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When Labels Matter: Federalism, Basic Structure Doctrine, and the Indian Supreme Court

Ritwika Sharma and Mayuri Gupta

1 The characterization of the Constitution of India as federal comes with several caveats. While the Constitution exhibits several features of classical federalism, like dual polity, independent constitutional status for states, and distribution of powers, it also contains some centralizing tendencies. This duality has been repeatedly and explicitly acknowledged by the Supreme Court, which has oscillated between terming Indian polity as "federal" and "quasi federal." The Supreme Court's alternation has had significant implications for constitutional interpretation in India, which forms the central theme of this article. After all, an integral element of the federal system is the supremacy of courts in interpreting provisions of the Constitution and the power to examine the validity of the actions of both the Union and the states (Rajamannar 1971:14).

2 In India, while the formal structure of federalism has remained unchanged for more than seven decades, the Supreme Court has determined the nature, contours, and form of Indian federalism through its rulings on matters concerning Union-state relations. In light of the persistent debates surrounding centralization and regionalization in India, the Supreme Court will likely need to address numerous federalism-related issues concerning democracy, unity, and regional diversity in the coming decade.

3 Against this backdrop, this article analyzes the gradual evolution of the principle of federalism in India. It opens with an analysis of how the framers of the Constitution aimed to shape India's polity and accommodate the principle of federalism. After establishing this context, this article focuses on explaining the basic structure doctrine, which is a critical touchstone for testing the validity of amendments made to the Constitution. It describes how the doctrine of basic structure came to be and how federalism was recognized as one of the Constitution's basic features. This article goes on to consider the impact of this on constitutional interpretation. The central question

that this article attempts to examine is how constitutional interpretation has kept up with the recognition of federalism as one of the Constitution's basic features. This article also explores how the description of the Indian Constitution as quasi-federal impacts determination in key issues concerning Union-state relations. Space precludes a general discussion of the political developments that might have accompanied some of the key judgments this article discusses. Nonetheless, the aim here is to highlight how careful use of the basic structure doctrine has promoted federalism-furthering interpretations of the Constitution.

4 To that end, the authors have adopted the doctrinal methodology, based primarily on a qualitative analysis of decisions made by the Supreme Court of India. The authors have also relied on secondary literature as well as commentaries by constitutional law scholars to bolster their arguments. This analysis is meant to discern and critique how judicial decisions have gradually recognized federalism as a "basic feature" of the Indian Constitution and what that has meant for interpretation of the Constitution itself. The analysis is historically and interpretatively grounded in a contextual analysis of debates and proceedings of the Constituent Assembly of India, provisions of the Constitution of India, reports of government-commissioned Constitution review bodies, and academic commentaries.

THE CONSTITUTIONAL VISION FOR INDIAN FEDERALISM

5 For any Constitution, labels matter. "Unitary" and "federal" are among the many kinds of labels that can be employed for a constitution. These labels are not merely descriptive, but carry significant analytical and normative weight. Broadly, while a unitary form of government vests all powers of the state in one government at the union (or the center), a federal government distributes the powers of the state among constituent units (such as states, provinces, cantons, etcetera). Federalism is essentially premised on the idea of "shared and multi-layered sovereignty" within a political system (Tillin 2019:1).

6 Federal set-ups are typically outcomes of constituent units either "coming together" or "holding together" (Stepan 1999:22). The "coming together" model of federalism is characterized by a few proximate provincial units voluntarily entering into a treaty or an agreement to form a union, of which the United States of America is a prime example. India, on the other hand, is an instance of "holding together" federalism, marked by a geographically vast and simultaneously culturally-diverse state that grants autonomy to its constituent units for representation and administrative convenience (Ghosh 2020:2). The foundation of the federal nature of the Indian Constitution can be traced to the Government of India Act, 1919 and the subsequent Government of India Act, 1935. The makers of the Indian Constitution reinforced the then-existing system by redistributing powers between the Union and the provinces and granting substantial autonomy to subnational units (Kumar 2016:100).

7 The Constitution of India was drafted against the backdrop of the partition and the integration of several princely states into one unit (Singh and Misra 2012:2). Secessionist tendencies exhibited by some states posed a potential threat to the unity of the nation (Bhattacharya et al. 2022:7). Several instances and interventions in the

Constituent Assembly indicate that the framers consciously designed and adopted a federal political system that would have been best suited to Indian conditions. For instance, the Second Report of the Union Powers Committee, 1947 bore testament to this when it agreed that the Indian Constitution should become a federation with a strong center, given the political developments of that time (Nehru 1947). The need for a pragmatic and tailored federal structure was emphasized, rather than adherence to a strict theoretical model.

8 The members of the Constituent Assembly did not adhere to any particular theory of federalism. They believed that India had unique problems that arose out of its unique history, such "that had not confronted any other federations in history" (Ayyangar 1947:38). These problems could not be solved by recourse to any theoretical understanding of federalism because it was "not a definite concept." lacked a "stable meaning," and needed solutions that would suit the Indian conditions (Krishnamachari 1949:165). The framers of the Constitution thus pursued "the policy of pick and choose to see (what) would suit (them) best, (what) would suit the genius of the nation best" (Maitra 1949:159).

9 While introducing the Draft Constitution to the Constituent Assembly on November 4, 1948, B. R. Ambedkar assured the Constituent Assembly that India was to be a federal polity. However, the federal model introduced by the Draft Constitution was unique. Unlike other federal polities, which could be rigid, Indian federalism was given the ability to change its form and shape. It could be both federal and unitary based on the circumstances. To that end, Ambedkar (1948) stated:

> The Draft Constitution is Federal Constitution inasmuch as it establishes what may be called a Dual Polity. This Dual Polity under the proposed Constitution will consist of the Union at the Centre and the States at the periphery each endowed with sovereign powers to be exercised in the field assigned to them respectively by the Constitution ... In the same way the Indian Constitution proposed in the Draft Constitution is not a league of States nor are the States administrative units or agencies of the Union Government.
>
> All federal systems including the American are placed in a tight mould of federalism. No matter what the circumstances, it cannot change its form and shape. It can never be unitary. On the other hand the Draft Constitution can be both unitary as well as federal according to the requirements of time and circumstances. In normal times, it is framed to work as a federal system. But in times of war it is so designed as to make it work as though it was a unitary system.

10 Within this framework, the Indian Constitution has been characterized as exhibiting a centripetal federal structure, in which the constitutional design creates a strong pull toward the center. In comparative studies, centripetal federalism is described as a model in which institutional mechanisms are designed to maintain unity and coherence within the nation by structurally empowering the central government over governments of the constituent states/units (Watts 2008:61-63; Arora 1995:506). The Indian Constitution abides by the centripetal characterization by vesting residuary powers in the union government, enabling it to take decisive actions to protect national integrity (Tillin 2019:22). However, that should not be taken to mean that the Indian Constitution empowers the Union over the states (Ghosh 2020:4). Although the term "federal" is not used in the Indian Constitution, it is fundamentally federal in nature, exhibiting the traditional attributes of a federal system. The following response from Ambedkar in the Constituent Assembly lays all doubts to rest:

> [T]he States, under our Constitution, are in no way dependent upon the Centre for their legislative or executive authority. The Centre and the States are co-equal in this matter … It may be that the Constitution assigns to the Centre too large a field for the operation of its legislative and executive authority that is to be found in any other Federal Constitution. It may be that the residuary powers are given to the Centre and not to the States. But these features do not form the essence of federalism. The chief mark of federalism, as I said, lies in the partition of the legislative and executive authority between the center and the units by the Constitution. This is the principle embodied in our Constitution. (Ambedkar 1949:976).

11 Under Article 1, the Constitution of India creates a "Union of States." There is a clear delineation of legislative and executive powers between the Union and the states, to be exercised in specific areas designated to each. Article 246 of the Constitution read alongside the three lists of the Seventh Schedule divides legislative powers between the Union and the states. Articles 73 and 162 extend the executive power of the Union and the states to the matters listed in the Seventh Schedule. There exists an independent judiciary to resolve disputes between the Union and the states, as well as between individual states. Against this constitutional backdrop, the existence of certain powers along with the Union that can exercise it under exceptional circumstances does not strip a polity of its "federal" nature (Singh 2016:464).

12 However, given how the Indian Constitution leans toward the center, the nature of India's federal polity has always been debated. After more than seven decades of the Constitution at work, it has been widely accepted that the Indian Constitution is federal, with a Union that is vested with more power than the states. Simultaneously, however, the Indian Constitution has also been characterized as "quasi-federal." K.C. Wheare (1963) used the term "quasi-federal" to describe constitutions that possess the characteristics of both federal and unitary systems. Owing to its strong centralizing tendencies, the Indian Constitution was identified as federal in form but unitary in spirit (Wheare 1963:27-8). Needless to say, the quasi-federal label also appears multiple times in constitutional interpretation, an aspect that will be discussed later in this article.

13 A federal constitution with a unitary tilt is bound to witness run-ins between the Union and State Governments. Controversies around the interpretation of constitutional provisions, especially those that concern the scope of governmental powers, have long persisted. Provisions concerning the division of governmental powers, despite their detail, have given rise to several controversies. The vocabulary in which some of these controversies have played out has seen a slight modification after the 1970s, which is when the basic structure doctrine took firmer shape in Indian constitutional law and interpretation. The extent of the Constitution's amendability, and especially its basic structure (or unamendable core), has always been a site of controversy. The next part of this article unearths how the basic structure doctrine came about, what it refers to, how it influenced the understanding of the federal nature of the Indian Constitution, and what it means for the working of the Constitution.

BASIC STRUCTURE, FEDERALISM, AND FEDERALISM AS PART OF BASIC STRUCTURE

14 Although the structure of federalism under the Indian Constitution has remained unchanged, the idea by itself has gradually evolved, primarily through the Supreme Court's decisions concerning its nature, form, and scope. The first few decades of the Constitution witnessed questions around the federal compact, which emerged from disputes concerning the legislative competence of Parliament and state legislatures, the nature of the executive relationship between the Union and the states, and the modification of states' territorial boundaries (Krishnaswamy 2015:357). It is during those critical moments of legal challenge that "labels" arose and determined how the Constitution was to be interpreted. This section will look at cases traditionally considered critical from a constitutional law perspective. Their criticality can be attributed to the way the Supreme Court has in these cases interpreted the provisions invoked and how that has shaped the Constitution's federalism jurisprudence.

The Run-Up to the Basic Structure Doctrine

15 Ashutosh Varshney ("Merit in the Mirror of Democracy: Caste and Affirmative Action in India") looks at contemporary India and immediately asks, "Are democracy and meritocracy simultaneously realizable?" (p. 41), a question also raised by other authors regarding Communist China, which still defends the individual value of merit. In India, however, the caste system poses a particular challenge because when people enter the education system and the labor market, they are automatically assigned a collective social identity before being recognized for what they are individually. India's democratic political system, according to its Constitution, has abolished all caste discrimination. Yet, India has introduced a policy of reservation in the public sector based on quotas. The policy is often referred to as "affirmative action," according to the American expression that has come to dominate international literature, as Ashwini Deshpande writes ("The Origins and Effects of Affirmative Action Policies in India"). To this end and to put it very simply, Indian society, as far as the Hindu population is concerned, has been divided into three major caste blocs: the Scheduled Castes, or the former untouchables (now called Dalits) and the Scheduled Tribes; the Other Backward Castes, a heterogeneous group of castes of middle hierarchical status; and the so-called Open or General category, a residual group that encompasses the higher castes. The State allocates specific quotas to the different castes in the first two groups (SC/ST and OBC), with total reservations in principle not exceeding 50 percent of posts, while the high castes belonging to the General Category did not benefit from any quota until 2019.[1]

16 Although imperfectly carried out, this reservation policy has enabled the emergence of an elite among the Dalits and the intermediate castes (OBCs) who have enrolled in higher education en masse, particularly in the prestigious Indian Institute of Technology (IIT). But the consequence of this democratization of higher education is that the notion of merit has become highly divisive. According to Ajantha Subramanian ("Merit and Caste in Elite Institutions: The Case of the IIT"), at the end of a historical process that began with India's independence, the upper castes who were excluded from quotas transformed their caste and class privileges by justifying their individual

success in terms of personal merit. And in the first quarter of the twenty-first century, their members see themselves as Indian citizens freed from their caste affiliation. The castes benefitting from quotas, however, are relegated to their collective identity by the upper castes, who pretend that the lower castes owe their educational and professional success to quotas rather than personal merit.

17 The authors Shyam D. Babu, Chandra Bhan Prasad, and Devesh Kapur ("Reimagining Merit in India. Cognition and Affirmative Action"), who are involved in the advancement of the lower castes, emphasize the cognitive biases that affect members of these castes—a factor not taken into consideration by reservation policies, which favor a quantitative approach to quotas. Without rejecting the notion of merit, they call for a more contextual redefinition that might better assess people from the low castes. Varun Aggarwal ("Meritocracy Enabled by Technology, Grounded in Science") even considers the use of new technological tools as a way of overcoming the social factors that hinder people's success at school.

18 In post-Maoist China, the *gaokao*, the national entrance examination for higher education that students pass at the end of their secondary education, has become the equivalent of the old imperial examination, according to Zachary M. Howlett ("The National College Entrance Examination and the Myth of Meritocracy in Post-Mao China"). The difference, however, is that at the end of the imperial era, only 1 percent of candidates passed the provincial examination, whereas in 2019 nearly 80 percent of the 10 million or so candidates passed the *gaokao*.[2] In view of this massification of higher education since the early 2000s, China has diversified its curriculum and reintroduced competitive entrance examinations for a number of institutions, as William C. Kirby shows ("The Merits and Limits of China's Modern Universities"). The university system is hierarchical and highly unequal; universities located in large cities and wealthy regions recruit students mainly from wealthy urban areas. To overcome these inequalities, China has introduced quotas, particularly for disadvantaged regions, which some authors compare to Indian quotas.

19 Between China and India, Singapore provides a quasi-experimental case, which Vincent Chua, Randall Morck, and Bernard Yeung analyze ("The Singaporean Meritocracy: Theory, Practice, and Policy Implications"). The sociohistorical particularity of this city-state makes it possible to test the effects of a technocratic meritocracy introduced at the time of the British colony's independence in 1965, for a population of just 1.3 million. The egalitarian nature of education policy, the orientation of institutions toward the public good, and the development of increasingly sophisticated school testing technology all contributed to the production of a meritocratic elite. But two generations later and despite the pursuit of this policy, Singapore, with a population of 6 million, is faced with elites who self-reproduce through meritocracy, which has become an ideology these elites use to justify their success.

Kesavananda Bharati, Basic Structure, and Federalism

20 The initial decades following independence witnessed several confrontations between the executive and the judiciary over the extent of Parliament's power to amend the Constitution of India. Through its judgment in *Kesavananda Bharati v. State of Kerala* ((1973) 4 SCC 225) (Kesavananda Bharati), the Supreme Court birthed a critical doctrine to test the validity of constitutional amendments, and subsequently, constitutional

provisions. *Kesavananda Bharati* established the contours of Parliament's power to amend the Constitution, by providing an indicative list of features beyond Parliament's amendatory reach. The federal character of the Constitution turned out to be one such feature.

21 *Kesavananda Bharati* is widely hailed as the case that saved Indian democracy. This case originated when the Kerala Government attempted to impose restrictions on the management of the Edneer Mutt property in Kasaragod using the Kerala Land Reforms Act, 1969 and the Kerala Land Reforms (Amendment) Act, 1971. The petitioner initially attempted to challenge the validity of the Kerala laws themselves. However, the Central Government included those acts in the Ninth Schedule of the Constitution, under the Constitution (Twenty-ninth Amendment) Act, 1972 (29th Amendment). The Ninth Schedule is a list of laws (both Union and state) appended to the text of the Constitution and immune from judicial review. This Schedule was inserted by the Constitution (First Amendment) Act, 1951, as a measure to protect land reform laws from any potential challenge for alleged violation of fundamental rights (Dodeja 2016:1). Following this addition of the Kerala laws into the Ninth Schedule, *Kesavananda Bharati* ended up witnessing a challenge to the 29th Amendment. The Constitution (Twenty-fourth Amendment) Act, 1971, which asserted Parliament's plenary power to amend fundamental rights, was also challenged.[3] The Court was essentially asked to determine the boundary beyond which Parliament's amending powers could not reach.

22 The Supreme Court, by a majority of 7:6, held that Parliament could amend any part of the Constitution as long as it did not alter or amend the "basic structure of the Constitution." On the key decision on the law, the Supreme Court in paragraph 475 held that the expression "amendment of this Constitution" does not enable Parliament to abrogate or take away fundamental rights or completely change the fundamental features of the Constitution so as to destroy its identity. Within these limits Parliament can amend every article. In other words, *Kesavananda Bharati* gave the courts the power to strike down constitutional amendments if they were found to violate the Constitution's basic structure.

23 Each judicial opinion in this case came up with an illustrative list of the "basic features" of the Constitution, including its supremacy and federal character, the government's republican and democratic form, and separation of powers. Although the case did not directly involve any federal issues, at least three judicial opinions that formed part of the majority acknowledged that the Constitution's federal character and federal features are part of its basic structure.[4] The Supreme Court also noted specific aspects that characterize *how* the Constitution of India is federal (or "quasi-federal). In paragraph 475, the court noted that while a federal state is characterized by a strict delineation of legislative powers between the Union and states, greater power in the Union Parliament (as compared to the states) was accepted as necessary for preserving the country's integrity.

24 Despite the inclusion of federalism as a basic feature in some of the opinions in *Kesavananda Bharati*, the characterization and acceptance of the Constitution as "truly federal" remained patchy. Shortly after *Kesavananda Bharati*, a seven-judge bench of the Supreme Court was tasked with deciding a challenge to a letter issued by the Union Home Minister in *State of Rajasthan v. Union of India* ((1977) 3 SCC 592) (Rajasthan v. Union of India). The letter requested nine Congress-ruled states to advise their respective governors to dissolve their popularly-elected legislative assemblies in the

states and seek a fresh mandate from voters. The Supreme Court turned down the argument that the dismissal of these state assemblies was contrary to the basic structure, holding it to be acceptable within the constitutional framework. While deciding the scope of judicial review of a proclamation of president's rule under Article 356, the Supreme Court touched upon the principle of federalism in paragraph 55. Justice M.H. Beg emphatically observed:

> We are reluctant to embark on a discussion of the abstract principles of federalism in the face of express provisions of our Constitution. Nevertheless, as the principles have been mentioned as aids to the construction of the Constitution whose basic structure may, no doubt, have to be explored even when interpreting the language of a particular provision of the document which governs the destiny of the nation, we cannot avoid saying something on this aspect too.

25 The Court went on to observe that the Indian Constitution is "more unitary than federal". In paragraph 57, the Supreme Court stated the following: "In a sense, therefore, the Indian union is federal. But, the extent of federalism in it is largely watered down by the needs of progress and development of a country which has to be nationally integrated, politically and economically coordinated, and socially, intellectually and spiritually up-lifted." The Supreme Court endorsed a limited power of review for itself and effectively validated the eventual dissolution of nine state assemblies in the process.

26 That same year another seven-judge Bench of the Supreme Court in *State of Karnataka v. Union of India* ((1977) 4 SCC 608) (Karnataka v. Union of India) recognized the Indian Constitution not as federal, but as "quasi-federal" in nature. The Court observed: "There are various features of the Constitution which make it strictly not federal. It has variously been described as quasi-federal or federal in structure or federal system with a strong central bias" (Karnataka v. Union of India paragraph 253). Evidently, despite *Kesavananda Bharati* and the recognition of the Constitution's federal character, the Supreme Court in high-stake matters continued to rely on the quasi-federal label to interpret the Constitution (inevitably leading to interpretations of the Constitution that would favor the Union over states). In cases such as the two previously cited, this culminated in a swift dissolution of democratically-elected state assemblies.

FEDERALISM, BASIC STRUCTURE, AND IMPLICATIONS FOR CONSTITUTIONAL INTERPRETATION

27 The acknowledgement that federalism is firmly entrenched as a basic feature (and as a part of the basic structure) of the Constitution became more pronounced after the judgment in *S.R. Bommai v. Union of India* ((1994) 3 SCC 1) (S.R. Bommai). Following a brief discussion of the judgment in *S.R. Bommai*, this part describes and analyzes how the express recognition of federalism as one of the basic features was used to tide over labels such as "quasi-federal," to give a federalism-furthering interpretation of the Constitution. This part also cites instances where the Supreme Court's interpretation of the Constitution has affirmed a greater centralization of power despite the recognition of federalism as part of the basic structure.

S.R. Bommai: The Knight in Shining Armor

28 The watershed moment arrived in 1994 with the judgment in *S.R. Bommai*, which conclusively affirmed that the Constitution of India is indeed federal. Despite initial misgivings, elements of the basic structure were soon put to use by the Supreme Court in interpreting not just constitutional amendments, but also constitutional provisions. A standout instance of that is the landmark case of *S.R. Bommai*, in which a nine-judge bench of the Supreme Court was tasked with determining the scope of judicial review of a proclamation of the president's rule under Article 356 of the Constitution. *S.R. Bommai* witnessed a challenge to the dismissal of six state governments by the union government between 1988-1992. In paragraph 96, Justice P.B. Sawant, writing on behalf of himself and Justice Kuldip Singh (both in the majority), stated the following: "Democracy and federalism are the essential features of our Constitution and are part of its basic structure. Any interpretation that we may place on Article 356 must, therefore, help to preserve and not subvert their fabric." His opinion referred to several principles of federalism and democracy embedded in the Constitution and is categorical about states being "constitutionally recognized units and not mere convenient administrative divisions" (S.R. Bommai, paragraph 97). Justice Sawant also borrowed from constitutional scholar H.M. Seervai's views on the federal nature of the Indian Constitution to take note of the important heads of legislation that were assigned to the states and their mutually exclusive taxing powers, which assure them an independent source of revenue (S.R. Bommai, paragraph 97).

29 The opinion authored by Justice B.P. Jeevan Reddy (who wrote on behalf of himself and Justice S.C. Agrawal) took the view that "the courts should not adopt an approach, an interpretation, which has the effect of or tends to have the effect of whittling down the powers reserved to the States" and that the Court must be cautious about "any conscious whittling down of the powers of the States" (S.R. Bommai, paragraph 276). Perhaps the most emphatic observation about federalism was made when Justice Reddy said in the same paragraph that "federalism in the Indian Constitution is not a matter of administrative convenience, but one of principle."

30 Relying on the federal principle being part of the Constitution's basic structure, the Supreme Court interpreted Article 356 in a manner that upheld federalism. This involved narrowing the scope of the Center's power under Article 356 to check the imposition of the president's rule on illegitimate or arbitrary grounds. The Supreme Court accepted that Article 356 is an emergency provision, and confers a power to be exercised by the president under exceptional circumstances to discharge the obligation cast upon them by Article 355 (on the Union's duty to protect states against external aggression and internal disturbance) (S.R. Bommai, paragraph 272). The Court also noted that the power conferred by Article 356 is conditional and not absolute (S.R. Bommai, paragraph 280). The Court established the condition as follows:

> The formation of satisfaction — subjective, no doubt — that a situation of the type contemplated by the clause has arisen. This satisfaction may be formed on the basis of the report of the Governor or on the basis of other information received by him or both. The existence of relevant material is a precondition to the formation of satisfaction. The use of the word 'may' indicates not only a discretion but an obligation to consider the advisability and necessity of the action.

31 Most importantly, the Supreme Court held that the dissolution of a Legislative Assembly is not a matter of course and should be resorted to only when absolutely

necessary. *S.R. Bommai* effectively played a critical role in halting the practice of whimsical dissolution of state assemblies at the hands of the union government. It is one of those rare Supreme Court decisions that has had a tangible, measurable impact on Union-state relations. Prior to *S.R. Bommai* (between January 1950 and March 1994), the president's rule was imposed 100 times, or an average of 2.5 times a year; between 1995 and 2021, this figure came down to twenty-nine, or a little more than once a year (Kumar 2021).

S.R. Bommai and After…

32 *S.R. Bommai* significantly widened the scope of judicial review of a Presidential Proclamation under Article 356. Relevant portions from this ruling have been affirmatively cited in later judgments of the Supreme Court while reading the Constitution. For instance, in paragraph 59 of *I.T.C. Ltd v. Agricultural Produce Market Committee* ((2002) 9 SCC 232)[5] (I.T.C. Ltd.), the Supreme Court used *S.R. Bommai* to make the following observation: "The Constitution of India deserves to be interpreted, language permitting, in a manner that it does not whittle down the powers of State Legislature and preserves federalism while also upholding the central supremacy as contemplated by some of its articles." A similar observation appears in *State of West Bengal v. Kesoram Industries* ((2004) 10 SCC 201),[6] in which the Court says that the interpretation of the Constitution by the judiciary should aim to strengthen, rather than undermine, the federal structure of the Constitution.

33 With the pronouncement in *S.R. Bommai*, the Supreme Court created fertile ground for promoting a federalism-furthering interpretation of the Constitution. In *Jindal Stainless Ltd v. State of Haryana* ((2017) 12 SCC 1) (Jindal Stainless Ltd.), the constitutionality of entry taxes imposed by state governments was called into question in the following manner:

> The provisions of our Constitution are aimed at vesting and maintaining with the States substantial and significant powers in the legislative and executive fields so that States enjoy their share of autonomy and sovereignty in their sphere of governance. This can in turn be done by interpreting the provisions of the Constitution including those found in Part XIII in a manner that preserves and promotes the federal set-up instead of diluting or undermining the same (Jindal Stainless Ltd, paragraph 85).

34 The Supreme Court categorically stated that "an approach which tends to dilute the federal character of our Constitutional scheme must, therefore, be avoided and one that supports and promotes the concept of federalism preferred by the courts while interpreting the provisions of the Constitution" (Jindal Stainless Ltd, paragraph 88).

35 The repeated characterization of the Constitution as "quasi-federal," considered a roadblock for a federalism-furthering interpretation of the Constitution, has also been dismissed. Justice A.M. Ahmadi's opinion in *S.R. Bommai* stated that although "quasi-federal" might be an appropriate description of the Indian Constitution, it went on to declare, "[B]ut then what is there in a name, what is important to bear in mind is the thrust and implications of the various provisions of the Constitution bearing on the controversy" (SR Bommai, paragraph 24). Justice P.B. Sawant also observed that theoretical labels such as "quasi-federal" are not important, since it is the "practical implications of the provisions of the Constitution which are of importance" (SR Bommai, paragraph 100).

36 These are not just stray statements on labels concerning the Constitution. Justice Ahmadi's opinion from *S.R. Bommai* was employed in 2018 by the then Chief Justice Dipak Misra in *Government of N.C.T. of Delhi v. Union of India* ((2018) 8 SCC 501) (Government of N.C.T. of Delhi). This well-known judgment concerned the asymmetric federal arrangement of Delhi with the union government. It clarified that the lieutenant governor of Delhi is bound by the aid and advice of the Council of Ministers of the Delhi Government. While quoting Justice Ahmadi's observation, Justice Misra stated that "the need is to understand the thrust and implication of a provision" (Government of N.C.T. of Delhi, paragraph 125) and as such, "these theoretical concepts [such as quasi-federal] are to be viewed from the practical perspective" (Government of N.C.T. of Delhi, paragraph 124). This judgment also unequivocally stated, "Whatever be the nature of federalism present in the Indian Constitution, whether absolutely federal or quasi-federal, the fact of the matter is that federalism is a part of the basic structure of our Constitution" (Government of N.C.T. of Delhi, paragraph 108). Even more tellingly, it proceeded to claim the following: "It could never have been the Constituent Assembly's intention that under the garb of quasi-federal tone of our Constitution, the union government would affect the interest of the States" (Government of N.C.T. of Delhi, paragraph 110).

37 In a more recent controversy about the levy of the Integrated Goods and Services Tax that arose in *Union of India v. Mohit Minerals Private Limited* ((2022) 10 SCC 700) (Mohit Minerals), the Supreme Court held that "the Indian Constitution has sometimes been described as quasi-federal or a Constitution with a 'centralising drift'. This is because when the Constitution is read as a whole, the Union is granted a larger share of the power" (Mohit Minerals, paragraph 48). Furthermore, "merely because a few provisions of the Constitution provide the Union with a greater share of power, the provisions in which the federal units are envisaged to possess equal power cannot be construed in favour of the Union" (Mohit Minerals, paragraph 48).

38 Similarly, in another recent judgment, that of *Government of NCT of Delhi v. Union of India* ((2023) 9 SCC 1) (NCT Delhi 2023), the Supreme Court advocated for an expansive interpretation of Article 239AA while deciding on the federal relation between the National Capital Territory (NCT) of Delhi and the Union of India.[7] The Court maintained that the NCT of Delhi and the Union of India "share a unique federal relationship" and the NCT of Delhi cannot be "subsumed in the unit of the Union merely because it is not a State" (NCT Delhi 2023, paragraph 86). Relying on the Constituent Assembly Debates and its previous judgments, the Court held that "the principles of democracy and federalism are essential features of our Constitution and form a part of the basic structure" (NCT Delhi 2023, paragraph 82). In this case, a five-judge bench of the Supreme Court dealt with the issue of who would have control over the "administrative services" of the NCT of Delhi, the Government of NCT of Delhi or the lieutenant governor acting on behalf of the union government. The Supreme Court ruled in favor of the former.

What the Basic Structure Could Not Do

39 The problem, however, is one of consistency. The precise nature of Indian federalism came up for consideration in *Kuldip Nayar v. Union of India* ((2006) 7 SCC 1) (Kuldip Nayar), in which an amendment made to the Representation of the People Act, 1951

that removed the requirement of domicile in the state concerned for getting elected to the Rajya Sabha, was challenged for violating the principle of federalism. The constitutional validity of this amendment was upheld primarily on the grounds that the Rajya Sabha "acts as a revising chamber over the Lok Sabha" and "does not act as a champion of local interests" (Kuldip Nayar, paragraph 47). Despite acknowledging that the federal principle is one of the basic features of the Constitution, it was noted that the Constitution does not cease to be federal simply because a Rajya Sabha member does not "ordinarily reside" in the state for which they are elected (Kuldip Nayar, paragraph 89). The Supreme Court explained as follows:

> [A]s long as the State has a right to be represented in the Council of States by its chosen representatives, who are citizens of the country, it cannot be said that federalism is affected. It cannot be said that residential requirement for membership to the Upper House is an essential basic feature of all federal constitutions. Hence, if the Indian Parliament, in its wisdom has chosen not to require a residential qualification, it would definitely not violate the basic feature of federalism (Kuldip Nayar, paragraph 89).

40 In penning this judgment, Chief Justice Y.K. Sabharwal made a distinction between "strict federalism" and "Indian federalism" (adding to the list of labels in the process). As he observed, in strict federalism, while the Lower House represents the people, the Upper House consists of the "Union" of the federation, and both Houses have equal legislative and financial powers (Kuldip Nayar, paragraph 38). He also noted that the Upper House did not perform any federal function or "champion local interests," but was meant to be a "revising chamber" to enhance the quality and extent of deliberation (Kuldip Nayar, paragraph 47). He went on to propose that in India, the "principle of federalism is not territory-related," and the federal principle does not envisage that "representatives of the State must belong to that State" (Kuldip Nayar, paragraph 38). Unfortunately, little justification is provided for this view. At this point, the composition of India's Upper House mirrors that of the Lower House (and is based on state-specific populations), and the former has never entirely been considered a champion of federal interests.

41 Labels also appeared in *B.P. Singhal v. Union of India*, (2010) 6 SCC 331 (B.P. Singhal), in which the Supreme Court commented on the dual role of the governor. *B.P. Singhal* concerned the removal of four governors by the president in 2004 and the interpretation to be given to Article 156 of the Constitution.[8] Besides pronouncing on the scope of the "doctrine of pleasure" and the Union's role in appointing and removing governors, *B.P. Singhal* noted that the governor is a constitutional head of the state as well as a vital link between the union government and the state government (B.P. Singhal, paragraph 40). While speaking for the Court, Justice R.V. Raveendran attributed the peculiar position of the governor's office to the fact that the "Indian Constitution is quasi-federal in character" (B.P. Singhal, paragraph 40). The inherent design of the governor's office remains premised on the quasi-federal nature of the Constitution (Narayanan, James, and Panda 2023:116). By tilting the federal balance in favor of the Centre , this office lends itself to being used for unconstitutional encroachment into the states' delineated spheres and creating frequent run-ins between the Union and states (Narayanan, James, and Panda 2023:116). This is evident in the recent conflicts that have been witnessed between democratically-elected state governments (such as those in West Bengal and Tamil Nadu) on the one hand and the governor on the other (Tiwary 2024a). In both West Bengal[9] and Tamil Nadu,[10]

governors have exercised unexplained delays in assenting to laws that had otherwise been passed by the democratically-elected state legislatures. In particular, the governor of Tamil Nadu's inaction spurred litigation before the Supreme Court, which culminated in the judgment of *State of Tamil Nadu v. Governor of Tamil Nadu* ((2025) 8 SCC 1) (State of T.N. v. Governor of T.N.) on April 8, 2025. Declaring the Tamil Nadu governor's withholding of as many as ten state legislative bills as illegal and erroneous, the Supreme Court categorically stated the following: "Any deliberate inaction on part of the Governor in assenting to bills ... has to be viewed as a serious threat to the federal polity of the country and the aggrieved governments cannot be left remediless, desperately waiting for a decision at the hands of the Governor." (State of T.N. v. Governor of T.N., paragraph 246).

42 The working of central investigating agencies, such as the Central Bureau of Investigation (CBI), has also raised federal concerns on multiple occasions. The CBI, originally named the Special Police Establishment, is a statutory body of the union government constituted as a special force under Section 2 of the Delhi Special Police Establishment Act, 1946 (DSPE Act, 1946) (Sharma and Agrawal 2020:1). Strictly speaking, the CBI was constituted for investigation in any Union Territory of India of offenses notified in section 3 of the DSPE Act. Even though "police" is constitutionally a state subject (which means that state governments have legislative and administrative competence over police), section 5(1) of the DSPE Act allows the union government to extend the jurisdiction of CBI to any state, with the express consent of the concerned state government under section 6. Over the years, the powers and jurisdiction of the CBI have been the cause of consistent litigation between the Union and states, especially in light of the former's inroads into the latter's investigative domain (Mittal 2024).

43 Judicial interpretation allows the CBI to extend its powers to investigate within states without having to account for logistics (such as acquiring a state's consent). In 1985, the Supreme Court in *State of West Bengal v. Sampat Lal* ((1985) 1 SCC 317) observed that the state government's consent as envisaged under section 6 of the DSPE Act, 1946 would not be a precedent condition when the Supreme Court directs the CBI to investigate in a state. This issue was referred to a Constitution Bench of the Supreme Court in *State of West Bengal v. Committee for Protection of Democratic Rights, West Bengal* ((2006) 12 SCC 534) against an order passed by the Calcutta High Court directing CBI investigation in West Bengal. The significance of this question was compounded because of its interface with three basic features of the Constitution, namely federalism, separation of powers, and judicial review. Eventually, in *State of West Bengal v. Committee for Protection of Democratic Rights, West Bengal* ((2010) 3 SCC 571) (Committee for Protection of Democratic Rights), the question before the Supreme Court was whether the High Court, exercising its jurisdiction in Article 226[11] of the Constitution, could direct the CBI to investigate a cognizable offense alleged to have taken place within the territorial jurisdiction of a state without the consent of the state government.

44 On this specific question, the Supreme Court reiterated the state's duty to enforce citizens' rights for fair and impartial investigation against any person accused of a cognizable offense. With judicial review being part of the basic structure of the Constitution, the Supreme Court held that no Act of Parliament can exclude or curtail the powers of the constitutional courts with regard to the enforcement of fundamental rights (Committee for Protection of Democratic Rights, paragraph 68(iii)). Any

direction by the Supreme Court or the High Courts exercising their powers of judicial review cannot be considered as violating the federal structure (Committee for Protection of Democratic Rights, paragraph 68(iii)). While the CBI as an executive body could be restricted by a law in its functioning, the same restrictions cannot be imposed on the judiciary (Committee for Protection of Democratic Rights, paragraph 68(iii); Rao 2012:33). Effectively then, a direction given by the Supreme Court or the High Courts to the CBI to investigate a cognizable offense alleged to have been committed within the territory of a state without the consent of the concerned State Government will not impinge upon the federal structure of the Constitution and shall be valid in law. And this is the case even though the counsel for the state argued that, with the federal structure being a part of the basic structure of the Constitution, it is not permissible for the Central Government to encroach upon the legislative powers of a state concerning matters such as police (which is within the legislative and administrative competence of the state governments) (Committee for Protection of Democratic Rights, paragraph 10). This means that Parliament should not have passed a law authorizing the police of one state to investigate in another state without the consent of that state (Committee for Protection of Democratic Rights, paragraph 11).

45 One could argue that the Court could have struck a more delicate balance between judicial review and federalism, both parts of the basic structure. In the absence of this delicate balance and despite the letter of the law, CBI deployment in states continues in the absence of their general consent. Between July 2015 and September 2024, as many as nine states—namely, Mizoram, Karnataka, Punjab, Jharkhand, Kerala, West Bengal, Telangana, Meghalaya, and Tamil Nadu—withdrew their general consent to the CBI (Ray 2022; Tiwary 2024b). Many of these states alleged that CBI investigations unfairly targeted opposition leaders (Rajagopal 2023). West Bengal, for instance, withdrew its general consent for investigation in its territory by the CBI under the DSPE Act, 1946 in 2018. Despite that, the CBI continued functioning in the state. This spurred the state government to file an original suit in the Supreme Court, challenging *suo-moto* First Information Reports (FIRs) registered by the CBI despite the withdrawal of general consent by the state. Hearing on substantive issues in this suit before the Supreme Court has yet to begin.[12] This could be an opportune moment to rework the balance between judicial review and federalism—both parts of the Constitution's basic structure—to ensure states reserve the statutory right to withdraw consent for CBI investigations within their geographic boundaries.

CLOSING THOUGHTS

46 The labeling of the Indian Constitution as quasi-federal has culminated in a heavily centralized understanding of federalism, and has been an ongoing theme in constitutional interpretation (Narayanan, James, and Panda 2023:116).[13] The evolution of federalism has diverged from extensive centralization to movements of power from the Union to the states, but this has not satisfactorily permeated into constitutional interpretation or law reform. At best, the use of the basic structure to justify increased (or at least, adequate) governance powers for state governments has been patchy. Academic scholarship has also indicated that more often than not, the Supreme Court has remained oblivious to the distinction between nation-state and state-nation political arrangements, while deciding disputes concerning India's federal structure

(Krishnaswamy 2015:359). "Nation-states" have been identified as those in which sociocultural differences have not acquired great political salience, with most citizens having a strong sense of shared history (Stepan, Linz, and Yadav 2011:4). Sweden, Japan, and Portugal have been identified as examples of such a nation-state. However, polities with significant politically-salient cultural or linguistic diversity—India being one of them—possess the characteristics of a "state-nation" (Stepan, Linz, and Yadav 2011: 4). Stepan, Linz, and Yadav describe state-nations as follows:

> [S]tate-nation policies stand for a political-institutional approach that respects and protects multiple but complementary sociocultural identities. State-nation policies recognize the legitimate public and even political expression of active sociocultural cleavages, and they include mechanisms to accommodate competing or conflicting claims made on behalf of those divisions without imposing or privileging, in a discriminatory way, any one claim. State-nation policies involve crafting a sense of belonging (or 'we-feeling') with respect to the statewide political community, while simultaneously creating institutional safeguards for respecting and protecting politically salient sociocultural diversities (Stepan, Linz, and Yadav 2011:4-5).

47 As indicated above, the Indian Supreme Court has seldom acknowledged India's status as that of a state-nation. What remains missing from the Supreme Court's jurisprudence is its reliance on or development of a clear political theory backing the Indian model of federalism that can better explain or justify its decision-making. Perhaps it is this lack of reliance on a settled theory that could explain the Court's reluctance to advocate for a federalism-furthering interpretation on all occasions, despite abundant clarity on federalism being part of the basic structure of the Constitution. Especially when such inclusion is critical to interpreting the Constitution. Significantly, the principle of federalism has been used to promote democracy and ensure that governments that are closer to the people are sufficiently empowered. The interrelationship between federalism and democracy has been repeatedly acknowledged by the Supreme Court, such as in the case of *Mohit Minerals* (Mohit Minerals, paragraph 53). In *Mohit Minerals*, the Supreme Court asserted the following:

> The federal system is a means to accommodate the needs of a pluralistic society to function in a democratic manner. It attempts to reconcile the desire of unity and commonality along with the desire for diversity and autonomy. Democracy and federalism are interdependent on each other for their survival such that federalism would only be stable in well-functioning democracies. Additionally, the constituent units in a federal polity check the exercise of power of one another to prevent one group from exercising dominant power.

48 This interrelationship between democracy and federalism has been invoked in more recent judgments of the Supreme Court as well, *State of T.N. v. Governor of T.N.* being one such instance. While chiding Governors for inordinately delaying assent to bills, the Supreme Court relied on the need to ensure the smooth functioning of an electoral democracy and simultaneously preserving the federal polity of the country (State of T.N. v. Governor of T.N., paragraph 246).

49 However, judicial application of the principle of federalism has not been uniform. An area of constitutional interpretation where the Supreme Court has conservatively applied federalism is state formation and alteration of states' boundaries. The Court has repeatedly deferred to Parliament's legislative domain with respect to state formation (Pradeep Chaudhary v. Union of India ((2009) 12 SCC 248) and reaffirmed that in terms of Article 3[14] of the Constitution, the views of a concerned state's legislature are not binding on Parliament in the matter of state reorganization. A crisp,

pithy judgment, Pradeep Chaudhary does not witness any engagement with any labels (whether quasi-federal or federal) that might be attributed to the Constitution. This was also reflected in the challenge to the abrogation of the special status of Jammu and Kashmir in Article 370 of the Constitution, In re ((2024) 11 SCC 1) (Article 370, In re.). Even though the Court recognized the elements of asymmetric federalism[15] within the Constitution, it eventually upheld the validity of the Union's exercise of power in abrogating Article 370 of the Constitution. Simultaneously, the Jammu and Kashmir Reorganization Act, 2019 that bifurcated the state of Jammu and Kashmir to create two Union territories (Jammu and Kashmir, and Ladakh) was also upheld. This is despite the fact that the state remained under the president's rule, and the democratically-elected state assembly was suspended at the time Article 370 was abrogated and the Jammu and Kashmir Reorganization Act, 2019 passed. The proclamation of the president's rule in the erstwhile state necessarily meant that the state legislature's views on the reorganization could not have been sought. Eventually, the Parliament of India (through both its Houses) substituted its views for that of the state legislature. The Lok Sabha as well as the Rajya Sabha expressed their views on the reorganization law, in place of the state legislature of Jammu and Kashmir (Article 370, In re, paragraphs 8.2 and 8.3). This constituted one of the grounds for challenging the Jammu and Kashmir Reorganization Act, 2019. This position, however, did not hold up before the Supreme Court. While the Supreme Court acknowledged that both democracy and federalism are basic features of the Constitution, it took note of the precise words of Article 3 and declared the following: "[T[he views of the Legislature of the State are not binding on Parliament in terms of … Article 3. The views of the Legislature of the State … are recommendatory to begin with. Thus, Parliament's exercise of power under … Article 3 is valid" (Article 370, In re, paragraph 528). Effectively, the Supreme Court foreclosed any discussion on the failure to secure the concerned state legislature's views in the reorganization of the state by relying on the non-binding nature of the views, presumably indicating that the views (even if they had been secured) would most likely have been disregarded. The flexible nature of the federalism embodied under the Indian Constitution was subverted to abolish a state entirely (by creation of two Union territories), largely at the behest of the union government.

50 As a matter of principle, the principle of federalism must be used constructively in interpreting the provisions in the Constitution. It is imperative not only for the autonomy and interests of the states, but for the overall functioning of democracy in India. The country's imminent future is replete with several oscillations between regionalization and centralization, with the impending delimitation of electoral constituencies, the possibility of simultaneous elections, and controversies concerning fiscal relations between the center and states. Future challenges to legislative interventions, which potentially gnaw away at state autonomy, will have to draw on federalism-furthering interpretations of the Constitution propounded by the Supreme Court. Sustained reliance on federalism as one of the basic features of the Indian Constitution can act as the bedrock of such a federalism-furthering interpretation of the Constitution.

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NOTES

1. In 2019, the Hindu nationalist government granted a quota of 10 percent of posts to people belonging to the General or Open category that had been so far excluded from the reservation policy because this category includes mainly the upper castes. The quotas are intended for people whose family income is below a given poverty line. This move was strongly criticized and opposed by various parties as a form of circumvention of the principles of the reservation policy strictly based on caste discrimination.

2. On this issue, see also Manon Laurent (2023).

3. The Constitution (Twenty-Fifth Amendment) Act, 1971 was also challenged. This Amendment inserted Article 31C in the Constitution, which aimed to protect laws enacted to implement certain Directive Principles of State Policy (DPSPs) from being struck down based on potential violations of fundamental rights. The text of this Amendment can be read here: The Constitution (Twenty-Fifth Amendment) Act, 1971, retrieved November 22, 2025 (https://cdnbbsr.s3waas.gov.in/s380537a945c7aaa788ccfcdf1b99b5d8f/uploads/2023/03/2023030251-2.pdf) (Legislative Department, Ministry of Law and Justice, Government of India).

4. See *Kesavananda Bharati* ((1973) 4 SCC 225); Chief Justice SM Sikri (para 292, "federal character of the Constitution) Justices Shelat and Grover (para 582, "secular and federal character of the Constitution)), and Justice Mathew (para 1668, referring to "federal features" as essential features of the Constitution).

5. The central concern in this case was that of the division of legislative powers between Parliament and state legislatures with respect to the sale of tobacco.

6. The central concern here arose because of cesses on coal-bearing land levied in exercise of the power conferred by state legislation.

7. Article 239AA lays down the special provision for the National Capital Territory (NCT) of Delhi. It was inserted by the Constitution (Sixty-Ninth Amendment) Act, 1991. It created a Legislative Assembly in the NCT with the power to make laws on matters in the State or Concurrent Lists (except public order, police, or land, which remains under the control of the Union Government). It also creates a provision for the appointment of the lieutenant governor by the president, who enjoys special authority.

8. Article 156(1), Term of the office of Governor – *The Governor shall hold office during the pleasure of the President.* In *B.P. Singhal*, the Supreme Court held that the doctrine of pleasure under Article 156 of the Constitution enabled the Centre to dismiss governors without requiring any notice to be given to the person removed or a hearing. The Supreme Court also established certain fetters/guidelines to circumscribe how presidents are expected to exercise their power under Article 156.

9. "Guv clears 3 bills passed by Bengal assembly in 2022-23," *The Times of India* (Kolkata, April 29, 2025), retrieved August 3, 2025, (https://timesofindia.indiatimes.com/city/kolkata/guv-clears-3-bills-passed-by-bengal-assembly-in-2022-23/articleshow/120737043.cms).

10. "SC prescribes time limits for governors to act on bills" *The Hindu* (New Delhi, April 8, 2025)), retrieved August 4, 2025, (www.thehindu.com/news/national/sc-prescribes-time-limits-for-governors-to-act-on-bills/article69426059.ece).

11. Article 226 gives the High Courts the power to hear and issue directions, orders, or writs for the enforcement of legal and constitutional rights of the people. Under this provision, an individual can directly approach the High Court to protect their rights against an action of the state or its instrumentalities.

12. See *State of West Bengal v. Union of India* (2024 INSC 502).

13. This can also be seen in decided cases such as *State of Rajasthan*, *State of Karnataka*, and *B.P. Singhal*.

14. Article 3 of the Constitution concerns the formation of new states and the alteration of areas, boundaries, and names of existing states. Under this provision, Parliament is allowed by law to form a new state, increase or diminish the area of any state, and alter its boundaries or its name. A bill for this purpose shall be introduced in either House of Parliament only upon the recommendation of the president of India and only upon the proposal contained in the bill, having been referred to the legislature of the concerned state (whose area, boundaries, and name stand to be affected by such a proposal).

15. Asymmetric federalism typically refers to providing some federal sub-units with greater powers of self-governance or differential rights with respect to the federal government. Such arrangements are commonplace in a federal set-up in pluri-ethnic settings and could be a result of demands from mobilized nationality groups. Under the Constitution of India, some instances of asymmetry can be found under Article 370 (concerning the special status that was given to Jammu and Kashmir) and the Fifth and Sixth Schedules (which provide for the administration and control of areas with tribal populations). For a detailed overview of asymmetric federalism, see Tillin 2016:540-59.

ABSTRACTS

The Constitution of India is variously described as “federal” or “quasi-federal,” the latter description being a proverbial albatross around the Constitution’s neck. Since the early 1960s, the Indian Supreme Court has repeatedly tested the limits of legislation, especially parliamentary laws and how they sit alongside constitutional provisions concerning Union-state relations. While it might appear to be a harmless label, the Constitution’s characterization as “quasi-federal” has often led the Supreme Court to authorize increased centralization of governmental power. Simultaneously, with the birth of the “basic structure doctrine” in 1973, its subsequent development and the inclusion of federalism in the basic structure, the Supreme Court has been more mindful of which central incursions into states’ power pass muster. This article assesses how the basic structure doctrine has been used to propose a federalism-furthering interpretation of the Constitution. It suggests that certain contemporary federal issues could be resolved by the application of the basic structure doctrine to the interpretation of relevant constitutional provisions. The article distances itself from certain thoughts on the combined use of the basic structure doctrine as well as more recent jurisprudence around Indian federalism which can be deftly used to curb overcentralization and further states’ autonomy.

INDEX

Mots-clés: federalism, Constitution of India, basic structure doctrine, federal character, federalism-furthering, constitutional interpretation

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