

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed

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THE SURVIVAL OF COOPERATIVE FEDERALISM AMIDST POLITICAL POLARISATION: CONSTITUTIONAL CHALLENGES AND INSTITUTIONAL RESILIENCE: A COMPARATIVE STUDY OF INDIA AND GERMANY

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ABSTRACT

Cooperative federalism depends upon the capacity of constitutionally distinct governments to coordinate public policy while preserving their respective spheres of authority. Political polarisation places this relationship under considerable pressure. Institutions designed to facilitate negotiation may become arenas for partisan confrontation, fiscal disagreements may be interpreted as political discrimination, and constitutional disputes may develop into conflicts over democratic legitimacy. This research paper examines the survival of cooperative federalism amidst political polarisation through a comparative study of India and Germany. The study adopts a doctrinal, descriptive, analytical and comparative methodology based entirely on secondary sources, including constitutional provisions, judicial decisions, institutional reports, academic books and scholarly articles. The Indian constitutional framework is examined through the distribution of legislative powers, the Inter-State Council, the Finance Commission, the Goods and Services Tax Council and judicial decisions concerning federalism. The German framework is analysed through the Basic Law, the Bundesrat, fiscal equalisation and institutional arrangements governing relations between the Federation and the Länder. The comparative analysis demonstrates that neither constitutional recognition nor the mere existence of intergovernmental institutions guarantees effective cooperation. India's federal structure combines substantial State responsibilities with significant Union powers, making consultation and fiscal predictability essential to maintaining constitutional balance. Germany's system incorporates the Länder directly into federal law-making through the Bundesrat, encouraging negotiation while sometimes producing delays and complex political bargaining. The paper argues that cooperative federalism does not require the elimination of political disagreement. Instead, its survival depends upon institutions capable of transforming disagreement into constitutional dialogue, transparent decision-making and negotiated compromise. It concludes that regular intergovernmental consultation, predictable fiscal arrangements, respect for constitutional boundaries and accessible dispute-resolution mechanisms are essential to strengthening federal resilience in both countries.

Keywords: Cooperative Federalism, Political Polarisation, India, Germany, Constitutional Challenges, Institutional Resilience, Fiscal Federalism, GST Council, Bundesrat, Intergovernmental Relations.

1. INTRODUCTION

Federalism represents a constitutional arrangement in which governmental authority is distributed between a central government and constituent territorial units. It seeks to reconcile national unity with regional diversity by granting different levels of government constitutionally defined powers and responsibilities. However, its effectiveness depends not merely on the formal allocation of powers but also on the ability of governments to coordinate their actions in areas such as taxation, public health, education, economic development and social welfare.

Cooperative federalism has emerged as an essential mechanism for managing this interdependence. It promotes consultation, negotiation and coordinated decision-making while preserving the constitutional responsibilities of different levels of government. Nevertheless, increasing political polarisation, characterised by deep ideological divisions and antagonistic political competition, can undermine cooperation. Governments controlled by opposing political parties may resist common initiatives, dispute financial allocations and use constitutional institutions to advance partisan interests.

India and Germany provide valuable comparative perspectives on these challenges. India's Constitution distributes legislative powers through the Union, State and Concurrent Lists, while institutions such as the Inter-State Council, Finance Commission and Goods and Services Tax Council facilitate intergovernmental cooperation. In contrast, Germany's Basic Law, 1949, provides the Länder with constitutionally recognised powers and enables their governments to participate directly in federal legislation through the Bundesrat. Despite these institutional differences, both countries face challenges in maintaining cooperation amid political disagreements between national and regional governments.

This study argues that the survival of cooperative federalism depends upon institutional resilience rather than political uniformity. A resilient federal system does not eliminate political disagreements but provides constitutional mechanisms for managing and resolving them. Regular consultation, predictable fiscal arrangements and respect for constitutional boundaries are therefore essential to ensuring that political polarisation does not undermine effective federal governance.

2. STATEMENT OF THE PROBLEM

The principal problem examined in this research is the growing tension between the constitutional requirement of intergovernmental cooperation and the political incentives that encourage governments to pursue partisan advantage.

Federal systems depend upon coordination between governments possessing different responsibilities, political mandates and territorial priorities. However, political polarisation may transform ordinary disagreements into sustained institutional conflicts. National governments may interpret regional opposition as obstruction, while State or regional governments may perceive central initiatives as attempts to diminish their autonomy.

These conflicts become particularly serious when they affect fiscal transfers, taxation, legislative authority, administrative appointments, centrally sponsored programmes or the implementation of national policies. In such circumstances, constitutional institutions may continue to exist formally while becoming less effective in practice.

In India, the problem is influenced by the asymmetrical distribution of certain constitutional powers and the dependence of States on shared tax revenues and financial transfers. Institutions such as the GST Council provide a structured forum for negotiation, but their effectiveness depends upon meaningful participation, transparent procedures and confidence in agreed outcomes.

In Germany, the Bundesrat gives the Länder a constitutionally established role in federal law-making. Nevertheless, political disagreements between the federal government and Land governments can delay legislation or produce complicated negotiations. The same institutional arrangements that protect regional participation can therefore create obstacles when political actors are unwilling to compromise.

The central problem is consequently not whether federal institutions exist, but whether they remain capable of performing their constitutional functions under conditions of political polarisation. The study examines how constitutional design, fiscal arrangements and intergovernmental institutions influence the capacity of India and Germany to preserve cooperative federalism.

3. OBJECTIVES OF THE STUDY

The principal objectives of the study are:

1. To examine the constitutional foundations of cooperative federalism in India and Germany.

2. To analyse the impact of political polarisation on relations between central and subnational governments.
3. To evaluate the functioning of India's Inter-State Council, Finance Commission and Goods and Services Tax Council in maintaining federal cooperation.
4. To examine the role of Germany's Bundesrat and fiscal arrangements in protecting the participation of the Länder in federal governance.
5. To compare the effectiveness and limitations of institutional mechanisms designed to resolve intergovernmental disagreements.
6. To analyse the role of constitutional courts in maintaining federal balance during political and institutional conflicts.
7. To recommend constitutional, institutional and administrative measures for strengthening cooperative federalism in both countries.

4. RESEARCH QUESTIONS

The study seeks to answer the following questions:

1. What are the constitutional foundations of cooperative federalism in India and Germany?
2. How does political polarisation affect cooperation between national and subnational governments?
3. To what extent do India's federal institutions protect State participation in legislative and fiscal decision-making?
4. How does the Bundesrat contribute to institutional resilience in Germany?
5. What role can judicial review and constitutional procedures play in preventing political disagreements from becoming constitutional crises?
6. What lessons can India and Germany draw from each other's institutional experiences to strengthen cooperative federalism?

5. HYPOTHESIS OF THE STUDY

The study proceeds on the hypothesis that **cooperative federalism is more likely to survive political polarisation when constitutional institutions provide meaningful subnational participation, predictable fiscal arrangements, transparent decision-making and effective mechanisms for resolving intergovernmental disputes.**

It further hypothesises that the existence of formal institutions alone is insufficient. Their

effectiveness depends upon political willingness to negotiate, respect for constitutional conventions and the ability of institutional procedures to prevent partisan disagreements from paralysing governance.

6. THEORETICAL FRAMEWORK

6.1 Cooperative Federalism

Cooperative federalism provides the principal theoretical foundation of this study. It recognises that different levels of government frequently exercise interconnected responsibilities and must therefore coordinate their activities.

Under this approach, federalism is not understood merely as a division of powers but as an ongoing relationship between constitutionally recognised governments. The objective is to achieve coordinated governance without eliminating the autonomy of the constituent units.

Cooperation, however, should not be confused with unconditional agreement. A State government may legitimately oppose a central policy, just as a Land government may disagree with a federal legislative proposal in Germany. Such disagreement does not necessarily demonstrate the failure of federalism. The decisive question is whether governments can express their positions through legitimate institutions and participate meaningfully in decisions affecting their constitutional responsibilities.

Cooperative federalism therefore requires both coordination and autonomy. Excessive centralisation can undermine regional participation, while excessive fragmentation can make collective action difficult. A successful federal arrangement attempts to maintain an appropriate balance between these competing requirements.

6.2 Political Polarisation and Federal Governance

Political polarisation provides the second theoretical perspective. In federal democracies, political parties frequently compete for control at both national and subnational levels. This creates the possibility that governments controlled by opposing parties will disagree over policy priorities and constitutional authority.

Such disagreement can become particularly intense when political actors perceive cooperation as electorally disadvantageous. A government may avoid supporting a successful initiative proposed by its political opponent because it fears that the opponent will receive electoral credit.

Polarisation can also influence how institutions are interpreted. Decisions concerning financial transfers, administrative appointments or legislative procedures may be viewed through

partisan assumptions rather than solely through their constitutional or administrative merits. Nevertheless, political diversity is not inherently destructive. Federalism allows different territorial communities to express distinct preferences and can provide institutional checks against excessive concentration of power. Political competition may therefore strengthen accountability when it remains within constitutional limits.

The challenge is to prevent democratic competition from becoming institutional hostility.

6.3 Institutional Resilience

Institutional resilience refers to the capacity of constitutional institutions to continue performing their functions during periods of political conflict.

A resilient institution is not necessarily one that produces unanimous decisions. Rather, it is one that can accommodate disagreement without abandoning its legal responsibilities.

In federal governance, institutional resilience depends upon several factors: regular consultation, transparent procedures, reliable fiscal arrangements, accessible dispute-resolution mechanisms, constitutional accountability and respect for the authority of other governmental levels.

Resilience also requires institutional continuity. Governments change following elections, but the constitutional framework must remain capable of facilitating cooperation between successive administrations.

The present study applies this framework to determine whether India's federal institutions and Germany's intergovernmental mechanisms can withstand political polarisation without losing their capacity to coordinate governance.

6.4 Comparative Institutionalism

Comparative institutionalism examines how different constitutional arrangements influence political behaviour and institutional outcomes. India and Germany possess different federal structures. India relies upon a combination of constitutional distribution, intergovernmental councils, fiscal commissions and judicial review. Germany gives the Länder a direct role in federal legislative processes through the Bundesrat.

These differences create distinct incentives for negotiation and disagreement. The comparative approach adopted in this paper therefore examines not only the formal powers of institutions but also the practical consequences of their design.

The objective is not to declare one system universally superior. It is to identify institutional principles that may help federal democracies preserve cooperation under conditions of political

polarisation.

7. METHODOLOGY OF THE STUDY

The present study adopts a doctrinal, descriptive, analytical and comparative research methodology.

The research is based entirely on secondary sources. These include the Constitution of India, 1950; the Basic Law for the Federal Republic of Germany, 1949; relevant constitutional amendments; judicial decisions; official institutional publications; academic books; scholarly journal articles; and research concerning fiscal federalism and intergovernmental relations.

The doctrinal method is used to examine constitutional provisions governing legislative powers, fiscal arrangements and intergovernmental institutions. The analytical method is used to evaluate the strengths and limitations of these arrangements under conditions of political polarisation. The comparative method identifies similarities and differences between India and Germany concerning institutional participation, fiscal coordination, judicial review and the resolution of intergovernmental disputes.

The study focuses principally on Articles 1, 246, 246A, 248, 263, 268–281, 356 and 368 of the Constitution of India, together with relevant provisions of the Seventh Schedule. The German analysis focuses on Articles 30, 50–53, 70–74, 83–85, 104a and 107 of the Basic Law.

The study does not rely on original interviews, questionnaires or field surveys. Its findings are therefore based on constitutional analysis and the interpretation of existing scholarly and institutional material.

8. REVIEW OF RELATED LITERATURE

8.1 Daniel J. Elazar: Federalism as Partnership

Daniel J. Elazar's work *Exploring Federalism* provides an important theoretical foundation for understanding federalism as a constitutional relationship involving partnership and shared authority. His approach highlights that federalism is not merely a technical arrangement for distributing governmental powers. It also involves a continuing relationship between distinct political communities that agree to govern certain matters jointly while retaining separate spheres of authority.

This perspective is relevant to the present study because cooperative federalism requires the Union and constituent units to recognise one another as legitimate participants in governance. Where political polarisation weakens this recognition, the formal structure of federalism may

remain intact while its cooperative foundations deteriorate.

8.2 Granville Austin: The Indian Constitutional Framework

Granville Austin's *The Indian Constitution: Cornerstone of a Nation* examines the constitutional objectives of national unity, democratic government and social transformation in India.

His work is important for understanding the balance between national integration and the accommodation of India's social and territorial diversity. The Constitution provides substantial powers to the Union while recognising State governments as constitutionally established institutions.

This dual objective makes cooperation essential. National policies frequently require State-level implementation, while effective national governance depends upon the participation of governments that represent different regional interests.

Austin's analysis therefore provides a foundation for examining the constitutional tension between central authority and regional autonomy.

8.3 Indian Judicial Literature on Federalism

The Supreme Court of India has contributed significantly to the interpretation of federalism through decisions concerning the distribution of powers, the use of emergency provisions and the relationship between the Union and States.

In *S.R. Bommai v. Union of India*, the Court examined the constitutional limitations governing the imposition of President's Rule and reaffirmed the importance of federalism within India's constitutional structure.

In *Government of NCT of Delhi v. Union of India*, the Court discussed the importance of collaborative governance and constitutional functionaries working within their respective spheres of authority.

Similarly, in *Union of India v. Mohit Minerals Pvt. Ltd.*, the Court examined the constitutional position of the GST Council and the relationship between its recommendations and the legislative powers of Parliament and State legislatures.

These decisions demonstrate that federalism requires both legal boundaries and a willingness to accommodate institutional disagreement.

8.4 Arthur Benz: German Federalism

Arthur Benz's scholarship on German federalism examines the relationship between

institutional arrangements, political competition and the distribution of authority between the Federation and the Länder.

His work is relevant because Germany's cooperative structure requires extensive coordination between governments that may be controlled by different political parties.

The Bundesrat provides the Länder with a formal opportunity to participate in federal law-making. However, the interaction between territorial interests and party competition can make negotiations complicated.

Benz's analysis supports the proposition that institutional design influences political behaviour but does not eliminate political conflict.

8.5 Katrin Auel: Intergovernmental Relations and Party Politics

Katrin Auel's work on German intergovernmental relations explores the interaction between cooperative federalism, party politics and territorial conflicts.

Her research helps explain why institutionalised cooperation can produce both negotiated compromise and political obstruction. The Bundesrat may protect regional interests, but it can also become a venue for national opposition parties to challenge the federal government's programme.

This observation is important for the present study because it demonstrates that political polarisation affects not only federations with comparatively centralised constitutional arrangements but also those with strong mechanisms for subnational participation.

8.6 Research Gap

Existing scholarship has extensively examined federalism, fiscal autonomy, judicial review and the operation of intergovernmental institutions. However, these themes are often studied separately.

The present study brings them together by examining the survival of cooperative federalism under political polarisation. Its central concern is whether constitutional institutions remain effective when governments have incentives to prioritise partisan advantage over intergovernmental compromise. The comparative analysis of India and Germany provides an opportunity to identify both the protective functions and the limitations of institutionalised cooperation.

9. CONSTITUTIONAL FOUNDATIONS OF COOPERATIVE FEDERALISM IN INDIA

9.1 Distribution of Legislative Powers

The Constitution of India establishes a federal arrangement through the distribution of governmental authority between the Union and the States.

Article 1 describes India as a Union of States. Articles 245 and 246, read with the Seventh Schedule, establish the principal framework for distributing legislative competence.

The Union List identifies subjects on which Parliament ordinarily possesses legislative authority. The State List identifies subjects principally assigned to State legislatures, while the Concurrent List permits both Parliament and State legislatures to legislate on specified matters, subject to constitutional rules governing conflicts between laws.

Article 248, read with the relevant provisions of the Constitution, assigns residuary legislative power to Parliament.

This structure demonstrates that Indian federalism combines constitutionally recognised State powers with a significant role for the Union. The arrangement reflects the Constitution's effort to maintain national unity while accommodating regional diversity.

However, the distribution of powers can become contentious when a national initiative affects subjects involving substantial State responsibility. Such disagreements require consultation and constitutional interpretation rather than an assumption that one level of government can disregard the legitimate interests of the other.

9.2 The Inter-State Council

Article 263 of the Constitution empowers the President to establish an Inter-State Council where public interests would be served by an inquiry into and discussion of subjects of common interest, recommendations for better coordination of policy and action, or deliberation on inter-State disputes. The Council provides a constitutional framework for dialogue between the Union and States.

Its significance extends beyond the resolution of individual disputes. It can provide a regular forum for discussing administrative coordination, policy implementation and matters requiring cooperation among several governments.

Nevertheless, its effectiveness depends upon regular meetings, meaningful agendas and follow-up mechanisms. If intergovernmental dialogue occurs only after disagreements have escalated, the institution's preventive potential remains underused.

A stronger Inter-State Council could contribute to federal resilience by providing a structured mechanism for discussing contentious matters before they develop into prolonged constitutional disputes.

9.3 The Finance Commission

Article 280 provides for the constitution of the Finance Commission, which recommends the distribution of specified tax revenues between the Union and the States and principles governing grants-in-aid.

The Finance Commission plays an important role in maintaining fiscal federalism. State governments require adequate resources to discharge their constitutional responsibilities, including expenditure on public services and development. However, the distribution of resources may create political tensions, particularly when States differ in population, economic capacity, development requirements and revenue-raising ability.

A rule-based fiscal framework helps reduce uncertainty by providing established principles for determining financial allocations. The legitimacy of such arrangements depends upon the transparency of the criteria applied and the credibility of the process through which recommendations are implemented.

Fiscal cooperation is particularly important in a polarised environment because financial disagreements can quickly acquire political significance.

9.4 The Goods and Services Tax Council

The Constitution (One Hundred and First Amendment) Act, 2016 introduced a new framework for indirect taxation and inserted Article 279A, establishing the Goods and Services Tax Council.

Article 246A provides special legislative authority concerning GST to Parliament and State legislatures. Article 279A establishes the Council as an institutional forum for making recommendations on important aspects of the GST system.

The Council includes representatives of the Union and the States. Its voting structure gives the Union Government one-third of the weighted votes and the State governments collectively two-thirds. Decisions require the prescribed three-fourths majority of members present and voting. This arrangement is intended to encourage negotiation. The Union cannot ordinarily determine the Council's decisions by relying exclusively on its own voting share, while the States must collectively secure sufficient support to meet the constitutional threshold.

The GST Council illustrates how cooperative federalism can be institutionalised through shared

decision-making.

However, disagreements concerning revenue distribution, tax rates, compensation and fiscal responsibilities demonstrate that institutional cooperation does not eliminate political conflict. The Supreme Court's decision in *Union of India v. Mohit Minerals Pvt. Ltd.* clarified that GST Council recommendations are not automatically binding on Parliament and State legislatures. The Court emphasised the importance of dialogue and recognised the legislative powers conferred by Article 246A.

The decision is significant because it confirms that cooperation should not be interpreted as the elimination of constitutionally assigned legislative authority.

The GST Council's long-term effectiveness therefore depends on maintaining a balance between tax coordination and the legitimate fiscal interests of States.

9.5 Federalism as a Basic Feature

In *S.R. Bommai v. Union of India*, the Supreme Court recognised the importance of federalism within the constitutional structure and examined the limitations governing the exercise of power under Article 356. The judgment is important because it demonstrates that federalism is not merely an administrative arrangement that can be disregarded whenever political circumstances become difficult.

Constitutional institutions must operate within established legal limits, even when the Union and States are controlled by opposing political parties. Judicial recognition of federalism as a basic feature provides an important safeguard against constitutional practices that would fundamentally undermine the federal character of the polity.

However, judicial protection alone cannot guarantee cooperative relations. Political institutions must continue to provide opportunities for consultation and negotiated settlement.

10. POLITICAL POLARISATION AND THE CHALLENGES OF INDIAN FEDERALISM

10.1 Union–State Political Conflict

India's federal structure accommodates considerable political diversity. Different States may elect governments with policy preferences and political priorities that differ from those of the Union Government. Such differences are a normal consequence of democratic competition. The existence of opposing political parties at different levels can improve accountability by ensuring that national policies are subject to regional scrutiny.

However, political polarisation becomes problematic when disagreement prevents governments from performing their constitutional responsibilities.

A State government may oppose a national policy because it considers the policy unsuitable for regional circumstances. Such opposition is legitimate. The problem arises when political disagreement prevents meaningful consultation or leads to the prolonged obstruction of essential administrative functions. Similarly, the Union may legitimately pursue national objectives, but it must exercise its powers within constitutional limits and respect the responsibilities of State governments. Cooperative federalism requires the recognition that constitutional authority does not depend solely on political alignment.

10.2 The Role of Governors

The office of Governor illustrates the potential tension between constitutional responsibilities and political disagreement.

Governors perform functions assigned by the Constitution, including responsibilities connected with the legislative process. Disputes may arise concerning the exercise of discretion, the reservation of Bills or delays in communicating decisions. Where such disputes occur between a Governor and a State government controlled by opposing political parties, questions of constitutional interpretation may become entangled with allegations of partisan conduct.

The constitutional concern is not that Governors and elected governments may disagree. It is that constitutional processes should not be used to create avoidable uncertainty or frustrate the functioning of elected legislatures. Clear procedures, reasoned decisions, adherence to constitutional conventions and appropriate judicial review can help prevent such disputes from weakening federal cooperation.

10.3 Fiscal Dependence and Financial Disagreements

Fiscal relations constitute one of the most important dimensions of Indian federalism.

States are responsible for significant public services and development activities, yet their revenue-raising powers and expenditure requirements do not always correspond. Shared taxation, grants and transfers are therefore necessary for maintaining an effective federal system.

However, when fiscal disagreements become politically charged, States may perceive central decisions as threats to their autonomy. Disputes concerning GST compensation, revenue transfers, borrowing restrictions or the design of centrally sponsored schemes can weaken intergovernmental confidence.

Fiscal cooperation requires predictable arrangements and transparent criteria. Financial decisions should be capable of explanation through constitutional principles, statutory rules and legitimate policy objectives. Where the reasons for fiscal decisions are unclear, political suspicion can increase even when the underlying disagreement concerns legitimate budgetary priorities.

10.4 Institutional Underuse

India possesses several institutions designed to facilitate intergovernmental coordination. Nevertheless, the existence of such institutions does not ensure that they are used effectively. Regular consultation enables governments to exchange information, anticipate difficulties and identify mutually acceptable solutions.

By contrast, irregular meetings and inadequate follow-up may allow disputes to accumulate until they require judicial intervention or political confrontation. The Inter-State Council could provide a broader forum for discussing questions that extend beyond individual ministries or sector-specific institutions. Its potential contribution lies in establishing a culture of routine dialogue rather than limiting cooperation to situations in which governments face an immediate crisis.

10.5 Judicial Review and Its Limitations

The Supreme Court plays an important role in maintaining constitutional boundaries between the Union and the States.

In *S.R. Bommai v. Union of India*, the Court examined the use of Article 356. In *Government of NCT of Delhi v. Union of India*, it discussed constitutional governance and the need for elected institutions and constitutional functionaries to operate within their respective spheres. In *Union of India v. Mohit Minerals Pvt. Ltd.*, it examined the relationship between the GST Council and legislative authority.

These decisions illustrate the importance of constitutional adjudication in preserving institutional balance. Nevertheless, judicial review has limitations. Litigation is often reactive, and judicial decisions cannot independently establish the political trust necessary for everyday cooperation.

A federal system that depends exclusively on courts to resolve disagreements risks turning routine administrative problems into prolonged constitutional disputes. Judicial review should therefore complement, rather than replace, regular intergovernmental consultation.

11. CONSTITUTIONAL FOUNDATIONS OF COOPERATIVE FEDERALISM IN GERMANY

11.1 The Basic Law and Federal Structure

Germany's federal structure is established by the Basic Law for the Federal Republic of Germany, 1949. Article 30 provides that the exercise of state powers and the discharge of state functions belong to the Länder unless the Basic Law provides otherwise. Articles 70–74 establish the framework for distributing legislative authority between the Federation and the Länder.

The German system combines federal legislative powers with substantial responsibilities for the Länder, particularly in the administration and implementation of federal laws. This arrangement makes coordination essential.

Federal legislation may establish common national standards, but the Länder frequently possess important responsibilities for implementing those standards.

Consequently, federal policy cannot always be designed effectively without considering regional administrative capacity, fiscal circumstances and political priorities.

The Basic Law provides the institutional framework through which these interests can be represented.

11.2 The Bundesrat

The Bundesrat is a central institution of German cooperative federalism.

Under Article 50 of the Basic Law, the Länder participate through the Bundesrat in the legislation and administration of the Federation and in European Union matters.

Unlike a directly elected second legislative chamber, the Bundesrat is composed of members of Land governments. Its structure therefore connects regional executives directly with federal decision-making. Each Land possesses a constitutionally determined number of votes, and its votes must be cast as a unit. This arrangement requires Land governments to establish a common position before participating in Bundesrat decisions.

The Bundesrat has a particularly important role in legislation requiring its consent. Where federal legislation affects the administrative responsibilities or financial interests of the Länder, regional participation can become decisive.

This structure encourages negotiation between the federal government and the Länder. A federal government that lacks sufficient support in the Bundesrat may need to modify its proposals, negotiate concessions or seek broader political agreement.

The Bundesrat therefore provides an institutional mechanism through which regional governments can influence national legislation.

11.3 Federal and Land Administrative Responsibilities

German federalism relies heavily on the administrative participation of the Länder.

Articles 83–85 of the Basic Law establish important rules governing the implementation of federal laws by the Länder.

This arrangement creates practical interdependence. Federal policy may require Land-level administrative capacity, while the Länder depend on a functioning federal framework for coordinating matters of national significance. The relationship encourages consultation because disagreements cannot always be resolved through unilateral decisions.

However, administrative interdependence may also create difficulties when governments disagree over implementation costs, policy priorities or the allocation of responsibilities.

The effectiveness of cooperation therefore depends on clear legal rules and procedures for resolving disputes.

11.4 Fiscal Federalism and Equalisation

Fiscal relations are another important component of Germany's federal structure.

Articles 104a and 107 of the Basic Law address aspects of expenditure responsibility, revenue distribution and fiscal equalisation. Fiscal equalisation seeks to address differences in financial capacity among the Länder and to support the provision of public services across the federation. However, redistribution can generate disagreements between governments with different economic circumstances.

Länder with greater fiscal capacity may raise concerns about the extent of their contributions, while financially weaker Länder may emphasise the need for adequate resources to fulfil their responsibilities. These disagreements demonstrate that fiscal federalism involves both constitutional principles and distributive political choices.

Germany's experience suggests that fiscal cooperation becomes more sustainable when financial arrangements operate through established rules and are supported by institutions in which affected governments possess meaningful representation.

12. POLITICAL POLARISATION AND INSTITUTIONAL RESILIENCE IN GERMANY

12.1 Party Competition in the Bundesrat

Although the Bundesrat provides a strong institutional mechanism for regional participation, it does not eliminate political competition. The governments of the Länder may be controlled by parties different from those forming the federal government. As a result, federal legislative proposals may encounter opposition even where the federal government possesses substantial support in the Bundestag. Opposition parties may use the Bundesrat to challenge federal policies, while Land governments may oppose proposals because of their territorial, administrative or fiscal consequences.

These motivations can overlap, making it difficult to distinguish genuine regional disagreement from partisan opposition. Nevertheless, the involvement of the Länder ensures that federal legislation cannot always be determined exclusively by the political preferences of the federal executive. The Bundesrat therefore creates a constitutional space in which regional interests can be expressed even during periods of political disagreement.

12.2 Institutionalised Negotiation

One of the principal strengths of German federalism is the institutionalisation of negotiation. The Federation and the Länder must maintain working relationships because many policies require cooperation between federal legislative authority and regional administrative implementation. This interdependence creates incentives for compromise. Governments that refuse all negotiation may undermine their own ability to implement policies effectively.

Institutionalised negotiation can also reduce uncertainty by establishing procedures through which disagreements are considered before they become severe political crises. However, negotiation does not always produce immediate agreement. Compromises may require extensive discussions and modifications to proposed legislation. The resulting delays are sometimes criticised as evidence of institutional inefficiency. Yet delay may also reflect constitutionally required scrutiny of legislation affecting regional responsibilities. The appropriate question is whether the time required for negotiation is proportionate to the importance of the interests being protected.

12.3 The Risk of Reform Blockage

German cooperative federalism can produce complicated bargaining when party competition

becomes intense. Where the federal government lacks sufficient support in the Bundesrat, important reforms may be delayed or substantially modified. This situation is often described through the concept of *Reformstau*, referring to the blockage or stagnation of reform. Such difficulties demonstrate that institutional participation has costs as well as benefits.

The same mechanisms that protect the Länder against unilateral federal action may make it more difficult to enact policies requiring broad agreement. However, the existence of delay does not automatically establish that the constitutional arrangement has failed. It may indicate that the proposed reform has not adequately accommodated regional interests or that political actors are unwilling to compromise. Institutional resilience requires procedures that protect legitimate regional participation while enabling governments to reach decisions within a reasonable period.

12.4 Accountability and Transparency

Cooperative governance can make political accountability difficult when responsibilities are shared.

Citizens may struggle to identify whether a policy was designed by the federal government, negotiated with the Länder or modified during implementation.

Governments may also attempt to shift responsibility for unpopular decisions onto other participants in the federal process. This problem can become more serious during periods of polarisation because political actors may prioritise blame over explanation.

Transparency is therefore essential. Publicly accessible information about legislative negotiations, fiscal consequences and implementation responsibilities can help citizens understand how decisions were reached. Institutional resilience requires not only the ability to negotiate but also the ability to explain the outcome to the public.

13. COMPARATIVE ANALYSIS OF INDIA AND GERMANY

13.1 Constitutional Distribution of Powers

India and Germany both recognise constitutionally protected subnational governments, but their constitutional arrangements differ.

India's Constitution combines federal distribution with substantial centralising features. Parliament possesses residuary legislative authority, and the Constitution provides additional Union powers in specified circumstances. Germany's Basic Law establishes a framework in which the Länder retain significant constitutional responsibilities, while the Federation exercises legislative authority in designated areas.

The practical importance of this difference lies in the way each system manages overlapping responsibilities. India relies upon several intergovernmental institutions and constitutional principles to maintain cooperation. Germany incorporates the Länder directly into federal legislative decision-making through the Bundesrat. Neither system eliminates disputes over the boundaries of governmental authority.

13.2 Institutional Participation

India's federal system uses multiple institutions to facilitate cooperation.

The Inter-State Council provides a constitutional framework for discussing matters of common interest. The Finance Commission addresses important aspects of fiscal distribution. The GST Council provides a specialised forum for coordinating indirect taxation.

These institutions have different functions and degrees of influence. Germany's Bundesrat provides a more direct mechanism for Land governments to participate in federal legislation. Its role is particularly significant where federal laws require Bundesrat consent.

The comparison suggests that the effectiveness of federal participation depends not merely on the number of institutions but on the nature of their authority, the regularity of their operation and the extent to which governments must consider the views expressed through them.

13.3 Fiscal Relations

Fiscal federalism is central to both systems.

In India, State governments depend on a combination of their own revenues, shared taxes, grants and other transfers. The GST framework has increased the importance of coordinated decision-making concerning indirect taxation.

In Germany, constitutional provisions govern revenue distribution and fiscal equalisation, while the Länder participate in federal decision-making through the Bundesrat.

Both systems must reconcile unequal fiscal capacity with the need to provide public services across different territories. The principal comparative lesson is that fiscal cooperation requires transparent rules, credible commitments and meaningful opportunities for affected governments to express their concerns.

13.4 Political Polarisation

Political polarisation affects India and Germany through different institutional channels.

In India, disagreements may arise between the Union and State governments over legislative competence, financial arrangements, administrative decisions or the interpretation of

constitutional responsibilities.

In Germany, the Bundesrat provides a formal mechanism for the Länder to influence federal legislation, but party competition can affect the willingness of governments to support federal proposals.

In both countries, political alignment may facilitate cooperation, while divided political control may intensify disagreement. However, divided government can also improve accountability by requiring broader participation in policy-making. Political polarisation becomes constitutionally dangerous when governments cease to recognise the legitimacy of other constitutional actors or use institutional powers to frustrate their lawful responsibilities.

13.5 Judicial Review

Courts provide an important safeguard in both federal systems.

In India, the Supreme Court has interpreted constitutional provisions governing federalism, emergency powers and intergovernmental relations.

Germany's Federal Constitutional Court has jurisdiction over constitutional disputes, including specified disputes between the Federation and the Länder. Judicial review can clarify the boundaries of governmental authority and protect constitutional procedures.

Nevertheless, courts cannot replace political negotiation. A judgment may establish the legal position without resolving the practical disagreements that continue to affect policy implementation.

The strongest approach combines judicial protection of constitutional boundaries with regular intergovernmental dialogue.

13.6 Institutional Strengths and Limitations

India's principal institutional strength lies in its network of constitutional and statutory mechanisms designed to coordinate national and State responsibilities.

However, the effectiveness of these mechanisms depends upon regular engagement, fiscal predictability and respect for State participation.

Germany's principal institutional strength lies in the direct involvement of the Länder in federal law-making through the Bundesrat.

However, this structure can increase the complexity of negotiations, delay reforms and make responsibility for decisions difficult to identify. The comparative analysis therefore reveals that no institutional design is entirely free from difficulties.

India must strengthen the practical effectiveness of its intergovernmental mechanisms, while

Germany must preserve the benefits of regional participation without allowing excessive complexity to weaken accountability and timely governance.

14. FINDINGS OF THE STUDY

The study produces several significant findings concerning the survival of cooperative federalism under political polarisation.

First, constitutional recognition is necessary but insufficient. Both India and Germany possess constitutional frameworks that recognise subnational governments and provide mechanisms for intergovernmental cooperation. Nevertheless, formal recognition does not automatically produce effective coordination. Institutional outcomes depend upon how constitutional powers are exercised and whether governments respect established procedures.

Second, political polarisation has both negative and potentially constructive consequences. Polarisation may encourage obstruction, blame-shifting and distrust. However, differences between national and regional governments can also expose weaknesses in public policy and protect regional interests. The constitutional objective should be to manage political disagreement rather than eliminate it.

Third, fiscal predictability is essential to federal stability. State governments and the Länder require adequate resources to perform their constitutional responsibilities. Uncertainty concerning financial allocations, revenue-sharing arrangements or expenditure obligations can undermine confidence between governments.

Fourth, meaningful participation strengthens institutional resilience. Germany's Bundesrat demonstrates the importance of providing regional governments with a constitutionally established role in federal law-making. India's GST Council illustrates the potential of shared decision-making, although its effectiveness depends upon meaningful consultation and respect for the constitutional powers of participating governments.

Fifth, institutional complexity creates both advantages and risks. Multiple consultation mechanisms can improve coordination, but poorly coordinated institutions may produce duplication, delay and uncertainty. Federal systems must balance participation with administrative efficiency.

Sixth, judicial review remains indispensable but cannot replace political cooperation. Courts can enforce constitutional boundaries and protect the federal structure. However, long-term cooperation requires governments to negotiate and implement decisions in good faith.

Seventh, transparency improves institutional legitimacy. Published decisions, clear fiscal calculations, reasoned explanations and accessible records can reduce suspicion and help

citizens understand the responsibilities of different governments.

Eighth, institutional continuity is essential during political transitions. Cooperative federalism cannot depend entirely upon personal relationships between political leaders. Its institutions must continue to function when governments change and political disagreements intensify.

Taken together, these findings support the hypothesis that cooperative federalism survives political polarisation when meaningful participation, fiscal predictability, transparent procedures and credible dispute-resolution mechanisms operate together.

15. SUGGESTIONS AND RECOMMENDATIONS

15.1 Strengthening the Inter-State Council in India

The Inter-State Council should operate through a predictable schedule of meetings rather than relying primarily on the emergence of immediate disputes. States should have meaningful opportunities to propose agenda items concerning matters of common interest. Meeting summaries should identify agreed actions, unresolved questions and the authorities responsible for subsequent implementation. Regular engagement would strengthen institutional memory and reduce the likelihood that disagreements develop into prolonged political confrontations.

15.2 Improving the Functioning of the GST Council

The GST Council should continue to promote negotiation between the Union and States while ensuring that major decisions are supported by transparent reasoning. Relevant financial information, revenue estimates and technical assessments should be circulated sufficiently in advance of meetings. Where substantial disagreement remains, the competing policy considerations should be recorded clearly, subject to legitimate confidentiality requirements. Such procedures would improve the quality of participation and help governments distinguish genuine fiscal concerns from political accusations. The Council's functioning should respect the constitutional position clarified in *Union of India v. Mohit Minerals Pvt. Ltd.*, particularly the relationship between its recommendations and the legislative powers of Parliament and State legislatures.

15.3 Ensuring Predictable Fiscal Arrangements

Fiscal relations should operate through clear and publicly accessible rules. The Union should provide timely information about transfers and explain significant adjustments or delays. The constitutional role of the Finance Commission should remain central to the principles

governing tax devolution and grants. Where centrally sponsored schemes create substantial administrative or financial responsibilities for States, consultation should take place before implementation arrangements are finalised. Predictability would reduce uncertainty and strengthen the capacity of States to plan public expenditure.

15.4 Respecting Constitutional Functionaries

Constitutional functionaries should exercise their powers in accordance with the constitutional text, judicial interpretation and established conventions. Disputes involving Governors, legislative assent or administrative directions should be addressed through transparent procedures and reasoned communications. Clear standards can help prevent disagreements from creating unnecessary uncertainty in the functioning of elected State governments.

15.5 Strengthening the Bundesrat's Accountability in Germany

Germany should continue to protect the Länder's meaningful participation in federal law-making while improving public understanding of the decisions reached through intergovernmental negotiations. Explanations accompanying significant legislative compromises should identify the principal policy considerations, financial implications and responsibilities of the Federation and the Länder. Greater transparency would help prevent shared decision-making from obscuring political accountability.

15.6 Improving Federal–Land Fiscal Coordination

Fiscal equalisation and expenditure arrangements should remain supported by clear criteria and accessible explanations. Governments should be able to understand how fiscal responsibilities are allocated and how differences in financial capacity influence distribution. Where disagreements arise, technical consultation should precede political escalation wherever practicable.

15.7 Establishing Effective Dispute-Resolution Procedures

Both countries should strengthen procedures for addressing intergovernmental disputes before they require prolonged litigation. Technical negotiation, structured mediation and specialised intergovernmental discussions can help resolve matters involving administration, expenditure or policy implementation. These mechanisms should complement rather than replace constitutional judicial remedies.

15.8 Improving Transparency and Public Accountability

Federal institutions should publish accessible information about their decisions, responsibilities and implementation commitments. Transparency should enable citizens to understand which government proposed a policy, which institutions participated in its development and which authorities are responsible for implementation. Public accountability is particularly important when political polarisation encourages governments to attribute failures to other levels of government.

15.9 Promoting a Culture of Constitutional Cooperation

The long-term survival of cooperative federalism requires a political culture that recognises disagreement as a legitimate feature of democracy. National and subnational governments should not be expected to share identical political preferences. They should, however, respect each other's constitutional authority and participate in procedures designed to reconcile competing interests. Constitutional cooperation becomes sustainable when governments understand that their political opponents may simultaneously be legitimate constitutional actors.

16. CONCLUSION

The survival of cooperative federalism amidst political polarisation is one of the central challenges confronting contemporary federal democracies. Federal systems must reconcile national objectives with regional autonomy while ensuring that governments possessing different political mandates can continue to perform their constitutional responsibilities.

Political polarisation makes this task more difficult by encouraging distrust, partisan obstruction and disputes over the distribution of power. Nevertheless, political disagreement does not inevitably destroy federalism. Its consequences depend substantially upon the institutions through which disagreement is expressed and resolved.

The comparative study of India and Germany demonstrates that cooperative federalism requires more than a formal division of governmental powers. It depends upon regular consultation, meaningful subnational participation, credible fiscal arrangements and respect for constitutional procedures.

India possesses several important mechanisms for intergovernmental cooperation, including the Inter-State Council, the Finance Commission and the GST Council. The Supreme Court has also contributed to the protection of federal principles through decisions such as *S.R. Bommai v. Union of India* and *Union of India v. Mohit Minerals Pvt. Ltd.* Nevertheless, the

effectiveness of India's federal structure depends upon ensuring that consultation is meaningful, fiscal arrangements are predictable and constitutional institutions remain capable of resolving disagreements.

Germany provides a different institutional perspective through the Bundesrat. By giving the Länder a direct role in federal law-making, the Basic Law creates a formal mechanism for regional participation in national governance. This arrangement can encourage compromise and prevent unilateral federal action. However, it may also produce delays, complicated bargaining and difficulties in assigning political responsibility.

The comparison demonstrates that neither system provides a perfect solution. Institutional participation can improve legitimacy but may complicate decision-making. Central coordination can promote uniformity but may weaken regional influence if it disregards constitutionally protected responsibilities. Fiscal redistribution can support equality but may generate conflict when its principles are unclear or perceived as unfair.

The principal lesson is that **cooperative federalism survives not by eliminating disagreement, but by ensuring that disagreement remains within a constitutional framework of dialogue, accountability and negotiated compromise.**

India can strengthen its federal institutions through more regular intergovernmental consultation, transparent fiscal procedures and meaningful State participation in decisions affecting regional responsibilities. Germany can preserve the strengths of the Bundesrat while improving the transparency and accountability of intergovernmental negotiations.

Ultimately, federal resilience depends upon the recognition that constitutional authority is distributed rather than monopolised. National and subnational governments may pursue different political objectives, but their responsibilities remain interconnected.

A resilient federal system does not require political harmony. It requires constitutional maturity, institutional reliability and a willingness to recognise that legitimate disagreement must be managed through lawful procedures rather than partisan exclusion.

The survival of cooperative federalism in India and Germany therefore depends upon the continuing capacity of constitutional institutions to transform political competition into constructive engagement. When this capacity is preserved, political polarisation may strain federal relationships, but it need not undermine the constitutional foundations of democratic governance.

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