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## THE ROLE OF JUDICIARY IN SHAPING FEDERAL GOVERNANCE: A COMPARATIVE STUDY BETWEEN INDIA AND U.S.

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### 1. THE CONSTITUTIONAL FRAMEWORK

#### 1.1 FEDERALISM IN INDIA

India has a constitutional framework of federalism that contains the features of both the federal and unitary systems. India is a diversified country which needs unity; therefore, the Indian Constitution describes the country as a “Union of States” in Article 1<sup>1057</sup>. This signifies that states cannot secede from the union. Under this, the Seventh Schedule enumerates powers for the federal and state governments by having three lists i.e., the *Union List*, which, for example includes defence or foreign affairs, the *State List*, which features police or public health on it, and the third category is the *Concurrent List*, containing marriage as well as criminal law items. The Union government has enormous powers, especially on matters under the Union List, and the residual powers are also with the Union. Article 245<sup>1058</sup> makes state laws subject to override by central laws on matters that fall under the Concurrent List in case of dispute. The Supreme Court, as an arbitration body, correctly balances the power of the Union and state governments.

The federalism of India retains strong features of unitary characteristics, such as the emergency provisions enacted by Articles 352 and 356. Such provisions constitute the central government's authority to exert itself further in cases when it is required. This juxtaposition of features-or federalism and unitary characteristics-presents an important model of cooperative federalism wherein diversity at the state levels does not seem to disrupt national unity.

<sup>1057</sup>Article 1: Name and territory of the Union

- (1) India, that is Bharat, shall be a Union of States.
- (2) The States and the territories thereof shall be as specified in the First Schedule.
- (3) The territory of India shall comprise-
  - a. The territories of the States;
  - b. the Union territories specified in the First Schedule; and
  - c. such other territories as may be acquired.

<sup>1058</sup> 245. Extent of laws made by Parliament and by the Legislatures of States

- (1) Subject to the provisions of this Constitution, Parliament may make laws for the whole or any part of the territory of India, and the Legislature of a State may make laws for the whole or any part of the State.
- (2) No law made by Parliament shall be deemed to be invalid on the ground that it would have extra-territorial operation.

## 1.2 FEDERALISM IN U.S.

The constitutional framework of federalism in the United States is that of a division of powers between the national government and state governments, preserving autonomy at the state level but unifying the nation. It is primarily established by the U.S. Constitution and is reinforced through several amendments and judicial interpretations.

Tenth Amendment is another basic tenant of U.S. federalism, the assertion of powers not so granted as reserved to either the states or the people. *Article I, Section 8* enumerates federal powers like commerce, declaring war and the coinage of money. And finally, the Supremacy Clause or *Article VI* dictates that this Constitution as well as the laws passed pursuant to it take priority over State laws in conflicting situations: the Constitution is said to be “the supreme law of the land”.

Federalism in the United States also has emerged and in part been transformed through judicial interpretation of the Constitution. Precedents such as **McCulloch v. Maryland**<sup>1059</sup> in 1819 asserted broad powers of the national government under the Necessary and Proper Clause; **United States v. Lopez**<sup>1060</sup> in 1995 reaffirmed narrower limits of federal power through the Commerce Clause.

The balance between state and federal powers has, over the years, evolved to permit flexibility in facing new challenges while remaining steadfast to the principles of shared governance. It is this very system that continues to influence American governance and, at the same time, remains a model for democratic federalism all over the world.

## 1.3 CONSTITUTIONAL PROVISIONS OF BOTH THE COUNTRIES: A COMPARATIVE ANALYSIS.

The constitutional frameworks of federalism in India and the United States, though similar in many respects, clearly reflect differences in approach to the delegation of powers between the centre and the states.

In the United States, it is the Constitution's Tenth Amendment that reserves to the states or people all powers not delegated to the federal government. The federal powers are enumerated in *Article I, Section 8*; the Supremacy Clause establishes federal law as supreme over conflicting state law in *Article VI*. The *Necessary and Proper Clause*, often seen as expanding federal authority, allows Congress to pass laws deemed necessary and proper for the carrying out of its powers.

The India's Constitution refers to it as a “Union of States” in *Article 1*, therefore preventing states from seceding. Distribution of powers is made in the *Seventh Schedule*, wherein subjects are classified into the Union, State, and Concurrent Lists. In contrast to the U.S., residual powers rest with the Union government, further concentrating authority. In both countries, the Supreme Court assumes an important role in determining federal-state conflicts.

In emergencies, the Indian provisions (for instance, *Article 356*) allow more central control showing its unitary incline; the U.S. on the other hand, insists on a strict division so that it maintains a more federal structure. Thus, the Indian federalism is a more centralized one compared to the U.S. whose model is more decentralized in nature.

## 2. ADJUDICATION OF DISPUTES

### 1.1 U.S.A.: THE FEDERAL JUDICIARY

The federal judiciary of the United States is a three-layered system defined by *Article III* of the U.S. Constitution to describe what the judicial branch does—that is, the interpretation of laws and the protection of constitutional rights. Sitting atop the structure is the Supreme Court, the land's highest court, whose nine justices include one chief justice. The Supreme Court has judicial review authority, which makes it

<sup>1059</sup> *McCulloch v. Maryland*, 4 Wheat. 316, 425-437, 4 L.Ed. 579 (1819)  
<sup>1060</sup> *United States of America v Lopez-Turatiz* 2014 BCCA 39

possible for the Supreme Court to declare laws and executive actions unconstitutional and strike them down; this was established in **Marbury v. Madison**<sup>1061</sup> (1803).

Below the Supreme Court are the U.S. Courts of Appeals (circuit courts) and U.S. District Courts. The district courts are trial courts, where cases first are heard, and the appeals courts review decisions of district courts to ensure the correct application of the law. Federal judges, including the justices of the Supreme Court, are appointed by the President and confirmed by the Senate, serving lifetime appointments to ensure judicial independence. Hence, it is important in upholding the Constitution, resolving federal disputes, and protecting individual rights, balancing powers between the federal government and the states, as well as maintaining rule of law across the United States.

## 1.2 INDIAN JUDICIARY

The Indian federal judiciary is a three-tier hierarchical system established by the Constitution. The highest is the Supreme Court followed by High Courts at the state level and District Courts at the local level. The Supreme Court, which was established under *Article 124*, is the final interpreter of the Constitution and guardian of fundamental rights. It has judicial review power, nullifying laws and exercises that infringe the principles of constitutional provisions and can restore balance between the union and the states.

The High Courts under *Article 214* have their jurisdictions over individual states and both civil and criminal matters are attended to as appeals come from subordinate courts. Judicial review has been conferred upon the high court so that the law of the state does not exceed the constitutional bounds.

The collegium system appoints the Judges of Supreme Court and High Courts by the President, enhancing independence. India has several District Courts functioning as the trial courts for other cases while taking charge of

lower-level courts at each place. The main responsibilities of federal judiciary include the enforcement of the law of the land, rendering justice, and ensuring the safeguarding of constitutional integrity at each step in all parts of India.

## 2.3. LANDMARK JUDGEMENTS SHAPING FEDERAL GOVERNANCE

In India and the United States, landmark judgments have moulded and balanced federal governance, significantly. They strengthened judicial intervention in upholding principles of the constitution.

In India, some landmark judgements may include:

**Kesavananda Bharati v. State of Kerala**<sup>1062</sup>, this judgement gave the birth to “Basic Structure Doctrine” so that the Parliament cannot, under the Constitution, alter the fundamental structure, including its federal character. As a result, under this doctrine, federalism has been protected in India from strangulation at the hands of the centre through its own constitutional amendments.

In **West Bengal v. Union of India**<sup>1063</sup>, Supreme Court vindicated the legislative power of the Parliament over states on matters that were deemed necessary in the national interest, establishing the fact that, in matters of such general importance, the Centre was supreme over the states. This case settled the ‘quasi-federal’ feature of the Indian Constitution wherein the Centre has extensive power to maintain unity.

United States also have a series of landmark judgements, which helped in shaping the federal governance. Some of them are:

**McCulloch v. Maryland**<sup>1064</sup>, where the principle established is that federal authority supersedes that of the states: particularly, no state shall exert taxing power upon or obstacle to such institution of Congress. Another issue involved

<sup>1061</sup> Marbury v. Madison 5 U.S. 137 (1803)

<sup>1062</sup> Kesavananda Bharati vs. State of Kerala, AIR 1973 SC 1461

<sup>1063</sup> State of West Bengal v. Union of India, AIR 1963 SC 1241

<sup>1064</sup> McCulloch v. Maryland, 4 Wheat. 316, 425-437, 4 L.Ed. 579 (1819)

the expansion of the definition of the Necessary and Proper Clause by giving greater powers within the federation itself, establishing the dominion of the United States government regarding states.

In **United States v. Lopez**<sup>1065</sup>, the Supreme Court restrained the authority of the Commerce Clause by deciding that Congress overstepped its bounds since it was attempting to regulate local activities that had no direct impact on interstate commerce. This decision re-established state sovereignty and ushered in a balance of federal power with that of states.

These judgments reveal how courts in both the countries are pivotal in determining the limits of jurisdiction that federal and state authorities extend.

## 2. PROTECTION OF RIGHTS

### 3.1 UPHOLDING JUSTICE AND RIGHTS PROTECTION IN INDIA

Upholding justice and safeguarding rights in India fundamentally rest with the judiciary and stands on the shoulders of the Supreme Court as a guardian of the Constitution. The court exercises judicial review so that legislative and executive actions are in line with constitutional provisions- hence building the strength of democracy and rule of law.

Fundamental rights, which Part III of the Constitution protects, have become stronger with landmark judgments. In **Maneka Gandhi v. Union of India**<sup>1066</sup>, the Supreme Court expanded the ambit of the Right to Life and Personal Liberty enshrined in Article 21 by requiring due process and fair treatment through actions of the government. That has strengthened individual liberties and checked the exercise of state power.

Public Interest Litigation (PIL), introduced in the 1980s, further improves protection of rights by allowing citizens an opportunity to seek judicial intervention in favour of the disadvantaged

sections. The judiciary, while allowing broader access to justice, ensures accountability and remedies the social injustices, plays a critical role in maintaining rights and promoting social equity in India's democratic structure.

### 3.2 UPHOLDING JUSTICE AND RIGHTS PROTECTION IN U.S.

In the United States, maintaining justice and protecting citizens' rights are central judicial activities of the federal court, with the Supreme Court playing the ultimate role as an interpreter of the meaning of the Constitution. According to judicial review established in **Marbury v. Madison**<sup>1067</sup>, the US Supreme Court can declare a legislative enactment or executive action inconsistent with the Constitution null. Such an act reinforces the principles of the rule of law and protects liberties.<sup>1068</sup>

The Bill of Rights, written into the first ten amendments, represents fundamental protections for free speech and right to due process along with equal protection under law. The landmark cases include **Brown v. Board of Education**<sup>1069</sup>, in which a ruling against racial segregation advances civil rights while ensuring equitable treatment.

The doctrine of substantive due process has provided the basis for the protection of rights substantively, with extensive interpretations of the guarantee in the Fourteenth Amendment to safeguard individual liberties not enumerated by name. These landmark cases through which the federal judiciary exercises its role of law in enforcing justice include checking the absolute powers of the government, upholding constitutional restraints on governmental authority, and vindicating the rights of each citizen under the American system of democracy.

### 3.3 COMPARATIVE ROLE OF BOTH COUNTRIES IN SOCIAL JUSTICE

<sup>1067</sup> Marbury v. Madison 5 U.S. 137 (1803)

<sup>1068</sup> Hall, KL, Clark, DS, Ely, JW, Grossman, JB, & Hull, NEH (eds) 2002, The Oxford Companion to American Law, Oxford University Press, Incorporated, Oxford. Available from: ProQuest Ebook Central. [27 October 2024].

<sup>1069</sup> Brown v. Board of Education (1954) 347 U.S. 483

<sup>1065</sup> United States of America v Lopez-Turatiz 2014 BCCA 39

<sup>1066</sup> Maneka Gandhi v. Union of India, AIR 1978 SC 597

The comparative roles of India and the United States in promoting social justice reveal different approaches influenced by their unique historical, cultural, and legal contexts.

In India, social justice is fundamentally enshrined in the Constitution, especially through the Directive Principles of State Policy contained in Part IV of it, which seek to establish equitable distribution of resources and opportunities. The Constitution has made affirmative actions for the Scheduled Castes, Scheduled Tribes, and Other Backward Classes (OBCs). This is done as redressal of the previous injustices. The concept also includes programs like reservation for education and public employment designed to enhance representation and provide opportunities for these communities. Judicial activism has been indispensable in that the Supreme Court, through public interest litigation (PIL), broadened the ambit of fundamental rights so that citizens could litigate for rights on behalf of deprived groups. Significant judgments include *Vishaka v. State of Rajasthan*<sup>1070</sup>, where the Court developed guidelines for the redressal of sexual harassment at the workplace, making the judiciary very actively proactive about social justice concerns.

On the other hand, the civil rights movements in the United States address social justice through the deconstruction of structural inequality. The Civil Rights Act of 1964 and the Voting Rights Act of 1965 won for racial minorities many rights. One landmark case by the Supreme Court is *Brown v. Board of Education*<sup>1071</sup>, whereby racial segregation was declared unlawful, and thus civil rights were further pushed. Nonetheless, these comprise factors like structural racism and economic disparities among others.

Finally, where India relies on institutionalized affirmative action within its constitutional scheme, the United States battles inequality primarily through civil rights legislation and

judicial interpretation. Both continue to evolve in their social justice approaches, further manifesting the continued fight for equality and human rights.

### 3. JUDICIAL ACTIVISM

#### 4.1. JUDICIAL ACTIVISM IN INDIA AND ITS IMPACT ON FEDERAL GOVERNANCE

One of the most important forces in broadening the interpretation of constitutional provisions and increasing protection under the rubric of fundamental rights has been judicial activism in India. It was crucial in this process for the role of the Supreme Court, as this is an institution that stepped forward frequently to fill a gap when legislation or the executive was silent.

One of the hallmarks of judicial activism is Public Interest Litigation (PIL) by which an individual or group of people can take recourse to the judiciary on behalf of a deprived section of society. This has resulted in judgments that have become landmark, such as *Vishaka v. State of Rajasthan*<sup>1072</sup> in 1997, laying down guidelines to prevent sexual harassment at the workplace.

Judicial activism has consolidated the balance of power between the Union and the states. While dealing with cases such as *State of West Bengal v. Union of India*<sup>1073</sup> in 1963, the Supreme Court reiterated that the parliament was so empowered to make such legislation to attain the objective of national integration. The supremacy of federal law thus shines through without impairing the sovereignty of the state.

While increasing accountability and protecting rights, judicial activism has also raised concerns about overreach and a loss of legislative power, thus throwing into relief the complex dynamics of federal governance in India.

#### 4.2 JUDICIAL ACTIVISM IN UNITED STATES AND ITS IMPACT

<sup>1070</sup> *Vishaka and Ors. vs. State of Rajasthan and Ors.* (13.08.1997 - SC) : MANU/SC/0786/1997 [AIR 1997 SC 3011]

<sup>1071</sup> *Brown v. Board of Education* (1954) 347 U.S. 483

<sup>1072</sup> *Vishaka and Ors. vs. State of Rajasthan and Ors.* (13.08.1997 - SC) : MANU/SC/0786/1997 [AIR 1997 SC 3011]

<sup>1073</sup> *State of West Bengal v. Union of India*, AIR 1963 SC 1241

Judicial activism in the United States refers to the meaningful role that the Supreme Court plays in the life of a country by offering interpretations concerning the Constitution and sociopolitical issues. It has strongly influenced American governance, readjusting the balance between judicial, legislative, and executive branches.

An example stands out: *Brown v. Board of Education*<sup>1074</sup>, which declared state laws requiring racial segregation in public schools unconstitutional, thus overruling *Plessy v. Ferguson*<sup>1075</sup> and opening a precedent for the civil rights movement. This decision furthered the cause of racial equality and served as an illustration of the Court's power as an agent of social reform.

Judicial activism also surfaces in cases of individual rights, such as the *Roe v. Wade*<sup>1076</sup> case, which decided the right of a woman to an abortion based on privacy rights under the Fourteenth Amendment<sup>1077</sup>.

Judicial activism has been instrumental in protecting rights and advancing justice. It has, however, led to questions regarding the boundary of judicial power and its exercise with restraint. For example, critics argue that an activist judiciary undermines democratic processes and invades the authority of the legislature, citing the tension between judicial intervention and democratic governance in the United States.

### 4.3. COMPARATIVE ANALYSIS

Judicial activism in India and the United States reflects different approaches that arise from their particular legal framework and societal settings, though both have considerably affected governance and rights protection.

Judicial activism in India is characterized by a proactive role of the Supreme Court in

interpreting constitutional provisions and redressing social injustices. PIL has enabled the people to take up the cause of justice for the downtrodden. For example, in landmark cases like *Vishaka v. State of Rajasthan*<sup>1078</sup>, guidelines were established against workplace harassment. This activism has added more balance to the powers within federal governance, wherein the judiciary can intervene where the actions of the legislature or executive prove inadequate.

Judicial activism is the interpretation of individual rights and social justice through important rulings in the United States. The most illustrative examples include the case of *Brown v. Board of Education*<sup>1079</sup> in 1954, which destroyed institutional racism, and *Roe v. Wade*<sup>1080</sup> in 1973, when the Supreme Court established the right to reproductive freedom as part of privacy rights. However, such activism raises concerns over judicial overreach and democracy.

In the end, although both countries benefit from judicial activism in promoting justice, the balance between judicial intervention and democratic processes continues to be a critical concern in each context.

## 4. JUDICIAL REVIEW

### 4.1 JUDICIAL REVIEW AND CONSTITUTIONAL INTERPRETATIONS IN INDIA

Judicial review in India finds its origin in the Constitution and grants the judiciary the right to determine whether any given legislation or action of the executive is in conformity with the Constitution or not. As laid down under *Article 13*, judicial review confers the Supreme Court and the High Courts the power to declare as void any law or any executive or legislative act when such a law or action is violative of the provisions of fundamental rights or other provisions in the Constitution. This is based upon the US model, one of the cornerstones of democracy in India,

<sup>1074</sup> *Brown v. Board of Education* (1954) 347 U.S. 483

<sup>1075</sup> *Plessy v. Ferguson* (1896) 163 U.S. 537

<sup>1076</sup> *Roe v. Wade* [1973] USSC 43; 410 US 113 (1973)

<sup>1077</sup> Hall, KL, Clark, DS, Ely, JW, Grossman, JB, & Hull, NEH (eds) 2002, *The Oxford Companion to American Law*, Oxford University Press, Incorporated, Oxford. Available from: ProQuest Ebook Central. [27 October 2024].

<sup>1078</sup> *Vishaka and Ors. vs. State of Rajasthan and Ors.* (13.08.1997 - SC) : MANU/SC/0786/1997 [AIR 1997 SC 3011]

<sup>1079</sup> *Brown v. Board of Education* (1954) 347 U.S. 483

<sup>1080</sup> *Roe v. Wade* [1973] USSC 43; 410 US 113 (1973)

that a government cannot act outside its constitutional framework.

Landmark Judgments that introduced the judiciary's review include the renowned case of *Kesavananda Bharati v. State of Kerala*<sup>1081</sup>, wherein the Supreme Court created the "Basic Structure Doctrine". This doctrine makes Parliament from amending constitutional features as it prevents alteration in areas of federalism, secularism, and rule of law. Since its creation, it has been successfully used to ensure India's fundamental democratic features were not amended negatively.

Judicial interpretation has also widened fundamental rights. In *Maneka Gandhi v. Union of India*<sup>1082</sup>, the Court further expanded the scope of "personal liberty" in Article 21 by deciding that due process was a constituent part of justice. It is through judicial review and constitutional interpretation that India's judiciary not only protects fundamental rights but also maintains the balance between the Union and the states as envisaged under the Constitution, which it plays a vital role in the democratic governance of India.

#### 4.2 JUDICIAL REVIEW AND CONSTITUTIONAL INTERPRETATIONS IN U.S.

This tradition of judicial review in the United States was established in the seminal case *Marbury v. Madison*<sup>1083</sup>, when the Supreme Court could determine the constitutionality of any legislative or executive decision and, thus, reassert its claim to the role of constitutional principles interpretation<sup>1084</sup>. Though not mentioned by the Constitution, this has become an integral part of the U.S. system of government, ensuring no law or government action violated any rights under the Constitution.

<sup>1081</sup> *Kesavananda Bharati vs. State of Kerala*, AIR 1973 SC 1461

<sup>1082</sup> *Maneka Gandhi v. Union of India*, AIR 1978 SC 597

<sup>1083</sup> *Marbury v. Madison* 5 U.S. 137 (1803)

<sup>1084</sup> Hall, KL, Clark, DS, Ely, JW, Grossman, JB, & Hull, NEH (eds) 2002, *The Oxford Companion to American Law*, Oxford University Press, Incorporated, Oxford. Available from: ProQuest Ebook Central. [27 October 2024].

The Supreme Court has used the tool of judicial review, thus very much influencing constitutional interpretation. Important cases such as *Brown v. Board of Education*<sup>1085</sup> have changed civil rights, ruling that segregation on the basis of race in public schools was unconstitutional and redefined American values in society about equality. Another classic example is *Roe v. Wade*<sup>1086</sup> in 1973, interpreting the Fourteenth Amendment's right of privacy as a woman's right to choose abortion in order to extend individual freedom and liberty through constitutional interpretation.

Judicial review impacts the political sphere beyond concrete cases; indeed, it balances legislative and executive powers by giving more strength to the U.S. system of government regarding the distribution of power. Through the interpretation of the Constitution for the needs arising in a society over time, the Supreme Court takes the position of creating an America legal and social setting: thus, it makes it evident that constitutional law is indeed dynamic.

#### 5.3 COMPARATIVE ANALYSIS

India and the United States maintain the fundamental principles of constitutional values through judicial review, but their systems of law reflect different legal traditions and societal characteristics.

The United States Supreme Court established the concept of judicial review in the landmark case *Marbury v. Madison*<sup>1087</sup>. Through judicial review, the Supreme Court exercises the power to interpret the Constitution, sometimes to extend greater liberties for the individual. The classic example is *Obergefell v. Hodges*<sup>1088</sup> in 2015, when the Court recognized same-sex marriages under the Fourteenth Amendment, interpreting "equal protection" to cover new civil rights issues. This stance reflects a vibrant constitutional interpretation that evolves over time.

<sup>1085</sup> *Brown v. Board of Education* (1954) 347 U.S. 483

<sup>1086</sup> *Roe v Wade* [1973] USSC 43; 410 US 113 (1973)

<sup>1087</sup> *Marbury v. Madison* 5 U.S. 137 (1803)

<sup>1088</sup> *Obergefell v. Hodges*, 135 S. Ct. 2584 (2015)

In India, judicial review is provided by Article 13 of the Constitution with the assistance of the Basic Structure Doctrine of *Kesavananda Bharati v. State of Kerala*<sup>1089</sup>, 1973, and this restrains the Parliament from changing the fundamental constitutional feature. The Indian Supreme Court has utilized judicial review to safeguard the basic and fundamental rights and also preserve the constitutional balance. In *Navtej Singh Johar v. Union of India*<sup>1090</sup>, the Court made gay sex under Section 377 decriminalised while recognizing LGBT rights as falling within the parameters of personal liberty under Article 21.

Since both the systems grant protections of rights through judicial review, the U.S. framework emphasizes evolving interpretations of equal protection, whereas the review process in India more commonly involves balancing federal principles with fundamental rights, which has been shaped by the Basic Structure Doctrine. However, in both judicial systems, courts play a very vital role in protecting constitutional values.

## 5. PRESENT CHALLENGES AND FUTURE GUIDELINES

### 6.1. EVOLVING ISSUES IN FEDERAL GOVERNANCE

As the aspects of politics, society, and economy change in developing as well as developed systems of federal government, there is dynamic balancing authority between the central and state government. The common issues that are found in developed and developing systems of federal government are those on centralization and states' rights, fiscal federalism and national crisis.

In United States, Health care, immigration, and climate policy have all escalated debates regarding state sovereignty versus federal power. For instance, within the Affordable Care Act, the disputes regarding Medicaid expansion revealed tensions within fiscal federalism and the states' discretion in administering federal programs. Furthermore, the decisions of the

Supreme Court, such as in *NFIB v. Sebelius*<sup>1091</sup>, exemplify judicial balancing of federal power and state interests over national policy issues.

The most pressing issues in India are the centre-state relationships concerning matters like allocation of resources and concurrent powers. The introduction of GST raised concerns among states for it had subsumed local taxes under a scheme and framework applicable nationwide, there by affecting their fiscal sovereignty. The National Education Policy 2020 also revived debates on the balance required between centralization and decentralization in education policy as well as control.

Such issues encompassing the global ones concerning environmental governance and the need for an appropriate pandemic response make federal governance more complicated, involving coordination of actions between central and state governance levels. The emergence of such matters also shows an indication that flexibility as well as judicial interventions would find a scope in dealing with complex intergovernmental relationships.

### 6.2. INDIAN AND U.S. JUDICIARY ROLES IN ADDRESSING THESE CHALLENGES.

The judiciaries of India and the United States have significant roles in grappling with federal governance challenges by interpreting constitutional provisions that aim to reconcile national and state interest.

In the United States of America, as it defines federal and state boundaries, its judicial pronouncements on issues such as healthcare and immigration, etc. directly relate to such balance between the two. In *NFIB v. Sebelius*<sup>1092</sup>, the Court upheld parts of the Affordable Care Act but limited the federal government's power to coerce states to expand Medicaid, thus balancing state and federal interests in a national health plan<sup>1093</sup>. Recent cases, such as

<sup>1089</sup> *Kesavananda Bharati vs. State of Kerala* AIR 1973 SC 1461

<sup>1090</sup> *Navtej Singh Johar and Ors. vs. Union of India (UOI) and Ors.* (06.09.2018 - SC) : MANU/SC/0947/2018 [AIR2018SC4321]

<sup>1091</sup> *National Federation of Independent Business v. Sebelius*, 567 U. S. 519, 536 (2012)

<sup>1092</sup> *National Federation of Independent Business v. Sebelius*, 567 U. S. 519, 536 (2012)

<sup>1093</sup> Barnes, R. (2012) *National Federation of Independent Business v. Sebelius*, Harvard Law Review

*Arizona v. United States*<sup>1094</sup>, defined powers over immigration enforcement: states may not enact statutes contradicting federal law and confirmed federal authority in shaping national immigration policy.

The Indian judiciary typically resolves fiscal relations between the centre and states, along with problems of policy implementation. Indeed, in *State of Jharkhand v. State of Bihar*, the Supreme Court adjudicated a long-standing revenue dispute, thereby illustrating the role of the Court in balancing fiscal federalism<sup>1095</sup>. Again, in the case of *State of Tamil Nadu v. Union of India*<sup>1096</sup>, the Supreme Court dealt with state rights over educational policy, which further impacted the National Education Policy 2020<sup>1097</sup>.

Both the judiciaries thus play a very important role as mediators in the federal system and safeguard the balance of power with legal clarity so as to ensure coordinated governance amid shifting national challenges.

### 6.3. FUTURE RECOMMENDATIONS.

Indian and United States federalism have to aim at flexibility, fiscal autonomy, and efficient crisis management in order to address these contemporary issues. Some future recommendations are given below:

- **Encouragement of Fiscal Autonomy and Balanced Finance**

Fiscal federalism must be strengthened by giving more revenue-raising powers to states so that they can finance local projects. Revisiting the GST structure in India, to give more autonomy to states, may balance regional development. Revising conditional federal grants in the U.S. may allow states to customize federal programs according to their needs.

- **Strengthen Crisis Management Frameworks**

The recent COVID-19 pandemic has emphasized the necessity of clear, adaptive frameworks in federal systems regarding crisis management. Both countries must establish specific protocols indicating the responsibilities of states and the federation during national crises, which would expedite the process of resource allocation and the effective coordination of responses.

- **Promote Collaborative Federalism**

Institutionalization of regular dialogues between state and federal representatives on contentious issues would help foster collaborative decision-making in both systems. Inter-governmental councils or panels may facilitate the formation of consensus on matters that are critical and likely to result in conflict, thus precluding judicial intervention in the future.

- **Strengthen Public Participation in Policy Formulation**

It may well be through citizen engagement and public opinions which can address regional needs as well as bring in inclusivity. The participatory approach might make policies more responsive, hence strengthening the democratic foundations of federal governance systems.

## 7. CONCLUSION

This comparative study of the role of the judiciary in shaping federal governance in India and the United States indicates the deep impact of judicial interpretation and review in maintaining a balance of power within the federal structure. Both India and the U.S. show that judicial systems have a vital role to play in reinforcing constitutional boundaries, protection of individual rights, and resolution of complex federal-state relationships.

Judicial review has been a critical check to federal and state powers since *Marbury v.*

<sup>1094</sup> *Arizona v. United States*, 132 S. Ct. 2492, 2500 (2012)

<sup>1095</sup> Mathew, J. (2021) *Federalism and Governance in India*.

<sup>1096</sup> *The State of Tamil Nadu vs. Union of India (UOI) and Ors.* (26.10.2020 - SC) : MANU/SC/0789/2020 [AIR2020SC5451]

<sup>1097</sup> Jain, S. (2022) *Indian Constitutional Law*

Madison<sup>1098</sup> in 1803. Key cases would include *Brown v. Board of Education*<sup>1099</sup> (1954) and *Obergefell v. Hodges* (2015), in which the judiciary moulded social policy and protected rights within the federal system through an adjustment in constitutional interpretation reflecting changing values in society. United States courts are known to have promoted individual rights and established federal law supremacy while ensuring sovereign states.

Judicial activism has also become integral to Indian federal governance. The Basic Structure Doctrine of Parliament's amendment power being barred from encroachment over any core constitutional features best serves as an example through the case of *Kesavananda Bharati v. State of Kerala*<sup>1100</sup> (1973). The Supreme Court has actively strengthened social justice and rights protection through Public Interest Litigation (PIL) and landmark judgments such as *Navtej Singh Johar v. Union of India* (2018). While the Indian courts have strengthened federal supremacy on one hand, on the other hand, they have ensured fair resource distribution and protected the interest of states.

As is evident, both these judiciaries uphold stability for the federal system and social equity but do so in different ways; the U.S. approach is more flexible around interpretations with regard to individual rights as against India's judiciary's focus on fundamental rights against a framework of federalism and social justice. The comparative analysis underlines that the judiciary is not just a custodian of constitutional values but also an adaptive agent responding to both nations' unique socio-political landscapes.

The final outcome in the two countries is that the judiciary acts as a middleman

between state powers and federal powers, in ensuring governance does not stray beyond constitutional limits. It is with this continued judicial influence that there are bases for balancing federal governance with modern challenges and democratic principles.

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<sup>1098</sup> *Marbury v. Madison* 5 U.S. 137 (1803)

<sup>1099</sup> *Brown v. Board of Education* (1954) 347 U.S. 483

<sup>1100</sup> *Kesavananda Bharati vs. State of Kerala*, AIR 1973 SC 1461