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The GST Council as a Model of Executive Federalism in India: Promise and Limitations

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Abstract

The GST is one of the most significant fiscal reforms in India and has transformed Centre-State fiscal relations. At the heart of it is the GST Council, a constitutional body created by Article 279A to enable cooperative decision-making in indirect tax governance. This study investigates the institutional design of the GST Council and its role in promoting cooperative federalism, strengthening fiscal governance and institutional resilience. Using a qualitative research approach. The findings show that the GST Council is a crucial mechanism for intergovernmental coordination through consensus-based decision making and tax harmonization and the promotion of a common national market. At the same time, problems of state fiscal autonomy, GST compensation disputes, centralization of fiscal decision-making, reduced State Legislatures' role, and absence of a formal dispute-resolution mechanism continue to affect the federal balance. The study also highlights the need for institutional reforms like an independent secretariat, greater transparency, more state participation, and a structured dispute-resolution mechanism which would serve as a framework for the implementation of such reforms. The paper concludes by summarising that the GST Council has been successful as a model of cooperative federalism in spite of some operational, structural, and fiscal challenges. It is something that we will need to continue to evolve and reform in order for India's federal system to continue to support fiscal governance and Centre-State collaboration.

Keywords: *GST Council, Cooperative Federalism, Fiscal Federalism, Fiscal Governance, Centre–State Relations, Institutional Resilience, GST.*

Introduction

Federalism has been the hallmark of the Indian constitutional and political system since independence. The Constitution of India created a quasi-federal structure with a strong Union government and constitutionally recognised State governments. Legislative and administrative powers of the Union and State and Concurrent Lists were divided, but fiscal power was relatively centralized. The growth in welfare functions, economic liberalisation and regional aspirations have made cooperation among the government more important. Therefore, Indian federalism changed from a largely centralized form to a collaborative model with consultation, coordination and decision-making. Fiscal federalism is a key aspect of this evolution. Before the launch of the Goods and Services Tax (GST), India had a complex indirect tax system with different taxes being levied by the Union and the State governments. The Centre had excise duty and service tax and the States had value-added tax (VAT), entry tax, purchase tax and a host of other indirect taxes. The fragmentation resulted in cascading taxation, compliance burdens, market distortions and barriers to a common national market. Some institutional mechanisms like the Finance Commission and the Inter-State Council were effective in financial coordination but different tax policies were still hard to coordinate. The case for effective tax reform was coming into play in the early 2000s as the government was trying to improve economic efficiency and revenue administration, and fiscal integration became a reality. GST was a consumption tax under the destination principle and was intended to bring together some indirect taxes under one roof. But of course, since India is a federal country, the GST was to be implemented at the federal level, which means a mechanism should be in place that will balance the fiscal autonomy of States with the national tax harmonisation objective. This led to the GST Council, a new inter-governmental body for joint decision making in taxation.

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The constitutional basis of GST Council is Article 279A of the Constitution which was inserted by the Constitution (One Hundred and First Amendment) Act, 2016. [1] The Article proposes the constitution of GST Council of the Union Finance Minister, Union Minister of State for Finance and Finance Ministers of all the States and Union Territories with legislatures to make recommendations about tax rates, exemptions, threshold limits, model GST laws and administrative arrangements. Its voting structure that harmonizes the interests of Centre and States is an attempt to institutionalise cooperative federalism in India's fiscal architecture.

The GST Council's scope is much broader than taxation. It is one of the most obvious examples of institutionalised intergovernmental relations in India. Federal systems are not only characterized by intergovernmental institutions in the form of policy interdependence and conflict resolution, but they are also responsible for generating consensus that is also necessary to build the national level of government policy cooperation. The GST Council is the manifestation of these functions as it provides for the formalisation of the Centre and States in the form of a mechanism where policy and coordination can be communicated between them. The Council has been praised for its consensus-led decision-making style since it was created, but it has also been faced with problems such as revenue sharing, compensation and political preferences at the level of each state and government.

These are some of the reasons why GST Council is considered a key feature of cooperative federalism in this context and how it is important for the development of fiscal governance in India. It will evaluate the Council to see if this Council has led to better Centre-State relations, fiscal coordination and resilience to new challenges in overcoming them and whether we have improved Centre-State relations, so the ability to work together and to work together and act in coordination with each other to provide the best possible fiscal governance in India in a federal environment and for the future of cooperative federalism (the future is not all about the government of India at present but how effective and how can we know that our intergovernmental institutions can provide good fiscal governance in this multilingual, global context of the country.

Theoretical framework:

This issue will be examined from three complementary theoretical perspectives: Fiscal Federalism Theory, Cooperative Federalism and New Institutionalism. Together these theories provide a holistic view of the role of GST Council in India's changing federal system and how GST Council is contributing to fiscal governance and institutional resilience.

Fiscal Federalism Theory: Fiscal federalism in India has traditionally been characterized by vertical fiscal imbalance in which governments have higher expenditure but less revenue-raising power. GST changed this pattern by bringing all central and state taxes into the same tax code. As such the GST Council was developed as a mechanism for coordination of fiscal decisions between the Union and the States. Fiscally, GST Council is an institutional answer to the problems of tax harmonization, revenue sharing and fiscal coordination in the federal government. In this theory it is possible to assess if GST has made the government more efficient and not compromising on the independence of the states.

Cooperative Federalism: Cooperative federalism is based on the cooperation, negotiation and common decision-making of all the levels of government. Cooperative federalism is not the same as dual federalism in which the government is supposed to be at one end and the State at the other. The GST Council is a model example of cooperative federalism as it provides a constitutional platform for the Union and the States to discuss tax policy. Article 279A establishes the principle of consultation and consensus building through the voting system that is inclusive of all the stakeholders. The Supreme Court's decision in Union of India v. Mohit Minerals Pvt. Ltd. (2022) confirmed this understanding as well, pointing out that proposals made by the GST Council are not legally binding but formed as a result of dialogue in India's federal system. In this way, we may study how consensus, bargaining and intergovernmental cooperation shape GST fiscal governance.

New Institutionalism and Intergovernmental Governance: New Institutionalism, as it stands in the context of the political behaviour, policy results and governance outcomes; institutions are the frameworks that form rules, norms and system of governance. As March and Olsen (1989) have argued institutions are not just "the things that happen behind the scenes" but rather are the structures that form interactions between actors and promote collective action. The GST Council is an intergovernmental body that decides on fiscal relations between the Centre and States. Its effectiveness is not only a function of the constitution, but also informal norms (trust, cooperation, political consensus, and conflict resolution mechanisms). In other words, institutional resilience is the ability of the Council to adapt to crises, revenue shortfalls, economic crises, compensation disputes, and political conflicts while maintaining its legitimacy and functioning. Through institutionalism perspective, the study examines if GST Council has been established as a durable mechanism for fiscal governance which can withstand over the long term as a means for cooperative federalism to exist.

Review of Literature

This literature review draws upon a number of credible sources, including the Constitution (One Hundred and First Amendment) Act, 2016, reports and minutes from GST Council meetings, Finance Commission reports, RBI State Finances reports, NIPFP working papers, documents from the GST Council Secretariat, and peer-reviewed academic research on fiscal federalism, cooperative federalism, and GST governance in India.

The author looked into India's Goods and Services Tax (GST) framework from the perspective of fiscal federalism. The GST was supposed to encourage cooperative federalism but has progressively placed States under the influence of the Union Government. Based on state-level tax performance data, they argued GST has not significantly improved the revenue-generating capacity of States and may lead to a transition from cooperative to coercive federalism. They raise concerns about fiscal autonomy and centralised leadership of GST in the country. **(Joseph& kumary, 2023).**

GST is one of the major structural changes in India's fiscal system and can contribute to the development of cooperative federalism through effective institutionalized intergovernmental coordination. But the paper called for an independent and research-based secretariat for the GST Council for making evidence-based decisions. He saw the GST Council as a rare case in collaborative fiscal management but observed that its long-term success is dependent on transparency, trust, and institutional fortification **(Kelkar, 2019).**

A primary concern that was raised was the matter of GST compensation and the revenue deficits encountered by States subsequent to the implementation of GST. This is why the compensation mechanisms were important to maintain the trust between the Centre and the states even in difficult times like the COVID-19 pandemic. But the delay and uncertainty in compensation payments have compromised cooperative federalism and the GST architecture has not been able to work efficiently **(Mukharjee, 2021).**

The GST Council Secretariat's official paper describes GST as one of the most successful examples of cooperative federalism in practice. Articles 246A, 269A, and 279A outline the way in which decision-making processes are conducted in relation to indirect taxation. The GST Council has been instrumental in overcoming the friction between the Union and the States on taxation levels, exemptions, and other issues of the state, as well as administrative changes. The Council is a key organization to link national economic integration and government policymaking, according to the paper **(GST Council, 2023).**

The author pointed out that the GST Council's effectiveness in Kerala five years after GST has been realized is in question, in spite of having started its role as a forum for consensus and discussion. States are diminishing their power in the Council. The consequences of compensation and a comment from the Supreme Court on the advisory role of the GST Council's decisions have forced us to re-evaluate the institution. We propose that the development of additional participatory tools is needed to enhance cooperative federalism. **(Paul, 2024).**

Research Objectives:

1. To analyse the structural framework of the GST Council.
2. To evaluate the role of GST Council in cooperative federalism.
3. To ascertain obstacles impacting federal equilibrium in India's GST regime.
4. To propose measures aimed at enhancing federal governance.

Research Methodology:

In this study, Researcher exclusively utilize secondary data derived from a variety of sources. These sources include minutes from GST Council meetings, official documents, and constitutional texts related to the GST Council, particularly the One Hundred and First Amendment Act of 2016. To gain insights into state finances, we also reference data from the Finance Commission, parliamentary debates, and state finance reports provided by the Reserve Bank of India (RBI). Furthermore, we incorporate information from NITI Aayog and analyses from respected institutions such as the National Institute of Public Finance and Policy (NIPFP).

To enhance our understanding of fiscal federalism, cooperative federalism, and the functioning of the GST Council in India, we draw upon relevant journals, books, and official documents. Our analysis employs qualitative content analysis to scrutinize the formation and operation of institutions, decision-making processes, Centre-State dynamics, and the policy outcomes associated with the GST Council. This Council is designed to exemplify its role in promoting cooperative federalism while addressing the challenges inherent in federal governance.

Discussion and Analysis:

1. **Structural framework of the GST Council**

The GST Council represents a major advancement in India's federal structure, fostering collaboration between the central and state governments on financial matters. Established under Article 279A of the Constitution (as part of the One Hundred and

First Amendment) in 2016, this Council serves as a vital link between the Union and State governments, allowing them to work together in shaping fiscal policies.

The Council is chaired by the Union Finance Minister and includes the Union Minister of State for Finance, as well as the Finance Ministers from all States and Union Territories that have legislatures. This diverse composition ensures that both central and state perspectives are represented in decision-making. To strike a balance between national and regional interests, the Council employs a voting system where the Centre holds one-third of the votes while the States collectively hold two-thirds. For any decision to pass, it must achieve a three-fourths majority of these weighted votes, ensuring that each level of government has a meaningful say in the outcomes that affect the country's fiscal landscape.

However, our analysis of GST Council hearings shows that most decisions have been reached by consensus, not by formal voting, and that the Council is more interested in negotiation and cooperation than majoritarian decisions. The decision-making process is therefore based on consultation, deliberation, and accommodation of different fiscal interests and has contributed to the Council being an institution of cooperative federalism.

The study also shows that the Council has been meeting regularly since being established in 2016 and has been in constant conversation with the government about tax rates, exemptions, compliance measures, revenue issues, and administrative changes. This constant dialogue has increased intergovernmental communication and the timely response to fiscal challenges in the countries' governments. The Council is responsible for recommending tax rates, threshold limits, exemptions, model GST laws, and administrative arrangements and is the main organ of indirect tax governance in India.

The GST Council has a very functional structure of constitutional legitimacy, representation of all types of people, a balanced voting structure, and regular institutional interaction since it was established. This has made it a permanent mechanism of fiscal coordination and policy convergence. However, there are still reservations about the more powerful role of the Union Government in decision-making and the consequences for the state of India's fiscal autonomy. This is why the GST framework needs to be kept federal in nature.

2. **Evaluate its role in cooperative federalism.**

GST Council has been at the forefront of cooperative federalism, facilitating dialogue and collaboration between the Union and State governments. One of its greatest contributions to state-level decision-making is a shift to consensus-based approaches, the study contends. Now more often than not, decisions are made in discussions and not in votes. Despite differing political and fiscal interests, the stakeholders have built a sense of trust among one another and are working together more effectively. The Council has also contributed to tax harmonization as it brought all central and state indirect taxes within a single GST framework so that tax rates, procedures, and compliance mechanisms are uniform across the country. This has led to a reduction in tax policies of different States and fiscal coordination. And GST has also led to the elimination of tax disputes among states and the common ones which were prevalent before GST - cascading taxes, entry tax, and jurisdictional overlaps - that has made the Council a mechanism for discussion and solution of such issues through negotiation and collective decision making.

The GST Council has also been an important player in the promotion of a uniform national market with a shared market structure in India. GST has helped eradicate state-level indirect tax systems and brought goods and services across state borders, simplified the compliance process, and strengthened economic integration. If the GST Council can be viewed as a key institution for cooperative federalism, then it has been successful in achieving consensus in the form of consensus building, policy convergence, intergovernmental fiscal resolution, and the development of one national market.

3. **Obstacles impacting federal equilibrium.**

Even though GST has played a role in the Union and the states' federal balance while it is a cooperative federalism model, GST has brought challenges to the federal balance between the Union and the States. The GST Council has a third of the total voting weight of the Centre in the GST Council as a whole and as the Centre has the power to determine tax rates and tax policy based on national level such as in the GST Council, it makes it easy for the Union government to have a big weight in the Union government to influence fiscal policymaking. The GST Council also restricts the fiscal independence of States in terms of its budget autonomy as it combines State governments' tax rates and exemptions from tax rates and tax policies to the national tax structure in the GST with a more centralized GST Council in which State Legislatures' decision making to tax rates, exemptions and procedural reforms are more and more determined collectively in the GST as it is not based on the decisions of the States themselves and in terms of the independent legislative activity of their states. The COVID-19 pandemic has also highlighted structural tensions in Centre-State financial relations as there was a lack of funding for the Centre-State fiscal relationship as revenue shortfalls, slow payment of compensation as well as on the lack of debt and debates between the states and the state governments on debt of borrowing and with the lack of a national debt base, and the lack of funds to pay and transfer of funds in the case of the GST Council had a considerable weight for the Centre and the State. The absence of a formal and independent dispute-resolution mechanism is also a major institutional weakness as disputes are mostly resolved through political negotiations instead of a dedicated adjudicatory framework. In all these fields, fiscal autonomy, compensation arrangements, centralization of decision-making, limited legislative flexibility and poor dispute-resolution mechanisms are some of the main obstacles to federal equilibrium under the GST regime.

4. **Measures aimed at enhancing federal governance.**

The study suggests that for federal governance to be effective and inclusive under the GST framework, institutional changes that can improve the effectiveness of the GST Council are required. The establishment of an independent and professionally staffed GST Council Secretariat to support evidence-based policymaking, cut off the reliance on the Union government for technical support, and strengthen the Council's institutional capacity will be helpful. In addition, a formal dispute resolution mechanism should be created to deal with Centre-State and inter-state disputes in a fair and timely manner, which will build trust in the Council and reduce political bargaining. The study further suggests that accountability within the GST Council can be improved by ensuring greater transparency in decision-making, particularly through increased public access to deliberations, policy reasoning, and voting records. More meaningful state representation in the context of agenda setting and policy making will also allow us to include all the different parts of the country in the Council. With this in mind, a predictable compensation framework and periodic review of Council decision-making processes would help to maintain fiscal stability and promote cooperative federalism. Together, these reforms can contribute towards greater federal governance by increasing transparency, inclusiveness, institutional autonomy, and a harmonious Centre-State relationship within the GST regime.

Conclusion:

GST Council is one of the most significant institutional changes in India's federal governance system. It is a constitutional framework for ongoing dialogue and sharing of knowledge and decision-making between the Union and the States as per the Constitution (One Hundred and First Amendment) Act, 2016. The Council has made a huge contribution to cooperative federalism in this study through consensus-based decision making, tax harmonization and the creation of one national market. Its ability to bring together various political and economic entities under a common fiscal framework is evidence of the state of India's federal system developing. But at the same time, challenges of fiscal autonomy, compensation disputes, centralisation of decision making, and institutional barriers show that cooperative federalism is not a finished project and has always evolved. These challenges are not less significant for GST Council but rather an indication that institutional systems need to be kept in place and reformed constantly. In the face of economic uncertainty and the COVID-19 pandemic, the Council is still good at intergovernmental cooperation.

With the GST Council being the most successful of all such federal innovations in terms of the Centre-State involvement and the long-term stability of collaborative policy-making in India, we find it successful. With its reforms in the areas of transparency, state participation, dispute resolution and institutional independence, the GST Council will further consolidate cooperative federalism and serve as an exemplar in India's intergovernmental governance system. The development of the GST Council is a fundamental development in India and important in the future in terms of fiscal federalism and democratic federal governance.

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Conflicts of interest

The authors declare that there are no conflicts of interest regarding the publication of this paper.

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