
THE NEED TO REVISIT SCHEDULE 7 OF THE INDIAN CONSTITUTION AND LOOK AT THE RESIDUAL POWERS OF THE CENTRE

Tadepalli Aditya Kamal, KLE Law College, Bengaluru

ABSTRACT

The Constitution of India follows a federal structure that divides powers such as legislative, executive and financial between central and state governments. However, unlike other branches of government, the Constitution establishes a unified judicial system that enforces both central and state law, so there is no clear separation of the judiciary. Although the central and state have supreme powers in their respective fields, it is important that they work together and coordinate harmoniously to ensure the smooth functioning of the federal system. To stipulate the relationship between the Centre and the States, the Constitution contains detailed provisions, one of which is Schedule 7. The Seventh Schedule of the Indian Constitution provides for a three-part division of legislative matters between the Central and the States. These are classified as Schedule-I, also known as the Union List, Schedule-II, also known as the State List, and Schedule-III, known as the Concurrent List. The Constitution gives precedence to laws enacted on the Union List over the State List or Concurrent List. Similarly, laws passed by the Parliament on a concurrent list take precedence over laws passed by states on the same subject. This means the state does not have as much autonomy as it should under Schedule 7. I therefore review Schedule 7, taking into account the intentions of the original Constitution, taking into account the historical context of the current distribution of power, and taking into account the developments that have taken place in the decades since its adoption.

Keywords: Schedule 7, Autonomy for States, Federal Structure

Introduction

The Constitution of India, adopted in 1950, proved to be durable and Indian democracy is a testament to the foresight of the Constituent Assembly. The framers of the Constitution carefully considered the relationship between the central government and the state. Unlike classical federations, Indian federalism is a model of "holding together" where sovereignty comes from a written constitution imposed from above. This made it possible to create a centralized model of federal relations. Having a written constitution ensures that the different levels of government are equal and derive their authority from the same source. This differs from the tradition of parliamentary sovereignty characterized by unwritten constitutions. Therefore, a review of the constitutional provisions is essential to ensure the continued strength of Indian democracy. India is a union of states and states are not allowed to secede from the union. Union and states have common institutions and instruments like one constitution, one citizenship, common all-India services, common election commission and common judiciary. Legislative power is divided between the Parliament and the State Legislatures in accordance with Article 246 of the Constitution, which contains three lists - the Union List, the State List and the Concurrent List. Recent amendments have added Article 246A which deals with special provisions for Goods and Services Tax (GST) outside the list framework of the Seventh Schedule.

Article 248 authorizes parliament while Article 254 resolves issues of reluctance in favor of parliament. Article 249 authorizes the Parliament to legislate in the sphere of the States if it is necessary for the national interest. Article 252 gives Congress the power to enact laws of two or more states by consent, and the laws apply to those states and to other states subsequently approved by resolution. Article 253 recognizes the power of Congress to legislate to implement international treaties. Under Article 250, Parliament has the power to legislate in an emergency on any matter in the State List.

India's federal system has been criticized for its moderate degree of complexity, leading to claims that India does not follow a pure federal model. Indian federalism has been described as quasi-federal or federal in form only, but because of this feature it is unitary. However, these claims require further investigation. It is noteworthy that the 73rd and 74th Amendments to the Constitution introduced local government by making provisions for panchayats and municipalities that completed the constitutional scheme. Current approaches to the study

of Indian legislative relations have focused primarily on functional issues and cooperation in federal relations, with legal scholars primarily interpreting individual contributions and their interactions in the Seventh Schedule. While these approaches highlight important issues, they do not thoroughly explore the structural features of the schedule itself. This article presents a new principled approach that considers appropriate placement, addition of new entries and removal of obsolete entries from the seventh list. Regular review of records is necessary to maintain the integrity of the lists, which is an important feature. This exercise can be compared to cleaning up constitutional cobwebs to ensure that the constitution works effectively. But such cleaning must follow established principles that stand the test of time. These principles include both old principles such as unity and integrity and balanced economic development, which currently underlie the separation of legislative powers, as well as new ones such as cultural diversity and responsive governance arising from the analysis of Indian federalism.

Pre – Independence History of the Seventh Schedule of the Indian Constitution

British India was a single state until 1937 when the Government of India Act 1935 came into force. Prior to that, the Indian Council Act of 1861 established state councils represented by Indians, with elected judges and village councils. This was introduced by his Lord Ripon resolution of 1882. However, all state authorities primarily function as representatives of the central government. The 1935 Act, the culmination of round table discussions, established a federal system in India by creating separate entities and amalgamating them into one Act, similar to what happened in British Canada. bottom. Rule of the North. American Act 1867. During British rule in India, there was a gradual realization of the need for partition and decentralization, reflecting the historical trend of decentralization in the Indian subcontinent. This approach was reflected in the Government of India Act of 1909, which further strengthened the Provincial Councils created under the Act (1861), increasing Indian representation.[1]

The Government of India Act 1919 is an important milestone in relation to the preparation of the 7th Schedule of the Constitution of India. The Act, (1919) based on the Montague-Chelmsford Report, divided the administration in two: central and provincial spheres. Sections 45-A and 129-A of the Act (1919) authorized the Governor-General in Council, with the permission of the Secretary of State in Council, to make regulations for the classification

of subjects connected with the functions of Government. central or county affairs. No concurrent list was provided for and the Center was given additional powers.

The Government of India Act, 1919 introduced a system of dividing matters of administration into two lists: the central list, which included subjects of all-India concern requiring uniform treatment such as defence, communication, foreign relations, customs, income tax, and criminal law, and the provincial list, which included subjects predominantly of provincial interest such as education, medicine, public health, public works, and land tenures.[2]

At the local level, a 'biarchy' or dual government system is instituted, with certain subjects delegated to Indian ministers responsible for elected state legislatures, and others 'reserved', with state governors and their retained by the government. The Act of 1919 [3] also divided the sources of income between the Center and the provinces.

The tendency to give more autonomy to the provinces continued, leading to the Government of India Act of 1935, which abolished diarchy. Under the Act, (1935) the provinces were recognized as the legitimate exercisers of legislative and executive power within their own spheres, a key quality of a federation. The Act also established a system of dividing legislative power into three lists, which are preserved in the Constitution of India (Constitution of India), where the remaining powers belong to the Governor-General.

The Nehru Report of 1928

The Government of India Act of 1935 was influenced by ideas discussed in various reports of the previous decade. A 1930 report of the Indian Law Commission, also known as the Simon Commission, recommended the development of India into a federation of self-governing bodies with full autonomy within the states, including the Department of Law and Order. In response to the absence of Indian representation on the Simon Commission and objections from British administrators, leaders of the independence movement produced his 1928 Nehru Report. The commission that prepared the report was led by Motilal Nehru and included prominent figures such as Subash Chandra. Bose, Sir Ali Imam, Tej Bahadur Sapru, M.R. Jayakar and Annie Besant, with Jawaharlal Nehru serving as secretary.

The Nehru Report proposed two list systems for distributing issues between the two branches of government. Section 13 List I is for Congress, Section 34 State Legislature is List II.

Namely, there were only 47 substances in List I, while there were 63 substances in List II and there was no concurrent list. The supremacy of the central government and parliament was ensured by the inclusion of clause 14A, which allows them to suspend or cancel the executive and legislative activities of the provincial government in case of emergency or interprovincial conflict.[4] The report of the Joint Committee on Indian Constitutional Reforms (JCR), (1934), which led to the enactment of the Government of India Act in 1935, provided the rationale for legislative power-sharing as an essential feature and instrument of provincial autonomy. its scope. The commission felt that a wide division of legislative powers was necessary to enable the provinces to have real autonomy and self-determination of their own jurisdiction. At the time, given the conflict over federal and state government powers, it was believed that a detailed enumeration of powers would help reduce disputes between the Center and the states over jurisdictional boundaries.

Transformation from a “Weak Centre” to a “Strong Centre”

The Constitution of India was drafted by the Constituent Assembly under the Cabinet Mission Plan (CMP), which initially proposed a federal structure with the responsibilities of the Union and the rest of the powers vested in the state governments. However, the Constituent Assembly finally decided in favor of a "centralized republic with a strong center" [5] to prevent the partition of India and to facilitate the integration of the princely states in the Union of India. Dr. B.R. Ambedkar, a prominent member of the Constituent Assembly, was applauded when he expressed support for a strong center similar to the Act of 1935 [6]. When the decision to divide the country was confirmed with the publication of the Mountbatten Plan on 3 June 1947, the content of the deliberations of the Constituent Assembly changed significantly. The Union Constitutional Commission, chaired by Jawaharlal Nehru, met on 5 June 1947 and stated that the Constitution of India was a federal system with a strong center and three legislative lists, with the remaining powers vested in the Commonwealth rather than the States. This decision was later confirmed by the Constituent Assembly.

At the same time, the Union Powers Commission (UPC), also chaired by Jawaharlal Nehru, announced that the powers of the Cabinet would no longer exist as a result of the split and that the Commission would no longer be bound by "restrictions on the scope of its powers." bottom. The UPC unanimously believed that a weak central authority would undermine national interests and said a coalition with a strong central authority was the wisest

constitutional framework. The federal and state legislative powers reacted strongly to the UPC's report. The UPC also suggested that the three-list system of the Act (1935) was the most satisfactory arrangement, but the CMP's proposal and Unlike the union, the union should retain the remaining powers. The pain of division therefore played an important role in the decision of the Constituent Assembly to create a constitution with a strong tendency towards unity in India.

Voices of dissent against Over – Centralization

The Constituent Assembly later agreed to create India as a federal state with a strong center, but there were dissenting voices in that assembly in favor of decentralization and greater national autonomy. Many members supported the creation of a third tier of government. These discussions were based on three main pillars. Decentralization to enable meaningful participation of local people, ensuring greater accountability, and enabling policies adapted to local conditions. A prominent critic of the consensus view was K. Santhanam, who later chaired the 2nd Finance Committee. Santhanam believed that a broad simultaneous electoral list would inevitably lead to a gradual erosion of state governments' legislative powers. He noted the following:

"Over time, the inevitable political tendency of all federal constitutions is for the federal list to grow and the parallel list to become obscure, because when the central parliament assumes jurisdiction over a particular legislative area, the jurisdiction of the provincial parliament disappears" [7]

Mr. Santhanam opposed the constitutional system even after India's independence. In April 1970, he presented a paper on Union-state relations in the National Assembly, in which he reiterated his position on a small list of trade unions consisting only of important all-India issues. An excerpt from his presentation is as follows:

"...a strong center is essential if India is not to 'fall apart and crumble into chaos'. But do not agree with those who equate strength with formal constitutional powers. On the other hand, I strongly feel that taking too much responsibility on The scattered broad population of India, the center becomes irreparably weak. Parliament and the central government can only be real if they focus on important all-India issues and refuse to share responsibility in such matters with the states, while giving the states complete autonomy in other areas of administration.

strong The trend of vague, unhealthy paternalism that overshadowed the one-party rule of Indian federalism in the first two decades of independence is as bad for the Center as it is unpleasant and provocative for the states[8].

A few individuals of the constituent gathering contended that a solid central specialist did not fundamentally require an broad union list, which the choice between common independence and central specialist was not a zero-sum diversion. For occasion, amid the discourse on the 2nd report of the Union Powers Committee in July 1947, Himmat Singh Maheshwari, a part from Sikkim and Cooch Behar Gather, emphasized that a solid middle might coexist with solid territories or states. He expressed, "The crave of this House to make a solid Middle may be a authentic want; but I fear it is now and then overlooked that a solid Middle does not essentially cruel a frail Territory or a frail State." So also, amid the movement to examine the draft structure, Arun Guha, a part from West Bengal, communicated a comparable assumption, expressing that whereas a solid middle was essential, it ought to not come at the taken a toll of powerless areas or states. He said, "We require a solid Middle; but that does not cruel that its appendages ought to be frail. We cannot have a solid Middle without solid limbs." [9]

Post Independence Changes to the Seventh Schedule

Since gaining independence, there has been a gradual but significant expansion of the Unions and Contemporaneous Lists of the Indian Constitution at the expense of the State Lists. It was configured, but now it has increased to 100. In contrast, the Government of India Act of 1935 included only 59 entries in the union list. Similarly, the list at the time had 47 subjects in its original composition, but has now grown to 52. In contrast, the 1935 Act's contemporaneous list contained only 36 items. On the other hand, the state list in 1950 included 66 subjects, now reduced to 61. This expansion of unions and concurrent lists was brought about by his nine constitutional amendments that made substantial changes to the 7th Schedule. Surprisingly, members of the Legislative Assembly (MLA) of Tamil Nadu's ruling Dravida Munetra Kazagam (DMK) government objected to moving education from a state list to a parallel list until 2021. , none of these changes were legally challenged. Constitution (42nd Amendment) Act 1976, section 57. This was the case of the *Aram Seyya Virumbu Trust v. India Coalition* [10]. According to media reports, the Madras Supreme Court received public interest cases and he formed a tribunal of three judges to hear and decide the cases.

Some of the amendments done in the Seventh Schedule and their impact is as follows:

1. 3rd Amendment – 1965 : The amendment expanded the scope of entry 33 in the concurrent list, which previously dealt with essential commodities. Before the amendment, the production, supply, and distribution of other goods were included in entry 27 of the state list. However, the amendment added "foodstuffs (including oils and oilseeds)", "cattle fodder", "raw cotton", and "raw jute" to entry 33 of the concurrent list. The amendment was enacted to enhance the powers of the union government in regulating commerce related to essential commodities, given the prevalent situation of food scarcity in the country. As a result of the amendment, the balance of power shifted in favour of the union government with regards to regulating commercial activities in India.
2. 42nd Amendment – 1976 : The amendment introduced several changes to the distribution of powers between the union and state governments in India:
 1. A new Entry 2A was added to the union list, granting the union government the authority to deploy its armed forces in states to assist civil power.
 2. Entry 2 of the state list, which dealt with police, was modified to account for the union government's power to deploy armed forces in states.
 3. The phrase "Administration of justice; Constitution and organization of all courts, except the Supreme Court and the High Court" was removed from Entry 3 of the state list and added as a new entry 11A in the concurrent list.
 4. Four entries in the state list, namely Entry 11 (education, including universities), Entry 19 (forests), Entry 20 (protection of wild animals and birds), and Entry 29 (weights & measures), were removed and transferred to the concurrent list.
 5. A new Entry 20A was added to the concurrent list, relating to "population control and family planning."
 6. Entry 55 of the state list, which pertained to tax on advertisements except newspapers, was modified to exclude the power of the state government to tax advertisements in radio and television.

The 42nd Amendment, which was passed during the Emergency period, resulted in a significant reduction in the legislative powers of the states in India. This was achieved by transferring major subjects from the state list to the concurrent list, thereby diluting the scope of state governments' authority.

3. 101st Amendment – 2016 : The 42nd amendment made several changes to the union and state lists in relation to taxation. Entry 84 in the union list, which dealt with the power to impose excise duty, was replaced with a targeted list of items for excise duty, limited to petroleum and tobacco products. Entry 92 and Entry 92C, which pertained to tax on newspaper sales and levy of service tax, respectively, were deleted from the union list.

In the state list, Entry 52 and Entry 55, which dealt with tax on entry of goods in local area and tax on advertisements, respectively, were deleted. The scope of Entry 54, which pertained to tax on sale and purchase of goods, was reduced to only include alcoholic and petroleum products. Entry 62 of the state list, which dealt with tax on luxuries, entertainment, and amusements, was replaced with a more limited entry that allowed only local bodies to collect additional taxes on entertainment and amusements. The amendment brought about a significant overhaul of the indirect tax system in India through the introduction of the Goods and Services Tax (GST).

Shortly after independence, the implementation of legislative divisions between unions and state governments began to face problems. The establishment of planning commissions, the proliferation of centrally funded Section 282 programs, the diversity of government action, and the overriding action of union adjudication powers over Plan 7 have increased A disputes. As a result, the constitution's enumeration of legislative powers did not accurately reflect the actual distribution of power among governments.

Union's Treaty – making Power Overshadowing the Seventh Schedule

According to Section 73 and Section 253 and Entry 14 of the Union List, the Executive Branch of India has the power to conclude treaties and agreements with foreign countries. This gives the executive branch considerable flexibility in international negotiations without requiring parliamentary approval, as there is no specific act of parliament regulating government contracting powers. Note, however, that any treaty made by India becomes the law of that country only if the parliament passes a section 253 law implementing treaties,

agreements and agreements with other countries. Article 253 of the Constitution, notwithstanding the provisions of Articles 245 to 252, takes precedence over the legislative system set forth in the Seventh Annex, which gives Congress legislative power to enforce foreign treaties or obligations. increase. The wording of Section 253 implies that the Indian Parliament has the power to legislate also on subjects on the national list to implement international agreements. The Constitution does not require formal consultation with state governments before the passage of such laws, and it is not customary to obtain the consent of the public before entering into contracts. It has been emphasized that when the federal government enters into treaties involving state list issues and that have a significant impact on the states, they often do not consult the states in advance[11]. This concern was also recognized in his 2010 Punchhi Commission report[12]. He notes that :

“An issue which has caused concern among the States in recent times is the impact of the Union executing international treaties and agreements involving matters in the State List...Some States in this context have approached the Supreme Court complaining that the area of legislative competence of States is being eroded indirectly by the Union Government entering into treaties with other countries...The exercise of the power obviously cannot be absolute or unchartered in view of the federal structure of legislative and executive powers.”

The Government of India Act, 1935 had a similar provision to Article 253, which was section 106. This provision prevented the federal government from enacting laws on provincial subjects in order to fulfil international obligations without the consent of the governor[13]. Article 253 in its current form was included in the Indian Constitution to avoid a constitutional crisis that arose in Canada due to a decision by the Privy Council in the case of Attorney General for Canada vs. Attorney General for Ontario and Others[14]. In that case, certain enactments of the Canadian parliament, which regulated labour conditions and fell under provincial jurisdiction, were invalidated by the court. The union government in Canada had attempted to justify these enactments by arguing that they were necessary to implement international conventions that had been ratified by Canada.

The court interpreted that “The Dominion (referring to Canada) cannot acquire legislative authority that is inconsistent with the Constitution merely by making promises to foreign countries. It should not be assumed that the decision implies that Canada is unable to legislate to fulfil treaty obligations. In terms of the total legislative powers of both the Dominion and

the provinces, Canada is fully equipped. However, the legislative powers are distributed among different levels of government. Therefore, if Canada incurs obligations as a result of its new international status, and these obligations pertain to subjects that fall within provincial jurisdiction, they must be addressed through cooperation between the Dominion and the provinces in the legislative process.”

The issue of full decision-making authority for the federal government has been raised by several state governments in India, alleging that this is causing irreparable damage to the country's federal balance. In the case of *P.B. Samant v. Union of India*[15], the Bombay High Court had to determine the validity of the union government's entry into the World Trade Organization (WTO) framework without consulting the states. The argument goes that the Dunkel proposal, which is being debated by the federal government as part of the Uruguay Round of trade negotiations under the GATT (General Agreement on Tariffs and Trade), deals with issues that fall under state monopoly powers, such as agriculture. It was something. Irrigation, cotton, etc. Therefore, the Public Interest Litigation (PIL) argued that the federal government could not reach agreement on these proposals without obtaining state approval. However, the court dismissed the petition, ruling that the federal government had the power to make decisions on these matters without consulting the states.

The Lokpal and Lokayuktas Act of 2014 was passed by the Indian parliament following a nationwide anti-corruption movement led by Anna Hazareth. However, because a state-level ombudsman was created, the question of legislative authority was raised during discussion of the bill, and state officials are listed on the state list at entry 41, raising concerns about interference with state authority. arose [16]. The federal government justified the bill, saying it was introduced to implement the UN Convention against Corruption, which was adopted by the UN General Assembly in October 2003 and ratified by India in May 2011. . Section 253 and Entry 14 are also sometimes used as a pretext to justify union law on national subjects after the fact.

Factors which led to Abdication of Responsibility by the State Governments for delivering Public Good

A combination of four factors—the establishment of planning commissions, the prevalence

of Central Sector Planning (CSS), the overwhelming power of union governments to legislate according to international obligations, and the doctrine of implied powers—results in the state's commitment to public responsibility. We are gradually waiving responsibility for the provision of As a result, the public has increasingly relied on the federal government to meet these expectations. This trend is reflected in the dire financial situation of all state distribution companies, even though power is a concurrent problem and distribution is the state's responsibility. The financial problems of the state power company, which has long been in losses and debt, forced the union government to implement the Ujwal Discom Assurance Yojana(UDAY) program to help restore operations and finances. Like Dr. Bibek Debroy, he emphasized that there are many examples of states avoiding responsibility, even for matters that fall on the state's list. For example, state highways may be reclassified as national highways to ensure proper maintenance. The COVID-19 pandemic has also highlighted the need for union governments to be more flexible in legislation on health-related issues such as vaccination. Law and order are matters of states, but states often turn to paramilitary forces for help in times of crisis.[17].

Division of Labour or Distribution of Power

India was ruled uniformly from 1773 to 1947, leaving a lasting imprint in collective memory. Even the federal system proposed in the 1935 Act was not implemented due to the lack of support from the monarchy states and was postponed indefinitely during World War II. M.G. As pointed out in the article, Indian administrative folklore has historically been centralized due to uniform governance[18]. This prejudice was further reinforced by the dominance of the parliamentary party in the post-independence decades, the establishment of planning commissions, and the proliferation of centrally funded programs. The principle of has further strengthened this trend towards centralization. The centralization of federalism in India has given the federal government a disproportionate role in the socio-economic development of the country. In both executive and legislative action, the federal government has often intervened in matters more suited to state governments. Chapter 8 of the Venkatachaliah Commission Report emphasizes that a strong and healthy relationship between the Union and the States is essential, as the States are an integral part of the whole. The report also stressed that many of the problems facing India are rooted in the tendency to centralize power and abuse of power, and the need for a balanced distribution of power between the federation and the states. is emphasized. This approach has shown its limitations over the last three

decades when the country's politics and economy have undergone structural changes. Gone are the days of one-party rule in India, with both federations and states managing the inevitable tensions arising from a centralized federation. Political parties now compete and cooperate with each other at both levels of government. The liberalization of the Indian economy in 1991 and the process of decentralization in 1993 led to the establishment of local bodies in panchayat and cities with a mandate to promote economic development and social justice, as well as an alliance between unions, state governments and local governments. Responsibilities have been rebalanced and socio-economic planning is underway. However, the Indian constitution has not kept up with these developments, and personal relations, rather than constitutional principles and norms, are the driving force for smooth union-state relations. This contradiction between constitutional institutions and regulatory realities is manageable in normal circumstances, but becomes apparent in crises such as the COVID-19 pandemic.

The Future of the Seventh Schedule

The federation aims to find a balance between local aspirations and national needs. This balance is dynamic as governance bodies are aligned with the political process. Therefore, it is important to regularly inspect and repair the dressing piping to maintain its effectiveness. The current division of legislative and executive powers in the Seventh Schedule of the Indian Constitution, which is largely based on the Government of India Act, 1935, calls for such periodic review. The Government of India Act of 1935 minimized the transfer of power to the Indians because foreign rulers did not allow Indians to exercise excessive power in the provinces, leaving the colonial administrators with But what might have been a proper apportionment in 1950, when the Indian Constitution was drafted, may not be so today[19]. Several state governments, in their filings to the Punch Commission, stated that the centralization argument that existed during the drafting of the Indian Constitution no longer holds and that a conscious policy of strengthening the list of states is needed. Today, India's capabilities and ambitions are different from the fear and anxiety that dominated the debates of its Founding Fathers and Mothers in the Constituent Assembly. Therefore, the governance approaches required in previous eras of political integration may not be suitable for the next era of economic transformation that the country needs.

1. Changing National Context - Increasing Salience of States : The changing political system

and economic realities in India have contributed to strengthening the federal impulses of the Constitution and addressing the issue of over-centralization that prevailed in the initial decades after independence. Some of these trends include the emergence and dominance of non-Congress parties since 1989, resulting in a 25-year period of coalition governments at the national level. There has also been a shift away from centralized economic policymaking and a reduced role of the Indian state in the country's economic affairs after the 1991 reforms. Additionally, the Supreme Court has intervened to protect the stability of state governments by limiting the powers of the central government under Article 356 and recognizing federalism as a fundamental aspect of the "basic structure" of the Indian Constitution.

2. **Decentralization in India's States :** In 1992, the 73rd and 74th constitutional amendments were introduced, recognizing rural and urban local bodies and assigning them specific functions under the 11th and 12th schedule of the constitution. This was aimed at promoting democratic decentralization and making development planning more responsive to regional and local needs. As a result, each state in India now functions as a federation with five levels of government below it, including district, block, and village levels. The allocation of responsibility and resources between these authorities is currently undergoing a process of balancing. The central government is also striving for a more equitable sharing of burdens with state and local governments in the realm of social development, despite the challenges highlighted in the report on the functioning of local governments in India. Rural and urban local bodies play a crucial role in delivering public goods.[20]
3. **Principle of Subsidiarity:** The principle of subsidiarity, which is the foundation of federations, advocates for addressing economic, social, and political issues at the most local level of governance possible, as it is believed that local governments are more attuned to the needs and preferences of citizens[21]. This principle is based on the idea that public goods and services should be provided by the lowest level of government feasible. There is extensive literature supporting the benefits of decentralization in various countries, and subsidiarity has even been incorporated into the governing principle of EU institutions through its formal inclusion in Article 5 of the Treaty of European Union.

According to this paradigm, governmental functions are best carried out by the smallest possible unit of governance that is closest to the citizens, with higher levels of government intervening only when local entities are unable to efficiently fulfil the task. In the Indian

context, Mahatma Gandhi and Pandit Deen Dayal Upadhyay were advocates of decentralization as a means to strengthen democracy, envisioning village panchayats and self-governing local bodies as the foundation of the administration, with the union government serving as the apex of the pyramid. This aligns with the principle of subsidiarity, as it entrusts lower levels of administration with responsibilities to avoid over-centralization and its negative consequences. Even the current Prime Minister of India has alluded to this principle, emphasizing the importance of delegation, decentralization, and empowerment in governance.

The size of the area under the jurisdiction of a government also determines the powers allocated to it. In a federal government, which has authority over all citizens of the country, matters of national importance and common interest are typically assigned to higher levels of government. This includes policies related to security, defence, foreign policy, macroeconomic stabilization, and redistribution. Scholars often distinguish between necessary powers, such as those related to defence, international relations, foreign trade, interstate commerce, and communication, and desirable powers for the sake of efficiency and economy, such as those related to currency, coinage, weights and measures, and procedural law.

However, in practice, there can be considerable debate on how the principle of subsidiarity applies in specific cases. Matters of purely local interest should be vested in local units of government. However, it can be challenging to categorize governance subjects into distinct categories of "local interest" and "national interest". This distinction becomes even more subjective in the case of social legislation that may have both local and national implications. Therefore, the division of subjects must be resolved in consideration of social, economic, and psychological factors in the Indian context.

Conclusion

The success of the federation and the ideal distribution of power between the various levels of government are complex issues facing federal systems around the world. Decentralization of power is an important factor, but not the only reason, and it prevents state and local governments from contributing more effectively to India's development process, despite India's trend towards centralization. I'm here. The diagnosis of weak government capacity in India is not only due to poor decentralization. For example, the financial problems of various national energy companies demonstrate inefficiencies at the state level. Expanding the

autonomy and powers of states, cities and local governments is a necessary but not sufficient condition for improving efficiency. In the context of India, it makes sense to think of federalism as a tool for providing public goods. There, the distribution of power becomes a practical rather than a mere philosophical issue. Beyond the formal allocation of subjects, all three of his levels of government must be held accountable for the responsible exercise of power over voters. They also need to consistently work together for the common good by coordinating efforts, pooling resources for synchronized spending, and sharing information in a timely manner[22]. The ideal enumeration of powers within the Commonwealth has always remained complex, with no clear right or wrong answers. The long-term success of the revision of the Seventh Schedule of the Indian Constitution will depend on the government's ability to adapt to changing times. The federal government needs to reduce its burden on certain issues and Indian states need to improve their institutional capacity and expertise to cope with their new responsibilities. The Indian bureaucracy will need to realign its priorities and processes, and the norms and procedures of unions and state legislatures may need to evolve. The Indian judiciary may need to rethink outdated principles of law interpretation. Finally, the Indian people must recognize the importance of an efficient separation of powers to improve their well-being.

ENDNOTES:

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13. SECTION 106(1) OF GOVERNMENT OF INDIA ACT, 1935: “The Federal Legislature shall not by reason only of the entry in the Federal Legislative List relating to the implementing of treaties and agreements with other countries have power to make any law for any Province except with the previous consent of the Governor, or for a Federated State except with the previous consent of the Ruler thereof.”
14. Attorney General for Canada vs. Attorney General for Ontario and Others (1937 A.C. page 326)
15. P.B. Samant v. Union of India (AIR 1994 Bom 323)
16. ENTRY 41 OF STATE LIST: State public services; State Public Service Commission. But Lokayukt created under a union law has jurisdiction over state officials.
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