jurisdiction over services and over all matters falling under the State List except public order, police and land, reasoning that civil servants should be answerable to the electorate through a chain of accountability; Delhi is a distinct federal entity within an asymmetric federal structure (Supreme Court Observer, 2023). Parliament, however, reversed the judgment's practical effect by statute within months, illustrating the limits of judicial protection where the constitutional text leaves the field open to ordinary legislation.

In In Re Article 370 of the Constitution (11 December 2023), the Court upheld the abrogation of Jammu and Kashmir's special status and held that Article 370 was a temporary provision, that on accession the State had retained no element of internal sovereignty and that Article 370 was a feature of asymmetric federalism, and not a repository of sovereignty. It declined to rule on the validity of the reorganisation into Union Territories, in view of the Solicitor General's assurance that statehood would be restored, and directed Assembly elections by 30 September 2024 (LiveLaw, 2023).

The Reform Commissions

Two commissions have studied the issue of centre–state relations in detail, and the fate of their recommendations gives a clue as to the institutional strength of the federation. The Sarkaria Commission, appointed in 1983 under Justice R. S. Sarkaria, reported in 1988, recommending that the use of Article 356 be infrequent and used only as a last resort, that Governors be non-political and appointed after consultation with the Chief Minister, and that a permanent Inter-State Council be created under Article 263 of the Constitution of India (Government of India, 1988). Only one of these was done. The Punchhi Commission (Justice M. M. Punchhi), appointed on 27 April 2007 and reporting in March 2010, had suggested that the emergency must be implemented locally and not at the level of the entire State government, that the selection of Governors for appointment must include a committee comprising the Prime Minister, the Home Minister, the Speaker of the Lok Sabha and the Chief Minister of the respective State, that the Governor must have been politically inactive for at least two years before appointment, and that the Governor could be removed by a process of impeachment in the State legislature rather than at the Union executive's discretion (Government of India, 2010; ClearIAS, n.d.). As late as May 2018, the Inter-State Council's Standing Committee was still discussing 118 of the Punchhi report's recommendations at its last meeting in November 2017 (Ministry of Home Affairs, 2018), and only a handful of these recommendations have been implemented.

Comparative Analysis

On the jurisdictional axis, the two federations have converged from opposite directions. American enumeration proved elastic enough after 1937 to sustain federal regulation of almost any economic activity, and the modest revival in Lopez and Morrison did not reverse this. Indian distribution has been centralised from the beginning and has been further centralised as a result of the Union's use of the Concurrent List and Articles 249, 250 and 253. The difference is entrenchment: the American division cannot be altered without the participation of three-fourths of the States, whereas the Indian division can be adjusted by constitutional amendment in which the States have no general role, and, in the case of the divisible pool, by ordinary taxing legislation.

On the fiscal axis the parallel is close, while the divergence is decisive. Both centres disburse extremely significant amounts to their constituent units and impose conditions. However, the American States have kept their own independent revenue base, which the federal government cannot reduce, whereas the Indian States, having lost most of the power to levy indirect taxes, depend on a divisible pool which the Union can and does shrink through cesses and surcharges. American fiscal dependence is a matter of degree; Indian fiscal dependence is structural.

The difference is most extreme and significant along the administrative axis. The anti-commandeering principle prevents the American federal government from directing state legislatures or executive officers to implement federal programmes. There is no such principle in India. The Union routinely implements its policies through state administrative machinery and through the All India Services, whose senior officers serve in state governments while their careers remain subject to Union control. The Delhi services litigation is an example that even a judicial expression of accountability in this area may be overturned by legislation.

In both these federations the judiciary is the chief umpire along the institutional-political axis rather than the text, and the party system is a factor more than the text in shaping the institutional-political balance. In every case, the insight of Riker is valid, that American federal conflict grew as the parties polarized across the nation, and that Indian centralisation was related to the power of the ruling party as its parliamentary position fluctuated through the four phases described in section 6.2. The key difference between the two is the capacity of the institutions. The U.S. has a standing commission between governments for three and a half decades, and it has ended; the Indian equivalent exists on paper and has met only about a dozen times in three and a half decades. Currently, there is no permanent forum in either federation for negotiations about the federal balance aside from court proceedings.

The remaining variations are due to differences in origin. The coming together federation must provide its component parts with assurances, which include guarantees of reserved powers, independent taxation, a part in the amendment process, and more recently the anti-commandeering doctrine, as structural limitations that accompany the expansion of the centre. A holding-together federation is one that delegates powers by grace of the central powers; it still has the means to reclaim them.

Lessons for India

The American experience indicates eight lessons, presented here with the Indian problem each addresses, how it may manifest itself, and an evaluation of the requirements for its adoption.

First, a principle against commandeering the States' administrative machinery. Direct legislation has failed to bring about what the Union attains through State administration and through the All India Services. There is no Indian equivalent of the American principle that the centre may regulate people directly or offer incentives to the States, but may not conscript their institutions. A complete transplant is not feasible: the All India Services are constitutionally entrenched, and the integrated administrative structure is a deliberate design choice, not an oversight. What is feasible is the narrow version: if the Union prescribes that the States administer a Union scheme, it must fund the administrative costs in full. This can be done through legislation.

Second, a coercion threshold for conditional transfers. Sebelius holds that a condition ceases to be an inducement and becomes compulsion when the sum at risk is large enough that the State has no practical choice. Centrally sponsored schemes in India operate on precisely this logic, with matching contributions and design conditions attached to sums States cannot forgo. A statutory rule — that no scheme may condition more than a defined proportion of a State's existing entitlement on acceptance of new obligations — would import the principle without the litigation. Achievable by statute; more securely by amendment.

Third, an intergovernmental commission set up for a long term, with an independent research capacity. The ACIR's history supplies both the model and the warning. Its importance was that it provided a common set of facts around which intergovernmental disagreements were debated; its closing in 1996 eliminated this source of facts and litigation was the only forum that remained (McDowell, 1997). India's Inter-State Council has the constitutional authority that the ACIR did not have (Article 263) but not the practice. The changes it needs are to make its meetings compulsory in fact as well as in name, and to ensure the professional staffing and independent funding of its secretariat, so that it cannot be allowed to lapse by default as happened with the ACIR and as has happened now for a decade at a time with the Council. This is the best and easiest lesson to learn, requiring only that the existing Presidential Order be complied with, and it is what both the Sarkaria and Punchhi Commissions recommended (Government of India, 1988; Government of India, 2010).

Fourth, statutory costing of intergovernmental mandates. The Unfunded Mandates Reform Act requires that the cost to sub-national governments of proposed federal requirements be estimated and published before enactment. An Indian equivalent, requiring a fiscal impact statement for the States on any Union legislation or

scheme affecting State List or Concurrent List subjects, would be a modest but real discipline. Its limitation must be built out rather than replicated: because the American Act exempts conditions of federal assistance, it does not reach the principal instrument of leverage. An Indian statute should expressly cover centrally sponsored schemes.

Fifth, repair of the fiscal base. The following two measures follow directly from section 6.3. A constitutional or statutory ceiling on the proportion of gross tax revenue that may be raised through cesses and surcharges would prevent the unilateral narrowing of the divisible pool. The voting structure of the GST Council should be revisited, since a Union share of one-third against a three-fourths decision rule confers a veto that no single State or combination of States enjoys. Neither reform requires abandoning the GST; both require constitutional amendment.

Sixth, discipline in the use of the central power's discretionary instruments. Judicial review has been shown to restrain Article 356, and the figures confirm the effect. The unfinished agenda is about the Governor: the Punchhi Commission's recommendations to have a selection committee and to have the State legislature remove him by impeachment would turn the Governor into a constitutional functionary, as opposed to an agent of the Union; a time-limit to consider Bills would end the 'indefinite delay' currently allowed by the office.

Seventh, a predictable judicial doctrine, not case-by-case balancing. The American Court's most useful federal balancing features are its bright line doctrines—anti-commandeering foremost—and not its multi-factored tests which have been erratic. The Indian Court has rendered significant judgments in federal matters, but has not formed a general doctrine of state autonomy. Its decisions, therefore, episodically and reversibly defend States.

Eighth, what India should NOT import. Three aspects of modern American federalism are outcomes of polarization, not of design. The transformation of intergovernmental relations into a litigious process – 138 multi-state lawsuits against one administration and 133 against the next – replaces negotiation with court action and imposes long delays on policy. Re-devolution of contested rights to sub-national venues, as in Dobbs, gives rise to stark differences in the foundational rights of citizens based on their place of residence, a matter of special concern in a country as unequal as India across its States. Competitive federalism, valuable when it drives improvement in administration, becomes destructive when it drives competitive concession in taxation, labour standards or environmental regulation. The lesson is that institutional restraints on centralisation are worth adopting; the adversarial political culture in which they now operate is not.

In total, the reforms can be divided into three levels. There is no need for any legal change to comply with the existing Presidential Order on the Inter-State Council, or for conventions on gubernatorial appointment and on time limits for assent. The mandate-costing statute, the full funding of Union-directed administration, and the conditionality limit on schemes need to be enacted as ordinary legislation. Only three provisions require constitutional amendment: the cess-and-surcharge ceiling, the GST Council voting formula, and any entrenched limit on conditional transfers. The best lesson to draw from the American experience is that the first tier matters most, since the key resource the American federation lost — the ACIR — was a body no one was obliged to maintain, and it was cut off by the mere withdrawal of appropriations.

Conclusion

Many of these changes in American federal–state relations can be traced across six distinct phases without any alteration to the constitutional text. They have been fiscal, through grants-in-aid and the conditions attached to them; judicial, through the successive expansion and partial contraction of the commerce and spending powers; and political, through the nationalisation and polarisation of party competition. The federation's distinctive achievement has been to create enforceable constraints on the centre's use of those tools — namely the anti-commandeering rule, the Sebelius coercion limit, and statutory mandate costing — and its distinctive failure has been to destroy, in 1996, the institution that enabled intergovernmental negotiation outside the court system.

India's trajectory has been shaped by the same underlying variable, the party system, but from a constitutional starting point that gave the Union both a wider legislative mandate and a greater financial strength than the American federal government has ever possessed. The States' surrender of independent indirect taxation, combined with the unilateral narrowing of the divisible pool through cesses and surcharges imposed by the Union, has produced a structural fiscal dependence

which has no parallel in America. On the other hand, India retains institutional resources the United States has lost: an institutional framework under Article 263 for a permanent intergovernmental council, and two comprehensive commission reports whose recommendations remain largely unimplemented.

The central finding of this comparison is not that India should take over the doctrine of the American Constitution, which would not fit into its own text and history, but that the most useful American lessons are institutional and procedural — and the most useful of these is already available to India without constitutional amendment. Stepan's caution holds. The American model is not a blueprint. It is, however, a well-documented experiment in what restrains a federal centre and what does not, and its most salient single finding — that an institution that no one has to attend will not be attended — applies as well to the Inter-State Council as it does to the ACIR.

This comparison could usefully be extended in two directions: to the third tier of government in both federations, which is not included here, and to a quantitative assessment of whether the Sebelius coercion limit has in fact altered the design of conditional grant programmes in the United States, which would strengthen or weaken the case for the second lesson proposed above.

Table of Cases

United States

- *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215 (2022)
- *Garcia v. San Antonio Metropolitan Transit Authority*, 469 U.S. 528 (1985)
- *Gibbons v. Ogden*, 22 U.S. (9 Wheat.) 1 (1824)
- *Gonzales v. Raich*, 545 U.S. 1 (2005)
- *Hammer v. Dagenhart*, 247 U.S. 251 (1918)
- *McCulloch v. Maryland*, 17 U.S. (4 Wheat.) 316 (1819)
- *Murphy v. National Collegiate Athletic Association*, 584 U.S. 453 (2018)
- *National Federation of Independent Business v. Sebelius*, 567 U.S. 519 (2012)
- *National League of Cities v. Usery*, 426 U.S. 833 (1976)
- *New York v. United States*, 505 U.S. 144 (1992)
- *NLRB v. Jones & Laughlin Steel Corp.*, 301 U.S. 1 (1937)
- *Printz v. United States*, 521 U.S. 898 (1997)
- *Shelby County v. Holder*, 570 U.S. 529 (2013)
- *South Dakota v. Dole*, 483 U.S. 203 (1987)
- *United States v. Lopez*, 514 U.S. 549 (1995)
- *United States v. Morrison*, 529 U.S. 598 (2000)
- *West Virginia v. Environmental Protection Agency*, 597 U.S. 697 (2022)
- *Wickard v. Filburn*, 317 U.S. 111 (1942)

India

- *Government of NCT of Delhi v. Union of India*, Supreme Court of India, decided 11 May 2023
- *In Re Article 370 of the Constitution*, Supreme Court of India, decided 11 December 2023
- *S. R. Bommai v. Union of India*, (1994) 3 SCC 1
- *Union of India v. Mohit Minerals Pvt. Ltd.*, Supreme Court of India, decided 19 May 2022

REFERENCES

American Immigration Council (2025, August 20). State attorneys general on track to file record number of lawsuits against Trump administration. https://www.americanimmigrationcouncil.org/blog/state-attorneys-general-lawsuits-against-trump-administration/

Ballotpedia (n.d.). Multistate lawsuits against the federal government during the Biden administration. Retrieved May 30, 2026, from https://ballotpedia.org/Multistate_lawsuits_against_the_federal_government_during_the_Biden_administration

Bhapta, K. (2026, March 25). The hidden cost of cesses and surcharges for Indian states. Centre for Social and Economic Progress. https://csep.org/blog/the-hidden-cost-of-cesses-and-surcharges-for-indian-states/

Bulman-Pozen, J. and Gerken, H. K. (2009). Uncooperative federalism. *Yale Law Journal*, **118** : 1256.

Business Today (2022, May 19). Recommendations of GST council are not binding, says Supreme Court. https://www.businesstoday.in/latest/economy/story/recommendations-of-gst-council-are-not-binding-says-supreme-court-334200-2022-05-19

ClearI, A.S. (n.d.). Punchhi commission report. Retrieved May 30, 2026, from https://www.clearias.com/punchhi-commission-report/

Congressional Budget Office (n.d.). CBO's activities under the Unfunded Mandates Reform Act. Retrieved May 30, 2026, from https://www.cbo.gov/publication/51335

Conlan, T. J. (1998). *From new federalism to devolution: Twenty-five years of intergovernmental reform*. Brookings Institution Press.

Drishti IAS (n.d.). Inter-State council. Retrieved May 30, 2026, from https://www.drishtiias.com/daily-updates/daily-news-analysis/inter-state-council-1

Factly (n.d.). How many times is the President's rule imposed so far? Retrieved May 30, 2026, from https://factly.in/how-many-times-presidents-rule-imposed-so-far-india/

Factly (2024). Data: Share of cesses and surcharges in gross tax revenue falls to 14.5% in 2023-24, down from the high of 20.2% in 2020-21. https://factly.in/data-share-of-cesses-surcharges-in-gross-tax-revenue-falls-to-14-5-in-2023-24-down-from-the-high-of-20-2-in-2020-21/

Government of India (1988). *Report of the Commission on Centre–State Relations* (Sarkaria Commission).

Government of India (2010). *Report of the Commission on Centre–State Relations* (Punchhi Commission) (Vols. 1–7).

Grodzins, M. (1966). *The American system: A new view of government in the United States* (D. J. Elazar, Ed.). Rand McNally.

Kincaid, J. (1990). From cooperative to coercive federalism. *The Annals of the American Academy of Political and Social Science,* **509**(1) : 139–152.

LiveLaw (2023, December 11). Article 370 was a temporary provision: Supreme Court backs cancellation of special status of Jammu and Kashmir. https://www.livelaw.in/top-stories/article-370-supreme-court-abrogation-of-special-status-of-jammu-and-kashmir-244198

McDowell, B.D. (1997). Advisory Commission on Intergovernmental Relations in 1996: The end of an era. *Publius: The Journal of Federalism,* **27**(2) : 111–127.

Ministry of Home Affairs, Government of India (2018, May 25). Inter-State Council Standing Committee completes its deliberations on Punchhi Commission report [Press release]. https://www.mha.gov.in/sites/default/files/MHAPRESSRELEASEISC.pdf

NITI Aayog (n.d.). About NITI Aayog. Retrieved May 30, 2026, from https://www.niti.gov.in/

Oates, W. E. (1972). *Fiscal federalism*. Harcourt Brace Jovanovich.

Pew Charitable Trusts (2026, May 28). Federal share of state budgets continues decline from pandemic highs. https://www.pew.org/en/research-and-analysis/articles/2026/05/28/federal-share-of-state-budgets-continues-decline-from-pandemic-highs

Press Information Bureau, Government of India (2021, February 1). The report of the Fifteenth Finance Commission. https://www.pib.gov.in/PressReleasePage.aspx?PRID=1693868

Rao, M. G. and Singh, N. (2005). *The political economy of federalism in India*. Oxford University Press.

Riker, W. H. (1964). *Federalism: Origin, operation, significance*. Little, Brown.

Stepan, A. (1999). Federalism and democracy: Beyond the U.S. model. *Journal of Democracy,* **10**(4) : 19–34.

Supreme Court Observer (2023, May). Judgement in plain English: Supreme Court upholds NCTD's power over services. https://www.scobserver.in/reports/judgement-summary-sc-upholds-nctds-power-over-services/

Tillin, L. (2019). *Indian federalism*. Oxford University Press.

Wheare, K. C. (1963). *Federal government* (4th ed.). Oxford University Press.

****