Vol. 3, Issue 1, August 2026 Subject-Law ISSN 3049-3099 (Print)
ISSN 3108-0561 (Online)

Peer Reviewed

VIPS JOURNAL OF LAW & DEVELOPMENT

VIVEKANANDA INSTITUTE OF PROFESSIONAL STUDIES-TC (VIPS-TC)
Affiliated to GGSIP University, Delhi & Approved by Bar Council of India & AICTE
Grade 'A++' Accredited Institution by NAAC &
Recognized by UGC under Section 2 (f) & NBA Accredited for MCA Programme
ISO 9001:2015 Certified Institution

About Vivekananda Institute of Professional Studies – TC (VIPS-TC)

Vivekananda Institute of Professional Studies - TC (VIPS-TC) was established in the year 2000. Even as a sapling, its roots were firm, for they were energized by Swamiji's teachings. Today, VIPS – TC has progressed and is nestling sixteen courses under seven different Schools. It continues to stand with determination, moral sight and strength of mind to create capable and ethical human beings with infinite power, infinite knowledge and indomitable positive energy. Under the aegis of VIPS – TC, Vivekananda School of Law and Legal Studies (VSLLS) is committed to realizing the words of Swami Vivekananda: "Man Making, Character Building and Nation Building" and is well known for its robust efforts in legal education. Research is integral to academics as it forms the foundation for knowledge creation and intellectual growth. It enables students, scholars, and professionals to explore new concepts, test theories, and contribute to the existing body of knowledge in their respective fields. VSLLS works towards development-oriented research in the Legal domain.

About the VIPS Journal of Law & Development

VIPS Journal of Law & Development is an annual double blinded peer reviewed journal accepting submissions in English language. The inception year of the Journal is 2024 and it is further envisioned to promote global development of Law as it provides a platform for scholarly research dedicated to exploring the intersection of legal frameworks and socio-legal development with an inter disciplinary approach. The research articles are selected for publication after a rigorous double-blind review by subject experts. The mode of citation for the journal is VIPS VSLLS VOL 3 VJLD (2026). As a policy of the Journal the contributing authors are regularly updated about the status of their submission.

Table of Contents

Title of the Paper / Author	Page No.
Concerns of Modern Jurisprudence and Solutions from Indian Wisdom: Basic Thoughts and Foundational Understandings *Prof. (Dr.) K. Parameswaran*	**1-17**
Artificial Intelligence, Platform Work, and the Structural Limits of Indian Labour Law *Dr. Shilpi Sharma & Subarna Ghosh*	**18-40**
Mapping Privacy in Tax Governance: Critical Analysis of Taxation Models of India and Abroad *Dr. Zubair Ahmad Khan, Dr. Vinayak Jhamb & Dr. Gurpreet Kaur*	**41-64**
Mental Health of Prisoners in India: A Socio-Legal Study with Reference to the State of Punjab *Dr. Vinod Kumar & Dr. Poonamdeep Kaur*	**65-82**
The Tyranny of Calendar: Evaluating the Judicial Transition towards a Rights-based Abortion Framework in India *Dr. Manisha Sharma & Dr. Sonali Sharma*	**83-97**
From Recognition to Reality: Implementation Challenges of Victim Participation under the Bharatiya Nagarik Suraksha Sanhita, 2023 *Sunny Yadav*	**98-114**
Mandatory Videography in Criminal Investigations: Admissibility and Enforcement Under Section 105 BNSS *Apurv Shaurya & Surabhi Dalal*	**115-131**
Mapping the Digital Sanctum: Cybercrime and the Fragile Desire of Law in Virtual Jurisprudence *Sneha Hooda & Dr. Parmod Malik*	**132-143**

Analysis of Role of Trademark Protection in Brand Management: Focus on Character Merchandising **144-161**
Purnashri Das

Strengthening Reproductive Rights: Opportunities and Challenges in Prenatal and Postnatal Health Services **162-173**
Anita & Dr. Manjinder Gulyani

The Unfulfilled Promise: Examining the Efficacy of Constitutional Guarantees in Securing the Human Rights of Transgender Persons **174-185**
Aaradhya Nagyan & Akanksha Singh

Brain Data as Evidence and Constitutional Right to Mental Privacy: Challenges for Indian Criminal Law **186-206**
Rashmi Raghav

Substantive Equality in Women's Rights under Indian Constitutional Law Since K. S. Puttaswamy Case **207-225**
Anurag Singh & Dr. Richa Srivastava

Green Mediation in Environmental Justice: Analysing in Comparative Domain **226-248**
Shalini Maurya & Dr. Rama Sharma

Are Federal Democracies Truly Federal in the 21st Century? **249-262**
Durgesh Pratap

Establishing Ownership to Determine Responsibility for Algorithmic Bias **263-276**
Arshita Jain & Radhika Chachria

The Ghost of the Termination Treaty: Sunset Clauses, Legacy ISDS Exposure, and Sovereign Regulatory Space **277-297**
Venkata Raghuvamsy D

Submission Guidelines **298-302**

Are Federal Democracies Truly Federal in the 21st Century?

Durgesh Pratap*

VIPS Journal of Law & Development
Subject - Law
August 2026, Vol. 3, Issue 1, 249-262
ISSN 3049-3099 (Print)
ISSN 3108-0561 (Online)
©Vivekananda Institute of Professional Studies-TC (VIPS-TC)
https://vips.edu/vslls/Publications/VJLD

Abstract

Federalism has been the system of choice in major democracies across the globe. It allows for the accommodation of diversity and public participation of people from different backgrounds. But with the onset of the 21st century, there seems to be a trend of weakening of federal structures across the globe, even among the leading federations. To understand the nature and spirit of federalism, the research article examines the building blocks of federalism with the help of landmark judicial precedents from India. It takes a holistic approach to explore and analyse various notable federal states to assess the successes of federalism and figure out why it has endured as an effective system of governance across democracies. Beyond the idealist federal scenario, this research article closely examines and attempts to identify the core challenges that have emerged in the 21st century through real world examples and in doing so contemplates the current state of federalism in the contemporary world and provides recommendations for safeguarding it at the same time. The research article finally argues that keeping the federal character of democratic states demands steady judicial vigilance, institutional accountability, and sort of a more balanced distribution of powers between the different tiers of government. It also points out that boosting cooperative federalism is still essential, for making sure democratic resilience stays strong even in a world that is getting more centralized by the year.

Keywords: *Federalism, Challenges to Federalism, Centralization, Punitive Federalism, Diversity*

* LL.M. (Intellectual Property Rights), National Law University, Jodhpur, Rajasthan, India. Email ID: durgesh9pratap@gmail.com

I. INTRODUCTION

"Federalism has to do with the people's need and polities to unite for common purposes yet remain separate to preserve their respective integrities."

-Daniel Elazar[1]

The word federalism finds its origin in the Latin term *"Fodeus"* which means a treaty or an agreement. Though the original concept of federalism is a thing of the past, in today's context, we still find that federalism is a common feature in almost all the democracies around the globe. Federalism in its spirit is essentially a form of political system in which distinct states or political entities are brought together under a common governing framework, allowing each to retain its individual identity and governing autonomy within the broader union. It might lead to some risks such as diluting national identity, enhancing regional differences, collapse of states such as the USSR,[2] etc. Nevertheless; democracies are more frequently linked to federalism than to unitary models. Other features of federal nations include huge territories, big populations, and democratic structure alongside language division based on territory. There is no doubt that challenges are associated with federalism too. Yet, interestingly all democratic countries that have language diversity based on territory seem to be federal.[3] Consequently, to grapple with the emerging political, socio-economic and policy challenges of nations globally, it becomes necessary to examine federalism in detail. For this purpose, this article is structured into five main parts. First, it discusses what federalism is. The second part traces the evolution of federalism through the prism of Indian judicial precedents along with their legal rationales. Afterwards, the third part of the article evaluates the various factors that have historically motivated democratic countries across the globe to adopt and sustain federalism. The next part of the article closely examines the systemic challenges straining modern federalism, focusing primarily on the post-World War II superpowers alongside broader global vulnerabilities. The fifth and final section concludes with a reflection of the state of federalism around the globe, key findings and practical recommendations.

1 DANIEL J. ELAZAR, EXPLORING FEDERALISM 33 (Univ. of Alabama Press 1987).

2 Gregory Gleason, *The Federal Formula and the Collapse of the USSR*, 22 PUBLIUS 141, 141 (1992).

3 Alfred Stepan, *Federalism and Democracy: Beyond the U.S. Model*, 10 J. DEMOCRACY 19, 19-34 (1999).

II. Research Methodology

This research article follows doctrinal and comparative methodology of research for the purpose of evaluating and assessing the state of federalism in the contemporary world. A large number of legislations, reports, reputed journals, case laws and reputed books have been referred to as both primary and secondary sources. Various jurisdictions have been examined to the extent required in order to understand what makes federalism work in those particular regions as well as the challenges faced by federalism in the 21st century with the help of instances from across the globe.

III. Why Federalism?

Why do so many nations insist on being federal? The answer lies in federalism serving as an effective mechanism for managing the challenges posed by linguistic and ethnic pluralism by distributing power among regional and national governments. This form of governance offers several benefits arising from its decentralized framework.

Federalism also provides regional autonomy to the masses in accordance with their economic, cultural and social contexts and also strives to reduce political conflict.[4] Further, it permits policy experimentation since states can test the effectiveness of policies in specific circumstances without making the entire nation subject to them. It gives them a voice whereas in the absence of federalism, they might get overshadowed and marginalized in a central system.[5]

Federalism also positively impacts democratic participation.[6] Promotion of a decentralized power brings the government in close contact with the people and increases and encourages the people to play a role in the process of decision making, thereby fostering a strong sense of community involvement in the people.

Critics argue that federalism does not suit nations that are underdeveloped as all the technicalities and rigidities that come by virtue of it impede the economic growth of the country. One such example is how the mighty USSR fell apart due to economic

4 Ilya Somin, *How Federalism Promotes Unity Through Diversity*, 47 Harv. J.L. & Pub. Pol'y 65, 65-66 (2024).

5 Robert P. Inman, *Federalism's Values and the Value of Federalism*, 53 CESifo Econ. Stud. 528, 528 (2007).

6 Bruno S. Frey & Alois Stutzer, *The Role of Direct Democracy and Federalism in Local Power* 4 (IEW, Univ. of Zurich, Working Paper No. 209, 2004).

hardships despite being a superpower.[7] Thus political stability of a nation depends on its economic growth and thus should not be ignored as a crucial factor.

But despite these shortcomings, federalism is an effective tool in solving numerous political ills of the nation. It is an accepted view that there are some who see federalism as a theoretical formulation and see it as a means to an end e.g. political unification, democracy, and the integration of diverse populations. On the other hand, there are those who see federalism as an idea and end itself. They view federalism can pave the way for meaningful human and political connections. They see federalism as a means to achieve what to them are larger ends. Hence all the different perspectives on federalism enrich the potential of the concept of federalism and federal principles have become widespread precisely as they fit the modern era.[8]

IV. Constitutional Foundations and the Judicial Safeguarding of Federalism

There are some defining features which are vital to a federal state such as a written constitution as well as division of powers. India's brand of Cooperative Federalism[9] provides the ideal baseline for a global comparative analysis. An analysis of the Indian scenario reveals how federalism has been shaped and evolved by Indian jurisprudence while trying to negotiate between the dominance of center and cooperative autonomy.

The earlier judicial interpretations did not seem to treat states as partners of the center and therefore, leaned towards a quasi-unitary bias. In *Babu Lal v. State of Bombay*,[10] The Apex Court laid down that the Constituent units of the Indian Union were not independent or sovereign unlike Switzerland's Cantons or the US colonies. This restrictive position was once again reiterated in West Bengal v. UOI,[11] where the majority of the bench diluted state sovereignty. This prompted Subba Rao J to provide the test for a federation, stating that the constitution must provide distribution of powers in a way that central and states are independent of each other in their respective domains.

7 R.K. Chaubey, Federalism, Autonomy and Centre-State Relations 6 (Satyam Books 2007).

8 Elazar, *supra* note 1, at 80–83.

9 Granville Austin, The Indian Constitution: Cornerstone of a Nation 186 (Oxford Univ. Press 1966).

10 Babu Lal v. State of Bombay, AIR 1960 SC 51.

11 State of W. Bengal v. Union of India, AIR 1963 S.C. 1241.

The judiciary has time and again provided the center expansive oversight powers. In Re Sea Customs Act, the Apex Court observed that the States instead of rivalling the Union or each other under the constitution were in fact intended to work within their own exclusive spheres without encroaching upon each other with the provision for the Union to override them in the course of public interest.[12] A similar viewpoint was held by Justice Beg in *Rajasthan v. Union of India*,[13] where he noted that though the nation is a federal union in a sense but the states cannot impede legitimate and planned development of the country mapped out by the Union Government.[14] In *Karnataka v. Union of India*,[15] Chief Justice Beg stated that it is worth wondering whether the term federal denotes anything more than division of functions that operates in ordinary times. The Central Government certainly has function or supervision in all the implications. All of these rulings sufficiently showcase an established precedent in favor of centralising, thus diminishing the autonomy of states and somewhat undermining the federal nature of the country.

This trend towards centralisation however, has been countered by a series of constitution bench verdicts that have of course corrected towards providing structural safeguards to states. This is because the constitution is the highest law in a federal state from which all laws draw authority from and therefore, serves as the penultimate bulwark against executive overreach. As Prof K. C. Wheare argues that for a federal government, a supreme constitution is essential to leaving little to no room for encroachment upon the jurisdiction and spheres of each other.[16] The Supreme Court reaffirmed this protective test in the Kesavananda Bharti verdict,[17] where it recognized that the Constitution embodies the core features of a federal system, particularly the distribution of authority among the Union and the individual States.[18]

12 In Re Sea Customs Act (1878), § 20(2), AIR 1963 SC 1760.

13 State of Rajasthan v. Union of India, 1978 SCR (1) 1.

14 Vedant Singh & Vatsal Chadha, *Judicial Discretion in Balancing Political Objectives and Constitutional Principles: An Examination of Precedents like State of Rajasthan v. Union of India in the Context of Indian Federalism*, SSRN ELEC. J. (2023), https://doi.org/10.2139/ssrn.4622697.

15 State of Karnataka v. Union of India, (1977) 4 SCC 608.

16 K.C. WHEARE, FEDERAL GOVERNMENT 56 (Oxford Univ. Press 1963).

17 Kesavananda Bharati v. State of Kerala, (1973) 4 SCC 225.

18 M. Asad Malik, *Changing Dimensions of Federalism in India: An Appraisal*, 2 I.L.I. L. REV. 85, 94–95 (2019).

Incidentally, this course correction fundamentally required an independent judiciary to act impartially and independently from the organs of the state.[19] In the landmark *S.R. Bommai v. Union of India* ruling,[20] Justices S. Ratnavel Pandian, S.C. Agarwal and Jeevan Reddy emphasized that "despite the extensive powers conferred upon the central government by the Constitution, the states retain their independent constitutional status and should not be viewed as mere subordinates of the Union. Judicial interpretation must avoid diminishing the competencies specifically allocated to the states." Justice Satwant Singh and Justice Kuldeep Singh supported this view, stating that "the states possess constitutional autonomy and do not function merely as extensions or instruments of the Union government. Central dominance during emergencies must not compromise the Constitution's federal nature. Such powers are intended for exceptional circumstances and must be exercised with restraint."

It can be concluded that the Indian Judiciary has expanded and upheld the concept of Federalism in the Indian Constitution barring some anomalous cases like *West Bengal v. Union of India*.[21] The above discussion however sufficiently shows that active judicial vigilance is vital in keeping a check on centralising encroachments, and maintaining and upholding cooperative federalism.

V. How Federalism Furthers Democratic Participation Around The World

Federalism plays a crucial part in increasing public participation and furthering democracy in a state. Elazar argues that the aspiration and purpose to simultaneously generate and maintain both unity and diversity is a fundamental feature of federalism.[22] It involves the process of both the unification of power by a centralized authority while also speaks of diffusion of political power in the form of smaller constituent units. In this sense, federalism can serve as a great tool for political integration however it must be used in the appropriate situations.

Across the globe, there are numerous examples that demonstrate how federalism successfully accommodates regional diversity. In Canada, strong regionalism

19 T.I. Vanaskie, *The Independence and Responsibility of the Federal Judiciary*, 46 Vill. L. Rev. 775, 776 (2001).

20 S.R. Bommai v. Union of India, (1994) 3 SCC 1.

21 State of West Bengal v. Union of India, *supra* note 12.

22 Elazar, *supra* note 1, at 64.

and French-English duality are managed by allowing provinces like Quebec or British Columbia to implement their local policies and protect their culture and local interests.[23] This has allowed the linguistic minorities there to maintain their linguistic identities as well as help French Canadians maintain their national unity.[24] Similarly, the Swiss model of Federalism is a great example of how federalism can further democratic public participation across linguistic and religious divisions. The Swiss political process is best known for its use of referendums and initiatives extensively,[25] where people of different linguistic identities come together and actively participate in the decision-making process.[26]

Federalism also serves as a vital anchor for national unity in ethnically fragmented or geographically vast nations. The Russian Federation encompasses people of more than 100 distinct nationalities and ethnic groups.[27] The federal nature of the Federation remains a factor which ensures national unity in a state that is both ethnically diverse and geographically vast.[28] Likewise, In Nigeria, federalism has served as an effective tool to manage ethnic conflict and restore amity.[29] In order to accommodate the ethnic diversity within the nation, the government applied federal principles in the local arena by arranging the internal policies of the state to their needs.

Federalism has been a success story in India due to constitutionally protected diversity on a federal basis. The division of States on a lingual basis helped India diffuse tensions within the country which could have taken a violent turn.[30] Federalism has also helped states like Jammu and Kashmir and Nagaland to maintain their unique identities and autonomy together with their national identity. Similarly, Federalism has helped Belgium in preserving the autonomy and cultures of its linguistic groups, mainly the Flemish who speak Dutch in the north and the Walloons that speak

23 John D. Richard, *Federalism in Canada*, 44 Duq. L. Rev. 1, 5-6 (2005).

24 James Kennedy, *Diverse Democracies and the Practice of Federalism*, in Federalism and National Diversity in the 21st Century 11 (Ferran Requejo & Klaus-Jürgen Nagel eds., 2020).

25 Wolf Linder & Isabelle Steffen, *Swiss Confederation*, *in* Legislative, Executive, and Judicial Governance in Federal Countries 290, 147 (Katy Le Roy & Cheryl Saunders eds., 2006).

26 Bruno S. Frey & Iris Bohnet, *Switzerland – A Paradigm for Europe*, 3 Eur. Rev. 287, 292 (1995).

27 Sergey Sokolovskiy, *Russian Government Policies and Minority Identities*, in Managing Ethnic Diversity in Russia 175 (Oleh Protsyk & Benedikt Harzl eds., 2013).

28 Ronald L. Watts, Comparing Federal Systems 47 (3d ed., McGill-Queen's Univ. Press 2008).

29 Sulaimon A. Muse & Nnanyere C. Ogo, *Consolidating Federalism in Nigeria: Challenges and Solutions*, 13 EBSU J. Soc. Sci. & Hum. 1, 7–8 (2023).

30 Subrata K. Mitra, *Language and Federalism: The Multi-Ethnic Challenge*, 53 Int'l Soc. Sci. J. 51, 58–59 (2001).

French in the south.[31]

This capacity to protect local preferences can also be clearly seen across other distinct political landscapes. Post-apartheid, Federalism in South Africa has helped in reinforcing democracy and accommodating diversity by providing the provinces with representation in the governance and encouraging democratic participation at the local level while also tailoring to the local linguistic and cultural needs.[32] In the US as well, Federalism has allowed states vast autonomy over areas of governance to accommodate its very diverse population of different ethnic, cultural and political backgrounds. Similarly, in Germany, each Länder has its own constitution and the allocation of powers is in a manner that the policies and governance reflect local preferences.[33] Cultural and regional identities of regions such as Bavaria with its own unique identity, festivals and traditions are accommodated and protected due to the federal nature of the country.

In the absence of Federalism, minorities would get overshadowed by the majority groups and would be unable to express themselves or have their interest protected. The different levels of government provided by a federal structure allows people to participate in policy making and thus have a forum to voice their opinions and actively strengthen and participate in the democratic process.

VI. Challenges To Federalism In 21st Century

The above discussion clearly establishes federalism as a brilliant tool of governance. But when we take off the rose-tinted glasses of perfect federal frameworks, the various emerging challenges posed to federalism in the contemporary world become apparent to us.

Polarized Fragmentation, and Punitive Federalism in the United States

In the US, federalism has seen a decline in recent decades with the balance tilting towards the federal government with the exercise of executive orders and legislations. [34] There has been an uptick in polarization in the country as well as

31 Wilfried Swenden, *What–If Anything–Can the European Union Learn from Belgian Federalism and Vice Versa?*, 15 Reg. & Fed. Stud. 187, 202 (2005).

32 Tania Ajam, *Accommodating Diversity or Imposing Uniformity? The Hollowing Out of Provincial Governments in South Africa*, in Fiscal Federalism and Diversity Accommodation in Multilevel States: A Comparative Outlook 241 (Francisco Javier Romero Caro & Alice Valdesalici eds., 2024).

33 Arthur B. Gunlicks, The Länder and German Federalism 146–47 (Manchester Univ. Press 2003).

34 Rebecca Bromley-Trujillo & Michael Dichio, *The State of American Federalism 2024–2025: Resisting*

rise in the form of punitive federalism, characterized by the use of coercion and threats by the federal government in order to influence and force sub-units and local governments to comply with federal policies and decision-making. In recent years, punitive federalism seems to have become one of the defining features of US politics.

There have been many instances of unilateral executive directives along with policy decisions by President Trump's administration on various issues ranging from environmental protections, medical assistance during the pandemic and gerrymandering, which have arguably soured relations among the federal government and states. On the issue of the environment, California had provisions which allowed the state to regulate the greenhouse gas emissions from new vehicles. These measures were ahead of what many states had in place already. But the Environmental Protection Agency (EPA) weakened those regulations by withdrawing the waivers it had granted to California previously to pursue its own standards. The action was justified by the administration under the garb of uniform nationwide standardizing.[35] Similarly, the Navigable Waters Protection Rule[36] was introduced by the administration that would take away the protections provided by federal law from a large number of waterways and wetlands in the country.[37] As a consequence, such action leaves it up to states to protect these resources on their own level, which could result in non-uniform protection of waterways and wetlands as the response from individual states is bound to be diverse.

Critics argue that the President adopts a carrot and stick policy with states, thereby rewarding loyalty while punishing dissent.[38] This approach can be seen with the President threatening to cut funding to states like New York,[39] Minnesota and many others.[40] Another instance of this form of punitive federalism was seen during the

and Reinforcing the Rise of the Transactional Presidency, 55 PUBLIUS: J. FEDERALISM 415, 416–17 (2025).

35 Greg Goelzhauser & David M. Konisky, *The State of American Federalism 2019–2020: Polarized and Punitive Intergovernmental Relations*, 50 PUBLIUS: J. FEDERALISM 311, 314 (2020).

36 *Navigable Waters Protection Rule: Definition of "Waters of the United States,"* 85 FED. REG. 22,250 (Apr. 21, 2020).

37 GOELZHAUSER & KONISKY, *supra* note 35, at 324.

38 BROMLEY-TRUJILLO & DICHIO, *supra* note 34, at 416–17.

39 *Trump Threatens to Restrict Federal Funds to New York City if Mamdani Wins*, REUTERS (Nov. 3, 2025), https://www.reuters.com/world/us/trump-threatens-restrict-federal-funds-new-york-city-if-mamdani-wins-2025-11-03/.

40 Nick Gwyn, *Trump Administration's Five-State Funding Freeze Is Unlawful, Harmful, and a Violation of the Separation of Powers*, CTR. ON BUDGET & POL'Y PRIORITIES (Jan. 23, 2026), https://www.cbpp.org/research/federal-budget/trump-administrations-five-state-funding-freeze-is-unlawful-harmful-and-a. (last visited Mar. 23, 2026)

pandemic where the federal government promptly supplied essential equipment such as ventilators and other supplies to republican states such as Florida whereas many Democrat State Governors raised the issue of not getting adequate assistance from the federal government, describing the administration's response as "slow."[41] In another example, friction can be seen between centre and state relations,[42] with a coalition of multiple states suing the President over his global tariff regimes.[43]

In regards to the issue of partisan gerrymandering, the Supreme Court had in a majority opinion ruled that the question was of political nature and hence was not justiciable by the court.[44] Though it may be true that political questions do not come under the ambit of courts, there is no doubt that the practice of gerrymandering is detrimental to the democratic and federal spirit of any state. It is the voters who must possess the power to pick their representatives, and not the other way around.

It can be thus inferred from all of these instances that the federal structure of the US is under stress due to increasing attempts at centralisation and punitive federalism.

Authoritarian Structural Reform and Diminished Regional Autonomy in the Russian Federation

Russia in recent years has seen a shift towards re-centralisation. After the collapse of the Soviet Union, Russia was held together as a federal nation via agreements and bilateral treaties with regional sub-units in the Yeltsin era.[45] Regional leaders held a large amount of influence and negotiating power with Moscow often struggling to maintain power.

After 1999, federal control increased over regional and municipal levels.[46] These reforms came during the tenure of President Vladimir Putin which aimed at giving the President more powers while diminishing the regional powers.[47] 7 Federal

41 GOELZHAUSER & KONISKY, *supra* note 36, at 318

42 Dietrich Knauth, *Twenty-Four US States File Lawsuit to Stop Trump's Latest Global Tariffs*, REUTERS (Mar. 5, 2026), https://www.reuters.com/legal/government/twelve-us-states-announce-lawsuit-stop-trumps-latest-global-tariffs-2026-03-05/. (last visited Mar. 23, 2026)

43 California v. Trump, No. 26-00042 (Ct. Int'l Trade filed Mar. 5, 2026).

44 Rucho v. Common Cause, 139 S. Ct. 2484 (2019).

45 Gulnaz Sharafutdinova, *Gestalt Switch in Russian Federalism: The Decline in Regional Power Under Putin*, 45 COMP. POL. 357, 361 (2013).

46 Cameron Ross, *A Triangle of Russian Federalism: Democratization, (De-)Centralization, and Local Politics*, 41 PUBLIUS: J. FEDERALISM 734 (2011) (book review).

47 Ekaterina Zhuravskaya, *Federalism in Russia*, in RUSSIA AFTER THE GLOBAL ECONOMIC CRISIS 59 (Anders Åslund, Sergei Guriev & Andrew C. Kuchins eds., 2010).

districts were created via decree by the President, with each having a new head called a "presidential envoy," in charge of supervising the constitutional authority of the President.[48] It was reasoned by the President that these measures would curb separationist and terrorist activities and thus, the action was largely supported. Afterwards, the President asserted that as many as twenty per cent of regional legislations were not constitutional and hence needed to be addressed.[49] One such instance was the suspension of an Ingush decree by the President that provided for reformed payment collection. The justification for this was that the decree was in contradiction of the federal law, tax code and the constitution. Similar suspensions followed with other regions.

The President is the sole "guarantor of the Constitution" under its provisions,[50] which makes the position of the President fairly strong as neither the judiciary nor the legislature has this kind of abstract and emblematic authority. Shortly after, sweeping legislative reforms took place in the Federation, resulting in the bilateral treaties with constituent units ceasing to exist. The upper house of the legislature was restructured, and the President took away the double posts that the regional elites held by virtue of their office as federal senators.[51] Regional executives and legislatures could now also be dismissed for violating the federal law, thus further solidifying federal authority.

Amidst all of this, President Putin continues to enjoy popular mandate with consecutive wins in elections. It is worth noting that the fairness and transparency of the Russian elections have been questioned many times.[52] However, it becomes amply clear that federal control and centralisation have been on rise in Russia, Furthermore, there has been a trend of federal control over resources[53] and the mass media.[54]

48 Jeffrey Kahn, *Putin's Federal Reforms: A Legal-Institutional Perspective*, *in* BEYOND THE GARDEN RING: DIMENSIONS OF RUSSIAN REGIONALISM 73, 77 (Markku Kivinen & Katri Pynnöniemi eds., Kikimora Publications 2002).

49 *Id.* at 80.

50 RUSS. CONST. art. 80, §. 2.

51 KAHN, *supra* note 51, at 88.

52 Rodion Skovoroda, Rodion Skovoroda & Tomila Lankina, *Fabricating Votes for Putin: New Tests of Fraud and Electoral Manipulations from Russia*, 33 POST-SOVIET AFFAIRS 100 (2017).

53 Andrew Konitzer & Stephen K. Wegren, *Federalism and Political Recentralization in the Russian Federation: United Russia as the Party of Power*, 36 PUBLIUS 503, 511 (2006).

54 Anastasia Denisova, *Democracy, Protest and Public Sphere in Russia after the 2011–2012 Anti-Government Protests: Digital Media at Stake*, 39 MEDIA, CULTURE & SOC'Y 989, 989–90 (2017).

Macro-Systemic Vulnerabilities: Single-Party Dominance, Fiscal Overhaul, and Transnational Crises

South Africa is one of the countries who have high income inequality.[55] Although having a strong federal structure, South African federalism faces challenges in the form of the dominance of a single party in provincial and national legislatures.[56] The ANC dominates all 3 spheres of the government, leading to the centralisation of the policy making process.[57] This has resulted in reduction of provincial governments' autonomy in areas of finance and legislation, while also resulting in the weakening of institutions and reforms.

India has seen its fair share of challenges when it comes to federalism as well. Provisions like Article 370 (now abrogated) provided Jammu and Kashmir unique constitutional privileges owing to its special circumstances.[58] Setting aside the issue of abrogation, the Apex Court's ruling regarding Article 370 bears a mention. In the Judgement, the validity of the reorganization was not appraised given the Union's assurance of eventual restoration of statehood.[59] This presents us with a worrisome precedent that undermines the federal system of the nation, especially since the matter is still unsettled. On the financial side, The Goods and Services Tax implementation has resulted in critics calling it fiscal centralisation.[60] GST no doubt is more efficient in the way it harmonizes and streamlines tax structures, but it comes at the cost of States' financial autonomy.

There are various other challenges affecting federalism in today's global world. Though federalism promotes and stands for pluralism and embracing diversity, anti-immigrant sentiments are on a gradual rise across the world, leading to harassment,

55 *Gini Index*, World Bank, https://data.worldbank.org/indicator/SI.POV.GINI?most_recent_value_desc=true (last visited Mar. 23, 2026).

56 Yonatan Fessha, *Second Chamber as a Site of Legislative Intergovernmental Relations: An African Federation in Comparative Perspective*, 31 Reg. & Fed. Stud. 495, 511 (2021).

57 Rushil Ranchod, *Crafting Dominance: Political Power and the Marketing of the African National Congress*, 42 Politikon 367, 382 (2015).

58 Aurif Muzafar, *Conversations on Article 370 of the Constitution of India: A Critical Response*, 11 & 12 Indian J. Const. L. 155, 155–56 (2024).

59 R. Sai Spandana & Gauri Kashyap, *Challenge to the Abrogation of Article 370: Judgment Matrix*, Sup. Ct. Observer (Dec. 12, 2023), https://www.scobserver.in/reports/challenge-to-the-abrogation-of-article-370-judgement-matrix/. (last visited Mar. 23, 2026)

60 Noopur Bhagat, *Fiscal Federalism in India After GST: Autonomy v. Efficiency, SSRN* (Aug. 30, 2025), https://ssrn.com/abstract=5422576. (last visited Mar. 23, 2026)

hateful speech and violence.[61] Meanwhile, income inequality within nations seems to be on rise across the globe.[62] Climate change, the consequences of the coronavirus pandemic and technological shifts like AI also seem to have compounded governance challenges. Therefore, it seems that now is an opportune time to reassess our federal structures and examine how far they uphold the basic tenets of federalism.

VII. Conclusion

Through our discussion, it is sufficiently clear that federalism has proved to be a fairly adept system that accommodates the needs of people of various linguistic, ethnic, geographic, cultural, socio-economic and political backgrounds all across the globe. It has allowed people to actively participate in democracy while also giving a safe space and accommodation to minorities and different groups within the federal structure. However, cracks seem to appear in this gilded system as we have entered the 21st century. With weakening of structure across the globe, we are forced to contemplate on whether federal states are truly federal in both spirit and in name in the 21st century.

It is seen that in the US punitive federalism has strained federal and state relations. The federal government uses its powers to hinder states which do not politically align with it while rewarding ideologically similar sub-units. Lack of concrete action from the judiciary is one of the few reasons why federalism has weakened in the country. In Russia an excess of authority with the federal executive has slowly resulted in centralisation of power. Though initially the regional subunits enjoyed relatively high autonomy, legislative and structural reforms have gradually eroded the federal nature of the country. Additionally, whether it is the US, Russia or the other nations around the globe, certain challenges they face are: the matter of centralising governance, control over finances, weakening centre-state relations or unchecked executive action to name a few. Since democracy and federalism are co-dependent, free and fair elections are essential prerequisites. As such rigged elections and gerrymandering are serious and direct threats to the federal fabric of any democratic structure. To this end this research article puts forward the recommendations; *firstly*, it is imperative that every federal nation maintain and support a well-functioning judicial organ. The Indian experience adequately presents how judicial activism can

61 Violet Cheung-Blunden et al., *Sources of Anti-Immigrant Sentiments in Western Democracies: A Contextual Approach*, 47 Curr. Op. Psychol. 101432 (2022).

62 *Inequality – Bridging the Divide*, United Nations, https://www.un.org/en/un75/inequality-bridging-divide (last visited Mar. 23, 2026)

play a vital role in redefining and safeguarding the federal framework of a nation, as judicial activism is the bulwark that protects from executive overreach. It is perhaps due to the inaction on the part of the judiciary in the US and Russia that federalism has somewhat eroded. India too needs to re-examine its position in the context of the present centralisation trend.

Secondly, free and fair elections without any interference must be ensured in a transparent manner so that legislative and executive overreach cannot take place under the garb of legitimate public mandate. As in the case of Russia most of the "reforms" came to be only because President Putin enjoyed public mandate. Executive action which is not legitimately backed by popular vote is not only a threat to democracy but to federalism as well. *Lastly*, public participation in the decision-making process needs to be enhanced. This would eliminate the problem of people only getting a say once with every election regarding policy making but would instead make their participation continuous and meaningful. Lessons from the Swiss experience could prove to be useful in this regard.

Political power in democratic countries is ultimately the manifestation of the will of people and their willingness to hold their governments accountable. Therefore, it falls upon "We the People" to ensure the beauty and functionality of our federal structures as well as preserve and develop them to benefit the society as whole to achieve the governance structure idealized by Federalism.



VIPS
योगः कर्मसु कौशलम्
IN PURSUIT OF PERFECTION

NAAC Accredited A++ Grade 3.58/4

VIVEKANANDA INSTITUTE OF PROFESSIONAL STUDIES-TC (VIPS-TC)

AU Block (Outer Ring Road), Pitampura, Delhi-110034
Nearest Metro Station – Pitampura (2 KM) & Haiderpur (0.5 KM)
Website : www.vips.edu, www.dsb.edu.in
Tel.: +91 11 27343401 / 02 / 03, Fax : +91 11 27343404
E-mail : vslls.clrd@vips.edu