

# Strengthening Horizontal Federalism in India: A Comparative Study with the U.S.A. and Australia

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## Abstract

Federalism entails a dual distribution of power across two dimensions. The vertical dimension governs the relationship between the Union and the States, while the horizontal dimension regulates inter se relations among the States. Scholarly discourse has predominantly concentrated on the vertical aspect, with comparatively limited engagement with the horizontal dimension.

This paper seeks to address that imbalance by advancing the case for strengthening horizontal federalism in India as a means of effectively and efficiently resolving longstanding inter-State disputes. It undertakes a comparative analysis of horizontal federal arrangements in the United States and Australia. In this context, the work of Professor Allan Erbsen of the University of Minnesota Law School is particularly instructive in elucidating the concept, structure, and jurisprudential foundations of horizontal federalism.

Building upon this theoretical framework and comparative insights, the paper identifies structural deficiencies within India's existing federal scheme. It further aims to distil normative principles that may guide the formulation of constitutional mechanisms to reinforce and institutionalise horizontal federalism in India.

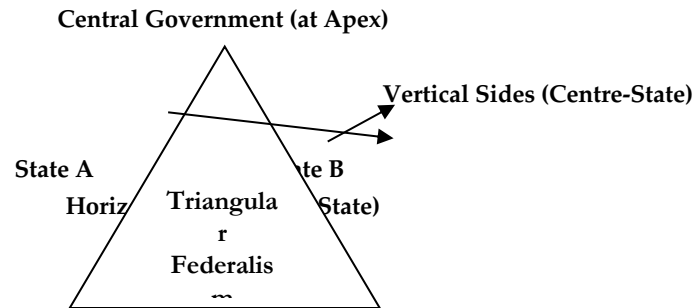
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## 1. INTRODUCTION

The constitutional law of any country, under a federal structure, distributes powers in two dimensions, namely: vertical dimension (also referred to as vertical federalism, which establishes a relationship between the centre and the states) and horizontal dimension (also referred to as horizontal federalism, which establishes a relationship between the States). The effective working of the federal structure relies on both dimensions. However, while reviewing the extensive literature, most scholars put an emphasis upon building a vertical federal structure, while only a few have given attention to the horizontal federal structure. The interaction of intergovernmental relations is commonly termed horizontal federalism. It encourages the States to work together and form coordination, and take collective measures on common issues. It regulates an action of the State with another State with a view to ensuring that it does not affect the unity of the nation.

An analysis of horizontal federalism helps us to understand the conflict between multiple states and how to resolve those conflicts with effective and efficient measures. According to Professor Allan Erbsen, from the University of Minnesota Law School, the existence of multiple states limits the power of each other and shapes the capacity of the states to act on behalf of their authority, citizens, or institutions. To comprehend the limitation of the multiple states and capabilities to act over common issues requires the interdependence of both dimensions of federalism, i.e., horizontal as well as vertical, because of this interdependence, the structure is formed in a triangular shape, often termed as the triangular form of federalism. The triangular model of federal structure refers to the interplay of the central government at the apex as a supreme constitutional authority. In the triangular form, two vertical sides represent the interaction of the centre-state relation, and the horizontal base represents the interaction between multiple states. This structure explains how powers are split and disputes arise, which are corrected in the federation. The

central government carries out a supervisory and coordinating function, it ensures that both centre-state and interstate relations work within constitutional limits.



The vertical edges of the triangle represent the flow of power and responsibility between the national and state governments. Constitutional provisions of the Centre can legislate, guide, or interfere when necessary for the maintenance of national unity and constitutional order. The horizontal base stands for relations between States on which there might be misunderstandings on common issues such as demarcation of territorial boundaries, sharing river water and migration between States.

## 2. HORIZONTAL FEDERALISM: CONCEPT AND STRUCTURAL FRAMEWORK

Horizontal federalism rests on the distribution of authority both between the Union and the States and among the States themselves. In this framework, the Union assumes a pivotal role in shaping the institutional contours of horizontal federalism. Where inter-State disputes arise on matters of common concern, the Union facilitates their resolution within an overarching constitutional structure, ensuring that such conflicts do not compromise national unity.

The Constitution, in most instances, does not accord primacy to any particular State. Rather, any conferment of authority upon States to address shared concerns must emanate from constitutional provisions. In the absence of a uniform rule governing the resolution of inter-State disputes, the system instead operates through certain guiding constitutional principles—namely, (a) coequality, and (b) aggregated power.

### 2.1 CO-EQUALITY

The principle of coequality is rooted in the constitutional doctrine that all States within a federal system possess equal dignity, authority, and status, regardless of their territorial size or demographic strength. However, in the Indian context, the historical evolution of the Constitution—particularly the reorganisation of States—complicates a straightforward application of this principle. Such reorganisation has, at times, left inter-State disputes inadequately addressed, often exacerbating them rather than facilitating resolution through dialogue and negotiation.

Notwithstanding these challenges, the notion of coequality finds clear expression in Article 1 of the Constitution of India, which characterises India as a “Union of States.” This formulation underscores that each State enjoys equal constitutional standing, respect, and authority, thereby fostering a cooperative federal ethos. The principle is further reflected in the Fourth Schedule, which governs the representation of States in the Rajya Sabha (Council of States). Although representation is broadly apportioned on the basis of population, it nevertheless ensures that States participate meaningfully in the national legislative process.

Accordingly, within the framework of horizontal federalism, the effective management of inter-State relations is contingent upon recognising and treating States as equal partners.

### 2.2 AGGREGATED POWER

Aggregated power reflects a constitutional arrangement that delineates the scope of authority of the Centre while simultaneously limiting the powers of the States. It embodies a framework designed to ensure that State actions do not undermine national unity. The Constitution of India operationalizes this through a structured distribution of legislative subjects across three lists under Schedule VII—namely, the Union List (List I), the State List (List II), and the Concurrent

List (List III). While these lists confer substantial law-making authority upon the States within their respective domains, any inconsistency triggers the doctrine of supremacy, whereby Union law prevails.

A review of the scholarly discourse on federalism reveals a disproportionate focus on vertical federalism, with comparatively limited engagement with horizontal federalism. This imbalance has contributed to the relative underdevelopment of constitutional and institutional mechanisms governing intergovernmental relations among States. The constitutional text itself offers only broad guidance for resolving disputes arising from inter-State conflicts, particularly where one State's actions affect another. In practice, the application of these provisions often remains mediated or constrained by the Centre, thereby enabling situations where States may act in ways that create friction with one another.

Consequently, the question of how power ought to be structured and balanced among the States themselves remains insufficiently addressed. Engaging with this issue requires a deeper jurisprudential exploration of horizontal federalism and its normative foundations.

### 3. CONCEPTUAL FOUNDATIONS AND JURISPRUDENTIAL BASIS OF HORIZONTAL FEDERALISM

Horizontal federalism rests on the idea that States are capable of acting in pursuit of shared or common interests. This possibility emerges from the constitutional grant of autonomy, enabling States to exercise authority within their respective spheres. Within a federal framework, however, the ultimate locus of power lies with the Union, where sovereignty is either concentrated or from which the distribution of powers originates. A foundational legal principle remains that States must operate within the limits of their constitutionally defined authority.

The capacity of States to act in furtherance of common interests can be understood through three key considerations. First, a State may act only within the boundaries prescribed by the Constitution. Second, Parliament retains the competence to impose restrictions on State powers. Third, although States possess the capacity to act, the centralisation of authority in Parliament may constrain such action; yet, these constraints may, on grounds of comity and mutual respect, yield when the interests of another State are implicated. These considerations illuminate the functioning of horizontal federalism. The concept may be affirmed or contested, particularly in situations where formal agreements between two or more States limit their sovereign authority and give rise to binding legal rights and obligations among them.

#### 3.1 CAPACITY

Horizontal federalism operates on the principle that individual states possess the agency to collaborate toward mutual goals. This cooperative potential is rooted in constitutional autonomy, which allows states to govern within their specific jurisdictions. However, this autonomy exists within a broader federal structure where the central government (the Union) remains the primary source of sovereignty and the architect of power distribution. Crucially, any state action is legally tethered to the specific boundaries defined by the constitution. To understand how states pursue these shared interests, three primary factors must be considered. **Constitutional Compliance** which means that a state's authority is strictly limited to the powers explicitly granted to it by the governing document. **Parliamentary Oversight** that entails that the central legislature maintains the legal right to regulate or limit the scope of state powers. Thirdly, **the Balance of Comity** which emphasises that while centralized power can restrict state initiatives, the Union may step back to allow for inter-state cooperation, guided by the principles of mutual respect and "comity" between regional governments.

Ultimately, horizontal federalism is most visible—and most debated—when states enter into formal pacts. These agreements can effectively modify their own sovereign authority by creating legally binding obligations to one another, showcasing both the flexibility and the friction inherent in a federal system. The system is nevertheless prone to limitations which have been defined by three primary jurisdictional principles: territoriality, the "effects test," and power over residents. Fundamentally, as established in *Pennoyer v. Neff* (9 U.S. 714 (1877)), a state possesses near-absolute sovereignty within its own borders but generally lacks the power to regulate activities occurring outside its territory. However, this boundary is not rigid; under the "effects test" validated in *Calder v. Jones*, (465 U.S. 783 (1984)) a state may exercise jurisdiction over out-of-state actions if those activities produce significant, substantial impacts

within its own borders. Furthermore, states maintain a degree of authority over their own citizens and institutions regardless of their location, a concept seen in *Curry v. McCann* (307 U.S. 357 (1949)) where a state was permitted to tax a resident's out-of-state property. Yet, this personal jurisdiction is strictly balanced against the territorial rights of other states, as evidenced in *Treichler v. Wisconsin*, (338 U.S. 251 (1949)) which prohibited a state from taxing land physically situated in another jurisdiction despite the owner's residency. Ultimately, while states primarily govern geographically, U.S. courts recognize that a state's legal reach may follow its inhabitants across state lines under specific circumstances.

### 3.2 CENTRALISATION

The second facet of horizontal federalism involves the central government's ability to constrain state autonomy through residuary powers and the separation of powers. This centralization manifests in three primary ways: **first**, state initiatives often require explicit or implicit parliamentary consent to remain viable; **second**, while states have defined jurisdictions (such as those in the State or Concurrent Lists), federal legislation maintains the power to supersede or "pre-empt" state laws; and **third**, the central government can directly limit state actions through overarching national legislation. Ultimately, state capacity in these areas is conditional, existing only insofar as the Union does not exercise its superior authority to restrict it.

Centralization serves as a stabilizing force in horizontal federalism, as the central government is often better equipped to manage complex policy issues that might otherwise lead to interstate conflict or instability. While states generally maintain the "capacity"—the specific powers endowed to them to resolve shared problems—the Union intervenes only when disputes escalate beyond local resolution. This creates a system where state action is the default position, supported by judicial deference, until a conflict necessitates central intervention. Thus, while centralization defines the boundary between federal and state authority, it remains a latent power, ensuring states can negotiate freely unless national interests or complex policy requirements demand a unified federal response.

### 3.3 COMITY

The third dimension of horizontal federalism is particularly noteworthy for the way it operates. It suggests that while two or more States may act independently, their actions remain subject to an overarching constitutional framework, often mediated through parliamentary or federal authority. Within this context, the "first-in-time" rule, developed under the U.S. constitutional system, functions as a mechanism of cooperative federalism to preserve stability among States holding divergent positions on common issues. As explained by Allan Erbsen (2008), this rule accords precedence to the earliest decision rendered when multiple States address the same matter.

This principle is closely linked to the Full Faith and Credit Clause, which mandates that States recognise and enforce the final judgments of courts in other States. In essence, once a matter has been conclusively adjudicated in one State, other States are expected to honour that determination on a first-come, first-served basis. The rule thereby provides a neutral and orderly method for resolving inter-State conflicts where competing interests arise.

A classic illustration is *Fauntleroy v. Lum* (1908), where a dispute stemmed from a gambling transaction deemed illegal under Mississippi law but upheld by a Missouri court. When enforcement was sought in Mississippi, the State refused on public policy grounds. However, the Supreme Court of the United States held that Mississippi was constitutionally obliged to enforce the Missouri judgment, notwithstanding its own legal prohibitions. The Court emphasised that a valid final judgment rendered by a competent court cannot be disregarded merely because another State disagrees with the underlying cause of action. This ruling reinforced national cohesion and consistency in the application of judicial decisions across State boundaries.

The case exemplifies how the first-in-time rule operates as an expression of constitutional comity. Where the Constitution does not explicitly prescribe a mechanism for resolving such conflicts, it falls upon the judiciary to evolve appropriate principles. This underscores the critical role of courts in shaping the law when inter-State interests intersect. Ultimately, comity represents a normative commitment by States to mutual respect and cooperation, requiring them to recognise and give effect to each other's laws and judicial determinations in order to reduce friction and promote systemic harmony.

Therefore, comity is an act of mutual respect and cooperation between states. In order to reduce conflict and promote harmony, it exhorts states to respect each other's laws and decisions. Respect for other states' laws is required under the constitution, especially in cases of long-standing interstate disputes. However, the multifaceted nature of Indian federalism may not be easily accommodated by the concept of comity. There have been many long-standing interstate disputes in India, and there hasn't been much effort to use a comparable mutual accommodation idea. Because of this, the concept of comity in India needs to be further examined within the framework of constitutional law. It may help reduce tensions between states and find solutions when applied carefully and lightly.

#### 4. HORIZONTAL FEDERALISM IN THE UNITED STATES OF AMERICA

Horizontal federalism under the United States Constitution finds its principal expression in key constitutional provisions such as the Full Faith and Credit Clause and the Interstate Compact Clause, both of which facilitate political and economic integration among the States. Embedded within Articles IV and I, this framework governs interstate relations and ensures that States interact on the basis of equality, cooperation, and mutual respect. A central feature of this arrangement is the doctrine of equal footing, which was affirmed in 1796 when Tennessee was admitted to the Union on terms equal to the original States. This doctrine guarantees parity among all States—irrespective of when they entered the Union—in terms of rights, powers, and responsibilities. The principle was further elaborated by the Supreme Court of the United States in *Coyle v. Smith* (1911), where the Court underscored that the Union is composed of equal and sovereign States, each retaining authority over matters not delegated to the federal government. It rejected the notion that Congress could impose distinctive limitations on newly admitted States, reasoning that such differentiation would disrupt the constitutional equilibrium.

In effect, horizontal federalism in the United States establishes a system of mutual restraint, where the multiplicity of States curbs unilateral action while preserving their autonomy. By contrast, interstate relations in India remain comparatively less structured in this regard, partly due to historical contingencies such as the Partition of India. Nevertheless, the U.S. model is consciously designed to advance harmonisation, reciprocal recognition, and cooperative engagement among States without encroaching upon their sovereignty, save within constitutionally defined limits.

##### 4.1 FULL FAITH AND CREDIT CLAUSE

The horizontal federalism of the United States raises a great question: how and to what extent shall one State recognize the public acts, records, and judicial proceedings of another State? Such recognition would be founded upon comity or reciprocity between States without a binding constitutional rule. To address this issue, the Full Faith and Credit Clause was added to the constitutional framework, following the Articles of Confederation, in which it was initially proposed in 1781. This principle was later included in the United States Constitution in Article IV, Section 1, which mandated that full faith and credit be accorded in each State to the public acts, records, and judicial proceedings of each other State. The Clause offers a certain degree of legal coherence by requiring the States to recognize and apply the laws and judicial decisions of each other. But it is not entirely self-executing; it merely provides the power to Congress to prescribe how such acts, records, and proceedings shall be proved, and what shall be their effect across State lines. This reflects the doctrine of *comitas jurisdictio* (comity command), in which interstate recognition is structured but not automatic.

In practical terms, the Clause facilitates cooperation among the States, particularly with respect to civil judgments, public records, and judicial determinations, while also promoting collaborative arrangements such as interstate compacts. Nevertheless, conflicts of laws may arise where the legal rules of different States are inconsistent. In such situations, the courts play a decisive role in identifying the applicable State law. While a court may recognise and enforce the judgment of another State, it retains the authority to regulate the remedies and procedural aspects, so long as such regulation does not result in discrimination against out-of-state claims. Thus, the Clause does not eliminate all distinctions among State laws; rather, it ensures that such differences do not undermine the validity and enforceability of lawful judicial acts.

The Full Faith and Credit Clause must further be read in conjunction with Article III, Section 2 of the Constitution, which vests federal courts with jurisdiction over interstate disputes. This constitutional arrangement ensures that such conflicts are adjudicated through an impartial judicial mechanism rather than through potentially biased State intervention. In this framework, the judiciary serves as the ultimate constitutional interpreter, carefully balancing the demands of interstate harmony with the preservation of State sovereignty. By doing so, it prevents the undue extraterritorial application of one State's laws upon another, thereby safeguarding national unity and maintaining the equilibrium of the federal structure.

#### 4.1.1 ORIGIN AND CONGRESSIAL CLARIFICATION OF THE CLAUSE

Here is a concise yet academically refined paraphrase preserving the core meaning:

Historian Kurt H. Nadelmann traces the origins of the Full Faith and Credit Clause to early colonial efforts at inter-jurisdictional cooperation. Key enactments—including the Connecticut Act (1659), Maryland Statute (1715), South Carolina Act (1731), and Massachusetts Act (1774)—collectively established a system of mutual recognition of judgments, records, and obligations across colonies. This evolving framework significantly influenced the framers at the Constitutional Convention of 1787, who sought uniformity to prevent debtors from evading liabilities by crossing state boundaries. In Federalist No. 42, James Madison emphasized the Clause as an instrument of justice and supported congressional authority under Article IV to regulate interstate recognition of legal acts.

Despite its utility, the Clause faced criticism for favouring creditors and potentially undermining State autonomy. Madison responded by clarifying that Congress would only prescribe general rules of recognition, unlike the weaker system under the Articles of Confederation. Concerns over jurisdiction were addressed in Federalist No. 82, where Alexander Hamilton assured that State courts would retain concurrent jurisdiction, preserving federal balance. Ultimately, the framers designed the Clause to promote unity without excessive centralisation, establishing reciprocity among State legal systems. This integrative vision was later affirmed in *Magnolia Petroleum Co. v. Hunt*, where the Supreme Court of the United States underscored the judiciary's role in resolving interstate legal conflicts, thereby reinforcing national legal cohesion.

Article IV, Section 1 of the U.S. Constitution, known as the Full Faith and Credit Clause, mandates that states recognize each other's public acts, records, and judicial decisions. To enforce this, Congress passed the Full Faith and Credit Act of 1790, which provided a framework for authenticating state court proceedings. This authority was expanded through subsequent legislation in 1804 and 1970, and a pivotal 1948 amendment explicitly included state legislative acts, fostering national legal uniformity.

The Supreme Court has played a critical role in defining the Clause's scope. In *Mills v. Duryee*, 11 US 481 the Court established that state judgments are conclusive and must be honored across state lines. However, *Alaska Packers Association v. Industrial Accident Commission*, 294 US 532 introduced a balancing test, acknowledging that states may have conflicting interests or policies that require careful weighing. While the judiciary serves as the final arbiter to ensure interstate compliance and peace, exceptions remain: judgments obtained through fraud or by a court lacking proper jurisdiction are not entitled to recognition. Together, these legislative and judicial efforts maintain the legal coherence of the federal system.

#### 4.2 THE INTERSTATE COMPACT CLAUSE

Intergovernmental relations within the United States' horizontal federal system empower states to resolve conflicts and address shared challenges through collaborative frameworks. This cooperation is constitutionally anchored in the Interstate Compact Clause (Article I, Section 10, Clause 3), which permits states to enter into formal agreements to enhance political and economic unity. This mechanism evolved from colonial-era dispute resolution and was later refined under the Articles of Confederation before the Framers incorporated it into the Constitution. By requiring congressional approval for agreements that might impact national interests, the Clause ensures that state-level cooperation does not undermine federal supremacy. Historically, compacts have successfully resolved practical disputes, such as the 1785 Maryland-Virginia agreement on Potomac River navigation and various boundary disputes during the 1787 Constitutional Convention.

Modern legal interpretation has further streamlined the application of these compacts by prioritizing administrative flexibility. In *General Expressways Inc. v. Iowa Reciprocity Board*, 163 N.W.2d 413 the Iowa Supreme Court ruled that agreements signed by authorized administrative bodies do not require separate legislative ratification if the relevant power has already been devolved. However, this flexibility remains subject to constitutional constraints; as established in *Pennoyer v. Neff*, 95 U.S. 714 any exercise of extraterritorial jurisdiction must adhere to due process and jurisdictional fairness. Ultimately, the Interstate Compact Clause serves as a versatile instrument of federalism, allowing states to establish joint regulatory agencies and binding settlements that improve governance and efficiency without disrupting the broader federal balance.

#### **4.2.1 ROLE OF CONGRESSIAL CONSENT**

The Interstate Compact Clause requires congressional approval to safeguard the political and economic integrity of the United States and preserve the federal balance of power. The Constitution's framers were particularly concerned that state agreements—especially those involving territory or resources—could disrupt the federal structure or foster alliances that undermine national authority. In the Union's early years, overlapping state claims to western lands posed a risk of reallocating political power in ways that could fracture the nation; thus, mandatory congressional consent prevents such agreements from eroding federal supremacy or interstate equilibrium.

This requirement reflects a broader constitutional principle: just as state actions inconsistent with congressional authority under the Interstate Commerce Clause may be invalidated, interstate compacts affecting national interests must be subject to federal regulation. When granting consent via joint resolutions, Congress often imposes reservations, such as the right to alter, amend, or repeal the compact, and affirms that approval does not diminish federal jurisdiction. These provisions ensure approved compacts remain subordinate to national authority and adaptable to changing circumstances.

Not all interstate agreements require congressional approval, however. In *Green v. Biddle*, 21 U.S. (8 Wheat.) 1 (1821), the Supreme Court held that the Constitution does not prescribe a specific form or timing for consent, allowing certain compacts to take effect without express approval. Conversely, in *Florida v. Georgia*, 55 U.S. 478 (1850), the Court ruled that boundary settlements and similar agreements are invalid absent congressional ratification. These precedents, further clarified in *McPherson v. Blacker*, 146 U.S. 1 (1892)—which exempted routine administrative matters like land purchases for public use—distinguish political compacts that alter federal-state power dynamics (requiring consent) from non-political, local agreements (which do not).

Ultimately, the Interstate Compact Clause serves as a constitutional safeguard, preventing states from forming unregulated alliances that threaten national unity while permitting flexibility for cooperation on mundane affairs. It thus upholds federal supremacy alongside cooperative federalism through calibrated oversight and state autonomy.

### **5. HORIZONTAL FEDERALISM IN AUSTRALIA**

The Australian Constitution was designed to preserve state sovereignty through a rigid distribution of power and independent judicial oversight. Despite these protections, inherent tensions between the Commonwealth and the States have persisted since Federation. While these frictions often present challenges, they also drive policy innovation through interjurisdictional competition. To manage these dynamics and foster collaboration, the Council of Australian Governments (COAG) was established in 1992. COAG represented a significant reform in intergovernmental relations, providing a formal mechanism to resolve cross-border issues and enhance coordination across various ministerial levels.

#### **5.1 COUNCIL OF AUSTRALIAN GOVERNMENTS**

The Council of Australian Governments (COAG) emerged under Australia's New Federalism to strengthen collaboration among the Commonwealth, States, and Territories. Proposed by Bob Hawke, it was formally established on 7 December 1992 in Perth as a platform for coordinated policymaking on issues of national importance, including healthcare, education, infrastructure, and economic reforms. Through regular negotiations, COAG advanced cooperative federalism by enabling governments to resolve differences and reach consensus where possible. Guided by principles such as national interest, subsidiarity, efficiency, and accountability (articulated in 1991), COAG

functioned alongside Australia's system of horizontal fiscal equalisation, administered by the Commonwealth Grants Commission, to ensure comparable public services across states. Its work was supported by institutional mechanisms like councils and working groups, allowing coordinated responses to both long-term reforms and immediate policy challenges.

Accountability within the Council of Australian Governments (COAG) was ensured through clearly defined roles, annual reporting, and regulatory impact assessments evaluating policy outcomes. One of its key achievements was the development of intergovernmental agreements governing financial relations, which enhanced state flexibility in service delivery while establishing clear responsibilities through performance monitoring and periodic review. These agreements were designed to remain adaptable, subject to revision by mutual consent.

COAG generally met twice a year, with additional meetings as required, and each session was followed by publicly issued communiqués endorsed by all participating members. On 29 May 2020, Scott Morrison announced that COAG would be replaced by the National Cabinet in response to the COVID-19 pandemic. This transition aimed to streamline decision-making, reduce administrative complexity, and improve intergovernmental coordination, marking a significant evolution toward a more efficient model of federal cooperation in Australia.

## **5.2 NATIONAL CABINET**

The National Cabinet represents a progressive hybrid of horizontal federalism in Australia's intergovernmental framework, serving as a key forum for collaborative decision-making. Chaired by the Prime Minister, it includes state Premiers and territory Chief Ministers (First Ministers). During the COVID-19 pandemic, it met biweekly via video to coordinate responses, including health measures, quarantine, isolation, resource sharing, border closures, medical aid, and job protection. Though not a legislature, it fosters consensus on national issues, with decisions implemented through each government's legislative processes.

It promotes collective responsibility in healthcare—ensuring funding for hospitals, emergency services, ambulances, and vaccines—while the federal government handles procurement and states manage local delivery. This coordinated model enhances governance efficiency, extending beyond the pandemic to priorities like economic recovery and jobs. Post-pandemic, it meets quarterly (with ad hoc virtual or in-person sessions), reaching consensus with expert input; meetings proceed with present members' consent. Official documents are circulated within five business days, with records prepared by the Department of the Prime Minister and Cabinet, reviewed, and finalized within two weeks for accountability.

## **5.3 INTERSTATE COMMISSIONS**

The concept of interstate trade regulation in Australia emerged from 1890s constitutional debates regarding unfair railway rates and waterway practices, leading to the realization that a federal mechanism was needed to ensure free trade. This culminated in the Interstate Commission Act 1912, which established a body with broad authority to resolve disputes and regulate commerce. However, the Commission's influence waned after 1920 when it was stripped of its judicial powers; a later attempt by the Whitlam government to revitalize it as an investigative body in 1975 also failed. Constitutionally mandated by Section 101, the Commission was designed to exercise delegated administrative and adjudicative powers to maintain national unity and balanced development. Under Sections 102 and 103, Commissioners are granted seven-year terms with strict protections for their independence. Ultimately, the Commission was intended as a cornerstone of cooperative federalism, empowered to investigate grievances and penalize misconduct to preserve the federal balance.

## **6. COMPARATIVE PARALLELS IN INDIAN FRAMEWORK**

A comparative analysis of horizontal federalism in the United States, Australia, and India reveals significant disparities in legal enforceability, institutional robustness, and cooperative frameworks. In the United States, the Full Faith and Credit Clause provides a rigorous constitutional mandate for legal uniformity, ensuring that state laws and judicial rulings are recognized nationwide. India's Article 261 offers a theoretically similar structure but suffers from inconsistent application, while Australia achieves comparable legal integration through legislative alignment and institutional collaboration rather than a singular constitutional provision.

Mechanisms for interstate cooperation further distinguish these federations. The U.S. utilizes the Interstate Compact Clause to facilitate legally binding agreements between states. In contrast, India lacks a comparable horizontal mechanism, as interstate agreements are typically mediated by the Union government, thereby limiting state autonomy. Australia employs a highly adaptive executive model through the National Cabinet and the Council of Australian Governments (COAG), fostering consensus-based policymaking. India's Inter-State Council remains largely ineffective by comparison, hindered by its advisory nature and infrequent assembly.

The most critical divergence lies in enforcement. The United States maintains interstate compliance through a robust judiciary and binding constitutional mandates. Australia's historical use of the Interstate Commission, supported by quasi-judicial and penal powers, underscores a commitment to enforceable federalism. Conversely, India lacks independent institutions with the authority to enforce compliance or penalize non-cooperation, resulting in a system characterized by centralization and unresolved conflicts. Ultimately, while the American and Australian models demonstrate that successful horizontal federalism relies on clear legal commitments and enforceable structures, the Indian system highlights the need for significant reform to overcome institutional passivity.

A summary of comparison is provided as under-

Aspect / Mechanism	United States	Australia	India (Comparison)	Key Drawbacks in India
<b>Full Faith &amp; Credit Clause</b>	Constitutional mandate (Art. IV) ensuring recognition of judicial decisions across states	No direct equivalent	Partial reflection via Article 261 and comity	Weak enforcement; no strict obligation
<b>Interstate Compact Clause</b>	Binding interstate agreements with/without Congressional consent	Cooperative agreements via executive forums	Limited interstate agreements; Centre-controlled	Lack of autonomy; over-centralisation
<b>COAG</b>	No equivalent	Formal intergovernmental coordination body (1992–2020)	Inter-State Council (Art. 263)	Advisory, irregular, ineffective
<b>National Cabinet</b>	No equivalent	Fast, consensus-based executive coordination (post-2020)	No equivalent	Lack of rapid coordination mechanism
<b>Interstate Commission</b>	No equivalent (functions handled by courts/federal agencies)	Constitutional body (Section 101); Section 34 imposed penalties for non-compliance with its orders; Section 35 allowed enforcement through the High Court	No equivalent independent regulatory body	Absence of enforcement + penalty mechanism in interstate bodies

## 7. FINDINGS AND SUGGESIONS

India needs a robust system to boost state collaboration, ensuring national policies and public welfare goals are met. Adopting a model like the U.S. Interstate Compact Clause—enabling binding state agreements on disputes and shared issues—would enable structured, enforceable cooperation.

Current bodies like the Inter-State Council, Zonal Councils, and North Eastern Council are merely advisory, lacking constitutional teeth to resolve political rivalries, prolonged land disputes, or interstate migration challenges. States often prioritize blame over partnership, harming citizens in areas like territorial conflicts, river water sharing, and migration services. A formal interstate compact system with explicit constitutional authority would strengthen

horizontal federalism, reduce conflicts, enhance coordination, and make governance more efficient and responsive to national needs. Few specific suggestions include-

### **7.1 CONSTITUTIONAL STRUCTURE**

Constitutional rules are essential for reliable intergovernmental cooperation; without them, states may hesitate, leading to unpredictable outcomes. India should amend its Constitution to allow states to form interstate compacts on State and Concurrent List matters (even if indirectly affecting Union powers), with Parliament empowered to regulate forms—especially on Concurrent List items—to balance state autonomy and national interests.

Unrestricted state agreements risk national unity, so parliamentary approval should be mandatory for multi-state compacts, ensuring they align with national goals and promote interstate peace. This amendment would enable transformative constitutionalism: granting states limited but meaningful collaboration powers while safeguarding unity and core constitutional principles.

### **7.2 STATUTORY MECHANISM**

The efficacy of India's Inter-State Council under Article 263 would be significantly enhanced by transitioning into a permanent, independent body governed by uniform legislation. Establishing a formal framework to define its functions, appointment processes, and dispute resolution roles would move the Council beyond its current institutional ambiguity. Furthermore, the Inter-State, Zonal, and Northeastern Councils require greater autonomy from central government interference to foster trust and ensure equitable collaboration. To maintain a balanced federal structure, parliamentary intervention should be restricted to cases of gross power abuse, requiring a two-thirds special majority. Such reforms would secure a more robust system of horizontal federalism characterized by transparent operations and efficient conflict management between States.

### **7.3 POSSIBLE FEDERAL STRUCTURE TO ENSURE EFFECTIVENESS IN PROMOTING INTERSTATE HARMONY**

#### **A. INTERSTATE COUNCIL**

- a) With the power of adjudication in case of interstate disputes
- b) Consists of the Chief Interstate Council commissioner, and the Commissioner can be removed from his office except in the like manner and on the grounds like the Supreme Court, i.e., to ensure the autonomy of the institutional framework
- c) With a proper advisory and negotiation mechanism
- d) With the power to impose a penalty and fine on the concerned State in case of violation of the order
- e) Appealable to the Supreme Court in case of a substantial question of law involved
- f) With the power for the North Zone Council Commission, South Zone Council Commission, East Zone Council Commission, and West Zone Council Commission vested with –
  - Deciding border, interstate migration disputes
  - Determining interstate river water sharing disputes
  - Appealable to the Supreme Court only in case of a substantial question
  - With the obligation of deciding the case within a reasonable period, i.e., swiftness determines effectiveness.

#### **B. INTERSTATE COMPACT**

- a) Autonomy given to the State in determining its area of concern
- b) Formal parliamentary approval needs to ensure that it does not affect the Union of India
- c) Should not infringe the union power, i.e., can only form those compact that falls under the ambit of the State List.
- d) With proper negotiation and a resolution clause
- e) Can approach the respective councils in case of any damages or for the specific performance of the compact.

## **8. CONCLUSION**

Horizontal federalism serves as an essential, though often overlooked, pillar of a functional federal system by regulating lateral relationships between states and facilitating the cooperation necessary to resolve conflicts in the

national interest. This framework operates through the interplay of state capacity, centralization, and comity, ensuring that states can act autonomously without infringing upon the constitutional boundaries or interests of their neighbours. A comparative analysis reveals that the United States utilizes a robust, legally binding model anchored by the Full Faith and Credit and Interstate Compact Clauses, which are enforced by an active judiciary. Australia, while less constitutionally rigid, adopts a highly pragmatic approach through institutions like the National Cabinet and the Interstate Commission, which utilize enforcement and penalty mechanisms to maintain order and collaboration. In contrast, the Indian system remains comparatively weak and under-institutionalized, as its Inter-State and Zonal Councils are primarily advisory, meet infrequently, and lack the binding authority required for effective governance. This institutional passivity often results in protracted conflicts and an over-reliance on the central government, stifling genuine horizontal synergy. To modernize this system, India requires significant structural reforms, including the adoption of explicit legal commitments and the establishment of autonomous, empowered regulatory bodies. By fostering frequent state interaction and implementing enforceable compliance strategies, India can transition toward a more proactive model of cooperative governance that supports balanced regional development and long-term national cohesion.

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