

Emerging Federal Issues and the role of Judicial Oversight in India

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ABSTRACT

This study examines the changing federal government and the balance between state autonomy and union government. Judicial oversight plays a critical role in preserving the integrity of the constitution. Policy measures like the Citizenship Amendment Act (CAA) and the National Register of Citizens (NRC) have exacerbated conflicts among unions and many states in recent years. Judicial oversight, which is mostly maintained by the supreme court, is examined as an effective tool for resolving issues. The research examines the topic and various other literature and contrasts that with other federal democracies. The report suggests changes to intergovernmental communication in order to promote cooperative federalism, drawing from various case studies and court rulings. The results highlight the necessity of judicial oversight as a remedial instrument for federal issues. In the end, the study promotes a federalist culture that supports sustainable advancement that is becoming more complicated.

INTRODUCTION

To begin with, our Constitution, which is similar to a federal structure, favours the centre and grants states a great deal of autonomy. As a result, policies and initiatives address the difficulties encountered by the varied community. To elaborate, Sahu (2022) emphasised the 2019 Citizen Amendment Act and tensions between the Union and states over the implementation of the NRC-CAA. These are two recent developments that have put India's federal structure under pressure. The conflicts have underscored the principles of federalism and concerns of various regions. Another point to consider is that West Bengal, Kerala, Punjab, Rajasthan, and other opposing states contend that federalism has evolved over time to become more competitive rather than cooperative. This shift has strained the cooperative nature of federalism and led to tensions between the centre and states. However, this system resulted in disarray and inconsistent government, which impedes the unity of the country. Consequently, governments compete for resources and power, creating a more competitive dynamic. On the other hand, the Union Government cannot make legislation for every state on its own because of our varied social, cultural, religious, and geographic circumstances. In order to resolve these issues and bring back a more cooperative federal system, officials must communicate and negotiate with each other. It is more important to find common ground and ensure federalist principles are upheld, which is advantageous to all the regions and communities. They contend that the federal government has been encroaching on state authority more and more. Furthermore, the Union government has the authority to change borders, combine states, and establish new states. The federal government has to maintain the values of equality for all the citizens and fortify federalism. In spite of this, attempts are on to strengthen collaboration between the Union and the States in order to establish a cooperative federation. Through its authority to change boundaries and establish new states, lawmakers play a vital role in forming the country. To solve problems of the federal system and promote a unified federation, efforts are being made to improve cooperation between the Union and the states, as stated by Chandrani (2021).

As noted above, one area where judicial oversight is necessary is the National Register of Citizens (NRC) and Citizenship Amendment Act (CAA) process. This likewise makes it possible to conduct

routine monitoring and evaluation, guaranteeing that decisions are made in the best interest of the public. Burman (2013), on the other hand, argues for respecting the legitimate values and protecting the well-being of citizens on a national scale. The Supreme Court, in more detail, guarantees to lay strict approaches for the implementation process of judicial oversight. To elaborate, enacting laws would formalise the judicial oversight and its processes. Additionally, creating channels for the public to report any instances of misconduct or discrimination by the officials. The strength of such an approach is that it could prevent abuse of power and protect the rights of vulnerable populations. It is clear that judicial oversight plays a vital role in upholding integrity and effectiveness in governance. This proactive stance, in short, will not only enhance the credibility of government but also build trust among the public. Thus, fostering a more inclusive and just society for all. By establishing a strong oversight system, the government can effectively address public concerns and improve responsiveness. On the other hand, the policymakers are establishing robust mechanisms for monitoring the conduct of government officials. Overall, strong judicial oversight is essential for maintaining the integrity and effectiveness of government operations. In the following sections, we would study the review of literature on economic liberalisation, federal issues, and autonomy. As will be explained later, case studies on judicial oversight, comparison with various democracies, challenges of judicial oversight, impact of judicial oversight on governance, and future recommendations.

REVIEW OF LITERATURE

Initially, India's multinational federation has encountered difficulties such as coalition politics and economic liberalisation, which has given some states more authority. An alternative perspective is given by Kumar (2014), who sees federalism as a dynamic structure that expands the number of states and creates new areas. While federalism may complicate the implementation of judicial oversight, it does not necessarily negate its effectiveness in ensuring fair implementation of laws. Nevertheless, efforts have been made by establishing interstate councils, holding regular meetings between the state and the center, and putting certain constitutional provisions into effect. Following this, Watts (1998) evaluated the efficacy of the federal structure to resolve the political disputes, highlighting both their advantages and disadvantages. He pointed out that while federalism can foster a sense of local governance and autonomy, it can also lead to several disparities. However, some argue that the inconsistencies in law can promote a variety of legal differences. Accordingly, this perspective suggests that varying legal systems could encourage innovation in resolving regional issues. Moreover, the empowerment shapes laws that resonate with their unique values and needs. Despite this, the relationship between legal differences and local culture underscores the potential for a proactive judicial system. As discussed by Shulman and Jaegers (1936), a crucial component of federalism is the separation of judicial authority between state and federal unions and the establishment of courts that have an immediate effect. The creation of these courts delineated the boundaries of legal jurisdiction. Conversely, it also ensures that local issues could be addressed by entities more familiar with regional contexts. As a result, this layered approach to judicial authority facilitated a more balanced and nuanced application of the law across diverse jurisdictions. It can be seen that Freille et al. (2007) demonstrate the degree and presence of corruption, which determine autonomy and affect growth. Hence, autonomy is the best course of action for development when corruption is absent. Autonomy, however, results in less capital accumulation with widespread corruption. Federalization, subsequently, performs better in such scenarios. In such contexts, federalism is a cohesive approach enabling efficient allocation of resources and the implementation of policies that address societal needs. Furthermore, strengthening political institutions and reducing corruption are essential for fostering autonomy, which can thrive and contribute positively to sustainable growth. Because of this, our country with weak political institutions suffers from incomplete information between the federal government and local authorities.

In view of this, Wang (2023) suggested that fair judicial oversight motivates other governmental bodies like Lok Sabha, Rajya Sabha, and State Legislative Assemblies. Nonetheless, it reevaluates, discusses, reforms, drafts, and executes pertinent legislation. This process fosters a more cohesive governmental environment. As a result, public trust in government institutions is strengthened, paving the way for more effective governance. In many situations, judicial oversight has produced greater results than strict judicial control, and it has been crucial in strengthening the political parties. Nevertheless, some critics argue that judicial oversight can lead to inconsistencies and undermine the rule of law. To elaborate, relying on such strategies might erode public trust in the judiciary. Similarly, citizens may perceive decisions being influenced by political agendas rather than objective legal principles. For example, political leaders in some cases have been known to interfere with the judicial appointments in order to ensure favourable rulings for themselves or their parties. Again, this might create a perception of corruption and undermine the credibility of the judiciary. In relation to these, it is essential to have an independent oversight mechanism to ensure that the judiciary remains impartial and free from political influence. In the process of investigating crimes, Daly (2011) argues that judicial oversight of police operations is essential. In the same way, judicial oversight helps to prevent the abuses of power and ensures that investigations are conducted in a fair and transparent manner. To be more precise, without this oversight, law enforcement agencies may violate the rights of the individuals. Besides, independent judicial oversight helps to restore public trust and reinforces that justice is blind and impartial. Another issue regarding judicial oversight, as pointed out by Parpworth (2022), is that courts use this to assess whether the exercise of executive power is legal. It is also important to highlight that judicial oversight upholds the principles of justice for society. In cases of judicial corruption or bias, the oversight process can be compromised, leading to unjust outcomes and erosion of public trust in the legal system. Notwithstanding, political interference or manipulation of the judiciary can undermine the effectiveness of government. Overall judicial oversight preserves the rule of law and balances the society.

Objectives of the Research

The objective of the study is to focus on the evolving challenges in India's federal structure and the role of judicial oversight. The key objectives include:

1. Assess the role of judicial oversight on federalism
2. Identify federal issues arising from various policies
3. Analysing how coalition politics, economic liberalisation, and autonomy impact federal issues.
4. Examining how judicial oversight ensures accountability and prevents misuse of executive power.

Case Studies on Judicial Oversight and Federal Issues

As Rajagopal (2024) noted, the union government has recommended judicial oversight of criminal cases between police and central agencies in states where the opposition political party is in power¹. Alternatively, the government is trying to save the innocent people from unwarranted punishment and stop corruption. This debate over judicial oversight cases highlights the complex interplay between state and central agencies in the legal system. As we have seen, without adequate oversight, there is a risk of the legal system becoming tainted by bias, corruption, and political interference; therefore, it is essential for the judiciary to remain independent and free from external influences. For example, the judicial oversight on criminal cases guarantees that neuroscientific testing respects the rights to mental and bodily privacy, balancing law enforcement, and does not violate rights². On the other hand, these cases set an important precedent for future cases involving the use of neuroscientific tests in criminal investigations. It is imperative that the judiciary maintains a vigilant oversight on the

¹ A appeal challenging the criminal prosecution of its officer Ankit Tiwari for bribery by the Tamil Nadu Directorate of Vigilance and Anti-Corruption (DVAC) was being heard by Justices Surya Kant and K.V. Viswanathan on behalf of the Directorate of Enforcement (ED).

² AIR 2010 SC 1974, (2010) 7 SCC 263. Selvi vs. State of Karnataka (2010)

evolving techniques of investigation to safeguard the rights of individuals. Complementary to this, judicial oversight often slows down the investigative process and potentially allows corrupt individuals to evade justice. Additionally, relying too heavily on judicial oversight will limit advancements in technology. In contrast, technological advancement could aid in fighting corruption more effectively. One possible solution could be the establishment of a specialised regulatory body that oversees criminal cases. Consequently, this body could monitor ethical considerations in accordance with established legal principles.

Turning now to federal issues, where the Supreme Court is the ultimate arbitrator, it analyses contracts, decides legal proceedings, and upholds tribunal rulings. For instance, in the interstate Cauvery³ water dispute, the Supreme Court intervenes during crises, examines and amends tribunal awards, and upholds assembly rulings. The Supreme Court's role in federal issues goes beyond just arbitration and includes interpreting and upholding the constitution, which may not always align with assembly rulings. Further, the Supreme Court is striking a balance between efficiency and modernisation in order to maintain the integrity of law. In cases involving federal issues, the Supreme Court's primary role involves interpreting the constitution and preserving the law. It is now necessary to discuss federal issues that have resulted from two states disagreement over electricity bills, the allocation of assets and obligations, and fiscal federalism. In the same way, the 2014 split of Andhra Pradesh and Telangana has brought up a number of federal governance issues. One such includes constitutional clauses, intergovernmental conflicts, financial devolution, power-sharing arrangements, and the central government's involvement in conflict resolution (PTI, 2024). In other words, the union government's ineffective mediation and unclear procedures for resolving conflicts amongst post-bifurcation states are criticised. Addressing issues such as electricity bills, asset allocation, and fiscal federalism also requires effective negotiation, communication, and compromise between the involved parties. In all, fortifying interstate councils, laying down precise guidelines for asset allocation, and bolstering fiscal federalism are some of the suggestions made for federal dispute resolution.

Comparison with other federal Democracies

Initially, the function of judicial oversight is to keep an eye on the legislative and executive branches'. This will make sure they adhere to the rule of law, basic rights, and constitutional principles. As demonstrated by the American⁴ judiciary, their political financing regulations infringed against the First Amendment. This can be argued that an overly active judiciary can infringe on the separation of powers and encroach on the authority of the legislative and executive branches. That is to say, the effectiveness of judicial oversight will be limited by factors such as judicial bias and political influence. Specifically, judicial oversight does not always work to keep political influence from affecting the rule of law (Federal Election Commission, 2024). To look closer at it, the Indian judiciary will face criticism for being influenced by political factors in certain cases. Kanwar (2022) argues that important elements such as protection of socioeconomic rights, the separation of authorities, and judicial review are all oversight tools. Judicial oversight also includes making sure socioeconomic rights are really implemented. Especially the legislative and executive branches cannot carry out policies efficiently. Correspondingly, judicial oversight often monitors that government actions are in line with constitutional principles. In the United States, notwithstanding, the Supreme Court has played a key role in interpreting the Constitution. Thus, in our country, through landmark decisions, the judiciary will shape the course of Indian history and safeguard autonomy. In conclusion, judicial oversight is preserving basic and socioeconomic rights and preventing constitutional infractions. It might raise questions regarding the role of politics in states even though

³ Based on groundwater availability, the Supreme Court reviews and amends tribunal awards, lowering Tamil Nadu's share from 192 TMC to 177.25 TMC and giving Karnataka an extra 14.75 TMC.

⁴ Citizens United v. Federal Election Commission (2010)

it upholds to safeguard the constitution. However, judicial oversight is helpful in reshaping the balance between individual liberties and governmental control. On the whole, it will change legal precedents and impact governance.

Secondly, Bundesrat (2025) suggests that power distribution, intergovernmental cooperation, fiscal federalism, and conflict resolution are among the federal issues that developed countries confront. For example, the federal systems that have been built in the US, Canada, Australia, Germany, and India provide important insights on how to efficiently manage federal issues. Mostly, federal issues can be avoided by preserving the flexibility of state government under a well-defined constitution with a distinct division of powers. Another point to consider is that the federal council is a key player in legislative decision-making and representing state governments. By guaranteeing that states have a voice in national policy, this strategy will promote cooperation between the federal and local administrations. Thus, power struggles will be avoided. Thereafter policy efficiency might increase intergovernmental cooperation that is well-integrated. As indicated earlier, through state reorganisation acts and unique constitutional provisions, India's federal structure accommodates diversity in language, culture, and religion. Resulting from this, the finance commission and the interstate council can help states and the federal government to communicate. Subsequently, it can be recommended that an efficient response to national emergencies will ensure a dynamic and flexible crisis management system. In conclusion, nations with best practices will have strengthened governance, stability, and increased democratic participation.

Challenges in Judicial Oversight

A federation is a form of government having two or more tiers, each with a certain amount of autonomy guaranteed by the constitution. Then, while establishing a federation, the allocation of judicial power among the levels of government must be considered. Notwithstanding, unfair distribution, water contamination, excessive groundwater use, and climate change are some of the serious issues affecting India's water resources that need for immediate attention⁵ (Law Crust Global Consulting Company, 2024). On the contrary, judicial oversight plays a vital role in guaranteeing responsibility and respect for constitutional values. Nonetheless, a number of issues affect the efficiency, legality, and efficacy of judicial oversight in varied jurisdictions. These difficulties can be roughly divided into practical, legal, political, and structural problems. Alternatively, political interference compromises autonomy, while governmental non-compliance weakens judicial power. That is to say, fundamental problems in the judicial system include power imbalances, ambiguous oversight, and political interference. Some examples of legal issues are constitutional ambiguity, weak regulations, court overcrowding, and case backlogs. Tushnet, (2008) argues that a significant backlog of cases plagues many courts, particularly in India, which delays prompt judicial oversight. In other words, the efficacy of judicial oversight is diminished by resource limitations, including insufficient money, judge vacancies, and inadequate infrastructure. Laws are rather interpreted differently by various judges and courts, which might result in uneven oversight. To sum up, judicial oversight is an essential tool for preserving the integrity of the constitution and defending basic rights. However, obstacles including legal ambiguity, structural constraints, and political inferences reduce its efficacy. In order to solve these issues, judicial reforms, improved legal processes, and striking a balance between judicial activity are all necessary to address these problems. To that end, courts must retain credibility in administration by ensuring accountability while avoiding overreaching their authority.

⁵ Cauvery Water Dispute (2018), where the Supreme Court directed the equitable distribution of water from the Cauvery River among Karnataka, Tamil Nadu, Kerala, and Puducherry.

Impact of Judicial Oversight on Federal Governance

As will be explained later, courts negotiate intricate intergovernmental interactions, which often lead to issues and difficulties in governance. By ensuring that the federal and state governments operate within their constitutional bounds, judicial oversight contributes significantly to the strengthening of the constitution. Courts have the authority to examine laws and policies to assess their constitutionality and invalidate those that go against the fundamental tenets of government. For example, the Puttaswamy case (2017) established the right to privacy as a basic right, but it has consequences for both the federal government and state government. Nonetheless, individual rights are safeguarded within the federal system by the judiciary's interpretation of this right, which establishes a norm that both branches of government must follow. Resulting from this principle, Ferejohn and Pasquino (2004) ensure that individuals are protected from overreach by government agencies at both the federal and state levels. Moreover, the principle of federalism also allows for experimentation and diversity in policy-making. More importantly, states have the ability to implement their own laws and regulations tailored to the needs and values of their residents. Another crucial component of judicial oversight is striking a balance between federal and state authority. In order to establish the separation of powers between the federal and state governments and guarantee that neither level of government surpasses its authority, courts interpret constitutional provisions. States maintain their constitutionally granted rights through judicial review, which serves as a check on the federal government.

Through judicial review, judicial oversight may also shape public policy, which results in governmental reforms. On the contrary, governmental reforms are the result of court rulings. To illustrate, disputes between federal and state courts and decision-making delays are some of the issues that judicial oversight presents to the federal government. Judicial oversight is nonetheless an essential tool for maintaining the rule of law and guaranteeing sound governance under federal systems, notwithstanding these difficulties. To sum up, judicial oversight is essential to federal administration because it preserves the balance between the many tiers of government, ensures constitutional conformity, and protects individual rights. It can be seen that maintaining a stable and equitable society requires balance in federalism. But it's equally critical to acknowledge the way federalism promotes variation in government and local sovereignty. In the end, maintaining the rights and welfare of citizens on a national level depends on striking the correct balance between the two.

Recommendations for Future

The judicial oversight and issues in federal governance are an evolving and complex issue. Some researchers argue that courts must be proactive in resolving social and economic issues. The recommendations for the future are pointed out below

1. Provide institutional bodies for the union and state governments to better interact on policy issues.
2. Reduce political influence and provide fair appointment of judiciary's independence
3. To encourage transparency and lessen the physical force with money power in election
4. To maintain fiscal stability and independence states should get a larger portion of tax shares.
5. Promote regional development to alleviate inter state inequality and foster economic expansion.

CONCLUSION

To summarise, the intricate difference between federal structure and judicial oversight has challenges and opportunities for the government. The role of judicial oversight is a mechanism that safeguards the constitution. Crucially, protecting the Constitution by guaranteeing that state and federal activities stay within the bounds of the law. On the other hand, it is acting as a corrective mechanism in addressing the imbalances and power disparities. It can be seen that, when political institutions fail, the judiciary interprets and upholds the constitution. It is imperative that the system change to better satisfy the requirements of a contemporary federal democracy. Moreover, this balancing between state autonomy and federal power will determine the future of the federal structure. As a result,

reforms that encourage cooperative federalism must be embraced by the political and judicial branches. Put simply, this investment promotes communication and guarantees federal disagreements are settled by agreement rather than conflict. The judicial oversight, most importantly, needs to be reoriented to operate as a proactive collaborator in forming policies. As discussed previously, enhancing the institutions of state governments and courts is a viable reform path. Thus, it is essential to streamline legal procedures in order to minimise backlogs and guarantee prompt dispute resolution. Simultaneously, having more explicit structures for intergovernmental cooperation can assist in keeping disputes from turning into court cases. We will now consider that our government might reduce hostility that has federal disagreements by establishing specific platforms for discussion and compromise. Alternatively, the integrity of the federal system could be maintained by using forums to defuse tensions before they become entrenched conflicts. In conclusion, federal concerns provide difficulties, but they are not insurmountable.

REFERENCES

6. Bundesrat. (2025). Bundesrat - home. Retrieved January 30, 2025, from <https://www.bundesrat.de/EN/homepage/homepage-node.html>
7. Burman, A. (2013). LEGAL FRAMEWORK FOR THE PARLIAMENTARY OVERSIGHT OF THE EXECUTIVE IN INDIA. *NUJS Law Review*, 6(3), 387–432. <https://nujlawreview.org/wp-content/uploads/2016/12/02anirudhburman.pdf>
8. Cauvery water dispute (By KSG India). (n.d.). KSG India. Retrieved January 29, 2025, from <https://www.ksgindia.com/blog/cauvery-water-dispute.html>
9. CHANDRAN, L. (2021). Nature of Federalism in India: An Overview. *International Journal of Lan Management & Humanities*, 4(3), 698. <https://heinonline.org/HOL/LandingPage?handle=hein.journals/ijlmhs11&div=72&id=&page=>
10. Daly, Y. M. (2011). Judicial Oversight of Policing: Investigations, evidence and the exclusionary rule. *Crime, Law and Social Change*, 55(2), 199. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3451375
11. Federal election Commission. (2024). Citizens United v. FEC - FEC.gov. Retrieved January 30, 2025, from <https://www.fec.gov/legal-resources/court-cases/citizens-united-v-fec/>
12. Ferejohn, J., & Pasquino, P. (2004). Constitutional courts and democratic legitimacy. *West European Politics*, 27(2), 41–64.
13. Freille, S., Haque, M. E., & Kneller, R. (2007). Decentralisation, corruption and economic development. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.985638>
14. Jamal Al Mahasneh, M., & Baraa Basel Abuanzeh, M. (2020). Judicial oversight and the impact of laws to prevent liability. *Technium Soc. Sci. J.*, 9, 259. <https://heinonline.org/HOL/LandingPage?handle=hein.journals/techssj9&div=25&id=&page=>
15. Kanwar, R. (2022). Models of Judicial review in US Viz a Viz India: Analysis paving a path towards filling legislative lacunas. *Articles – Manupatra*. Retrieved January 30, 2025, from <https://articles.manupatra.com/article-details/Models-of-Judicial-Review-in-US-viz-a-viz-India-Analysis-Paving-a-Path-Towards-Filling-Legislative-Lacunas>
16. Kumar, C. (2014). Federalism in India: a critical appraisal. *Journal of Business Management & Social Sciences Research*, 3(9), 31–32. <https://www.borjournals.com>
17. LawCrust Global Consulting Company. (2024, November 21). Navigating Water Law in India: A comprehensive overview. Retrieved January 30, 2025, from <https://lawcrust.com/water-law-in-india/>
18. Parpworth, N. (2022). Constitutional and administrative law. Oxford University Press eBooks. <https://doi.org/10.1093/he/9780192856579.001.0001>
19. Privacy Law Library. (2010). Selvi vs. State of Karnataka. Privacy Library. Retrieved January 29, 2025, from <https://privacylibrary.ccnlud.org/case/selvi-vs-state-of-karnataka>

20. PTI (Ed.). (2024, May 19). Bifurcation Blues: 10 years later, several issues remain unresolved between AP, Telangana. *The Economic Times*. Retrieved January 29, 2025, from <https://economictimes.indiatimes.com/news/india/bifurcation-blues-10-years-later-several-issues-remain-unresolved-between-ap-telangana/articleshow/110248908.cms?from=mdr>
21. Rajagopal, K. (2024, March 11). SC suggests ‘judicial oversight’ over cases, counter-cases between Centre and State against each other’s officials. *The Hindu*. <https://www.thehindu.com/news/national/sc-suggests-judicial-oversight-over-cases-counter-cases-between-centre-and-state-against-each-others-officials/article67939557.ece>
22. Sahu, M. (2022). Revisiting Indian Federalism: An overview of contemporary issues and challenges. *International Journal of Political Science and Governance*, 4(1), 10–19. <https://d1wqtxts1xzle7.cloudfront.net>
23. SHULMAN, H., & JAEGERMANS, E. (1936). SOME JURISDICTIONAL LIMITATIONS ON FEDERAL PROCEDURE. *YALE LAW JOURNAL* Ee Eee, XLV(3). <https://heinonline.org/HOL/LandingPage?handle=hein.journals/ylr45&div=26&id=&page=>
24. Tushnet, M. (2008). Weak courts, strong rights: judicial review and social welfare rights in comparative Constitutional law. In *Examines the power of courts in different federal systems and their influence on governance*. Princeton University Press.
25. Wang, S. (2023). JUDICIAL OVERSIGHT OF POLITICAL PARTIES IN NEW DEMOCRACIES: THE CASES OF SOUTH KOREA AND TAIWAN. *Arizona Journal of International and Comparative Law*, 40, 332–360. <https://doi.org/10.2139/ssrn.5072227>
26. Watts, R. L. (1998). FEDERALISM, FEDERAL POLITICAL SYSTEMS, AND FEDERATIONS. *Annual Review of Political Science*, 1(1), 117–137. <https://doi.org/10.1146/annurev.polisci.1.1.117>