
Federal System and the dispensation of the Coalition era

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Abstract

Federalism is an instrument of power sharing between independent authorities viz. union and state. Coalition regime is withal an expedient of power sharing. Logically, it can be inferred that both federalism and coalition government should be complimentary to each other. The object of sharing power in both the perspectives is common, therefore, a student of politics or law may infer logically that coalition Government is always supportive of Federalism. The fact, however, is otherwise in Indian Federalism. One of the major focus of attention in any discussion of Indian polity and governance in contemporary times is the dynamics of federalism under the new dispensation of the Coalition era that prevails in India. This article makes an endeavour to explore the various facets of the dynamics of federalism, the concept of welfare nation propagated by each political party, good governance and a myth under the new coalition era, role and demand of state autonomy and peripheral topics and sub topics. It is in reference to this context that the present article focuses on the necessity of carrying out a futuristic inspection of Centre-State relations in context of a new era of majoritarian government and coalition politics along with the governance at the Centre. Furthermore, this article also explores the paradox of Federalism and Coalition Government in India and lastly, the

author makes an attempt to suggest the ways and means to evolve a mechanism for a healthy Union-State relation in India.

Keywords: *Federalism, power-sharing, re-decentralization, majoritarianism*

Introduction

Federalism is considered to be an instrument of power sharing between the independent authorities viz. The Union and the State. An incipient trend of coalition form of a Government, in the developing nations having parliamentary form of a Government has been emerging. The coalition form of Government is also a means of power sharing. The coalition is to identify the federal division of powers with sub-national pluralism. In a developing nation like India coalitions have become an inevitably ineluctable and indispensable part of the national and regional regime. The unifying source is power of these kinds of Government is power. Logically, both federalism and coalition government should be complimentary to each other. As the object of both the forms of the government is power sharing a student of law or may be political science may assume and postulate that coalition government is always supportive and auxiliary of the federal system en masse. However, it is otherwise in the Indian constitutional system. The constitution of India promotes federalism however, with a vigorous and a strong union. The uni-federalism

that subsists in the Indian Constitutional system is an innovation in itself because it consciously conceived a strong union vis a vis state. This strong union concept becomes a misnomer and a myth with the coalition government. The coalition in the union challenges the cabinet form of the Government. Consequently, it can be verbalized that federalism and coalition form of government is not complimentary to each other and for that matter are not supportive of each other either. This paper fixates on the paradox of federalism and coalition government in India while also emphasizing on the question that what constitution proposes, coalition disposes.

One of the reality of contemporary politics in India is the coalition government in recent times. The influence of such form of a government is not just considered to be marginal but indeed a voluminous one. This form of a Government impacts on the decisive role in the formation of government. The emergence of multiparty politics challenges the monopoly of big democratic parties. Coalition Government in an entire perspective may be held to be a merit for a democracy because the democratic participation becomes more vibrant and living. However, it should be noted that 'everything that glitters is not gold'. One of the major demerits of having a coalition government is instability. Instability is antithesis to development. It is not just the political instability that is considered to be worrisome, what is all the more vexing is that the coalition government also challenges the very substratum of the constitution that is federalism and the parliamentary system of governance.

All federal systems encounter problems and imbalances in the area of centre-state relations; irrespective of how detailed and elaborate is the distribution of the functions and resources between the two levels¹. This paper deals with coalition politics and federal processes in India and has underscored the role of political parties, regionalism and party system influencing the structures and dynamics of federal polity in India².

Provenience of the Federal Form of Government in India

Accentuation is to be given on the aspect that the framers of the Indian constitution were not as free as, say, the framers of the United States constitution. The framers of the United States constitution had only a few principles and declarations to guide them. In contrary, the framers of the Indian constitution and the constituent assembly majorly functioned proximately within the phrenic and mental framework of what was given in the Government of India Act, 1935. The Act had provided with a strong unitary bias. India, as a nation, till independence was unitarily governed strongly favorable to the Central Government. Therefore, it is on this basis that the constitution of India makes the Center stronger than the states and hence, provides a quasi-federal polity to the nation. This is how federalism became a permanent process in India leading the judiciary also to analyze it as one of the rudimentary and basic features of the

¹M.G. Khan, *Coalition Government and Federal System in India*, 64|The Indian Journal of Political Science|167, 168 | (2003), available at <https://www.jstor.org/stable/418557>, last seen on 14/11/2019.

²*Ibid.*

constitution of India³ which cannot be amended⁴. However, India aimed to follow the kind of cooperative federalism wherein the states decisions and consent regarding important policy decisions were taken. There is yet another divergence from the cooperative form of federalism. Cooperative Federalism has now become a thing of the past with the recent trend of election of wherein Bharatiya Janata Party has claimed a majoritarian form of a Government. India as a nation has an experience of coalition government both at the centre and the state level. Furthermore, the coalition that is formed is neither stable nor strong therefore, they neither know how to live or how to die.

According to the keen observation to the recent trends federalism has become aeonian process in India with a strong and vigorous centralized propensity by its constitution itself. The pattern of centre-state relations has transmuted to a certain extent categorically after the conception of coalition government emerged even at the state level. It is at this juncture that it is important to study the transmuting dimensions of the federal process.

Power Sharing and Federalism

For an overall development of a nation the scholars and the constitutional bandits have suggested two forms of government that is unitary form of government and federal form of government. Unitary System has one power centre and there is no paramount role of the state unit. However, federal system is considered to be one

which accentuates upon the aspect of distribution of powers where the powers are distributed between the centre and the state unit. Framers of the Indian Constitution had the perspective that for a sizably voluminous nation like India the better choice that could be made was of federalism which would apportion powers between the state and the union. Logically Federalism should promote coalition government and vice versa. This, however, is not correct. The federalism as a form of government and the coalition government are conceptually inconsistent in India if not completely contradictory to each other. To understand what this inconsistency and erraticism is all about one needs to understand what federalism meant to India.

Federalism and Constituent Assembly of India

While introducing the *Motion re Draft Constitution* on 4th Nov. 1948, Dr. B.R. Ambedkar had said⁵:

“If a copy of a constitution is placed before the student of the constitutional law is sure to ask two questions: Firstly, what is the form of government that is envisaged in the constitution; and Secondly, what is the form of the constitution?”

To the first question per se he informed that we are to form a parliamentary form of a government as we are used to it during the British raj. To the second question he observed:⁶

“The Draft constitution is, federal Constitution in as much as it establishes what may be called a Dual Polity⁷. This Dual Polity under the proposed

⁵ VIII Constituent Assembly Debates 31, 32

⁶*Ibid* At 33.

⁷Anurag Deep, *Coalition Government and Uni-Federal Nature of the Power Sharing: (Whether Federalism is*

³KesavanandaBharati v. State of Kerala, AIR 1973 SC 1461.

⁴*Ibid*.

Constitution will consist of the Union at the center and the states at the periphery each endowed with sovereign powers to be exercised in the field assigned to them respectively by the Constitution.”⁸

Ambedkar had avowedly admitted that the draft presented by him envisages a federal form of a Constitution. However, the irony of the situation is that nowhere in the Draft Constitution presented or for that matter even in the present constitution, the word ‘federal’ or ‘federations’ has been used. It is on this contrary note that the author emphasizes that Article 1 of the Indian Constitution⁹ mention about India being a ‘Union of States’ and it does not mentions about it being a federation. This in general means that the framers desired to give states less power in comparison to the centre.

Constitution commands a strong centre-vis-a-vis the state

Elucidating to the paradox, Ambedkar had opined that the use of the word union was deliberate. “The Drafting Committee wanted to make it clear that though India was to be a federation, the federation was not the result of an agreement by the States to join in a federation and that federation not being the result of an agreement no state has the right to secede from it. The federation is a union because it is indestructible¹⁰.”

By incorporating federal features B.R.Ambedkar, endeavoured to ensure the power sharing by states, but the sharing of power is only to a limited extent. In the Indian Political System this power sharing must respect the dominance of union over states because it is the command of the constitution of India.

Power sharing distinguished from the U.S.

U.S. has been defined as an ideal form of federalism, wherein K.C. Wheare has described India as quasi-federal. Wheare calls the type of distribution of powers between the centre and the state unit and being independent in their own sphere, as an ideal form of federalism. In the words of K.C. Wheare¹¹, “ By federal principle I mean the method of dividing powers so that general and regional governments are each, within a sphere, co-ordinate and independent.”

Indian Constitution makes distribution of powers between the Union and the States on the basis of Schedule VII read with article 246¹² of the Constitution. The distribution however, is not made on the basis of the federal principle as the Union comparatively has been given more powers when compared to the states. It is on this basis that K.C. Wheare in his book describes India as quasi-federal. Furthermore, other constitutional experts describe the Constitution as ‘federal with unitary feature’ or ‘sui generis’ etc. This unique nature of the Indian Constitution cannot be disputed. The form of the government in India is beyond

Promoted), 54| Journal of the Indian Law Institute|84, 85| (2012), available at <https://www.jstor.org/stable/43953527>, last seen on 14/11/2019.

⁸*Ibid.*

⁹ Article 1, the Constitution of India.

¹⁰VIII Constituent Assembly Debates 43.

¹¹ K.C. Wheare, *Federal Government* 10 (4th Ed, 1963).

¹² Article 246 (1) Notwithstanding anything in clauses (2) and (3), Parliament has exclusive power to make laws with respect to any matter enumerated in List I in the Seventh Schedule (in this Constitution referred to as the “Union List”), the Constitution of India.

reasonable doubt a departure from the tradition concept of federalism as found in U.S.

Both the coalition form of a Government and the federalism form of the government have to function under the Constitution of India. For the federalism form of the government the pre-condition that lies is that there should subsist a written constitution however, there exists no such pre-condition for a coalition form of the government. As an illustration Britain as a nation has no constitution but there exists a coalition form of government. However, where there exist a written constitution both the coalition form of government and federalism have to observe the words and spirit of the constitution. Considering this as a paramount factor what needs to be emphasized is that the spirit of the constitution does not sanction equal power sharing between the centre and the state. The Constitution of India has various provisions commanding a strong bias in favor of Union despite having federalism. These provisions¹³ makes the Constitution of India a complete departure from the U.S model of federalism. This federalism has been declared as a component of rudimental feature of the Constitution of India.¹⁴The framers of the Constitution of India had a desire to have a strong centre and this is considered to be a universally accepted fact. The framers made it a point to incorporate the best features of all the then available constitutions of the various countries all over the world, irrespective of the fact whether they were unitary or federal. Therefore, it must be

said that 'Uni-federalism is a constitutional innovation'. It contemplates power sharing wherein the centre shares far more stronger power than the state units.

Overpowering nature of a coalition government in the state than in a Center

From the post-independence to 2014, the Indian political system has witnessed more of a powerful coalition government in the states rather than at the Center. State Governments have emerged as a major power with the coalition form of a Government. However, in a similar situation the Center has not been able to emerge as a powerful governing institution concretely prior to the year 2014 and post-independence period. Few of the developments that may be noticed under the following circumstances are as follows:

- a) That the coalition polity has in the recent times emerged as a strong challenge to the cabinet form of the government, where Prime Minister is considered to be the first among equals. A. Raja had not resigned for the sake of the power and insistence of the Prime Minister but had only resigned at the desire of his political boss that is Karunanidhi, former chief minister of Tamil Nadu.

The very dictate and the power of the cabinet form lies in the aspect of Prime Minister's privilege to make an individual a minister, and no party or a person or unit ought to have dictated his terms in the very formation of the council of Minister. However, the coalition form of government challenges both the ideas *i.e.*, federalism and cabinet form. Every other aspect of the Central

¹³ Article 249 and 250, the Constitution of India.

¹⁴ S.R. Bommai v. Union of India, AIR 1994 SC 1918.

Government is dictated by the coalition form of Government. The paradigm shift of the powers to the states indirectly and impliedly had become a matter of concern in the during the said period in a developing nation like India. With this it appears that the distribution of powers laid down in the constitutional scheme was highly and embarrassingly perturbed. The Government during the said period had failed to become uni-federal in many states in lieu of the nation and the constitution providing for uni-federalism.

Recent Trends

It may be recalled that the Congress party had fulfilled the role of a hegemon between the year 1952 and 1989. Albeit amidst post Indira Gandhi period BharatiyaJanataParty came to power but only to last for a short duration. By 1980, the Congress Party was again in power. The recent trends of the forms of the Government specifically at the central level seems to be more fascinating than the formation of the state Governments. It has been recently witnessed by the nation as a whole that in the 70 years of the independence of India it was only after years that the 2014 election provided for a majority government by making the BJP as the power house to govern the nation with 282 seats surmounting more than two thirds of the total 572 seats. Furthermore, in the recent 2019 election the nation witnessed yet again a majority Government with BJP again conquering the powers in its own hands. The working of the federal system can only be understood when an evaluation of the role of the party in power at the centre is done.

a) Evaluation of the Majoritarian coalition politics and Centralizing tendencies under the regime of Modi Government

With the BharatiyaJanata Party claiming the first single party majority in the lower house in the past three decades, India appears to have entered a new dominant party system antithesis of what coalition government that had been existing in the nation for the past three decenniums. This form of a Government has been premised on a unique set of principles exhibiting a clear break from what appeared to have been existing before. Federalism and a cabinet form a government in India specifically, are the products of controversies, debates and deliberations. There had been a perpetual debate over whether the country's politics was experiencing a paradigm shift.

Most of the BJP's promises of decentralization of powers have not been implemented and on the contrary it results into centralization of powers for the following reasons mentioned.

Firstly, the focus in the first phase by the Bharatiya Janata Party was reluctantly relied on the acche din (good times), rapid economic magnification, creating millions of jobs, and revitalizing India's moribund investment cycle.¹⁵ However, large parts of the election promises related to the economic growth failed to revitalize in the Modi's first term in office. Growth in India's per capita gross domestic product (GDP),

¹⁵Milan Vaishnav, *Indians Expect an Economic Superman*, *Bloomberg Opinion* (12/05/2014), available at <https://www.bloomberg.com/opinion/articles/2014-05-12/indians-expect-an-economic-superman>, last seen on 14/11/2019.

while solid, was by no means stellar.¹⁶ Low inflation became a boon for the urban consumers leaving behind adverse consequences for the rural wages which had largely stagnated under the regime of Modi Government.

Secondly, a report of the National Sample Survey Organization (NSSO) emphasized on the joblessness that spiked to unprecedented levels during the period of 2017-2018.¹⁷

Thirdly, the introduction of making Bengali and Malayalam languages compulsory in the State of West Bengal and Kerala has been a reactionary step towards the Union's decision of promoting Hindi as a language throughout the nation.

Fourthly, the introduction of the Goods and Services Tax is yet another policy which undermines the quasi federal structure of India. The major issue in India has been the fiscal imbalance between the states and the centre. The accentuation must be laid down that the resource collection and mobilization potential is concentrated within the Centre whereas the socio economic obligations and responsibilities are centralized with the States. The discretionary power has ceased to exist with the states so that they can mobilize for the amelioration of the socio economic conditions of the states respectively. There should have existed some discretionary power with the states for the resource mobilization

¹⁶Arvind Subramanian, *India's GDP Growth: New Evidence for Fresh Beginnings*, *Indian Express*, (12/06/2019), available at <https://indianexpress.com/article/opinion/columns/indias-gdp-growth-new-evidence-for-fresh-beginnings-5774138/> last seen on 14/11/2019.

¹⁷*Troubling Unemployment Data, Leaked in January, Now Released Post-Elections*, *The Wire*, (31/05/2019), available at <https://thewire.in/economy/official-data-unemployment-2017-2018>, last seen on 14/11/2019.

to the extent it did not affect the national taxing system. With the alteration of the taxing powers between the states and the centre there was a desideratum to amend and redesign the current fiscal federalism in India. Fiscal federation to be elaborated as a concept would mean applying federal principles in fiscal relations between the federation and units. Fiscal imbalance in India is because of the mismatching of the revenues that are to be distributed among the various states in existence. Furthermore, due to strong majoritarian Government the Centre is able to command greater share in the public funds and hence it leads to vertical fiscal imbalance¹⁸. Customarily and most often than not the states lack funds in proportion to the obligations that they are entrusted with. The states in the present scenario have to heavily rely upon the Centre for aids, grants and revenue sharing. In the words of K.C. Wheare¹⁹:

“State governments are overloaded with expenditure responsibilities and expectations, whereas they are not endowed with enough resources to finance public expenditures. The economic reforms have amplified the vertical fiscal imbalances in the Indian federation”.

The credence in the current scenario lies in the aspect that the prelude of dual GST reform system in India has led towards an incrementing tendency towards centralization of fiscal powers. The concern of the state lies even today, that is after an

¹⁸ Shreya Jain, *The Goods and Services Tax (GST) Regime through the lens of Fiscal Federalism in India*, ILI Law Review, Summer Issue 2016, available at <http://ili.ac.in/pdf/paper14.pdf>, last seen on 14/11/2019.

¹⁹Ranbir Singh and A. Laxminath, *Fiscal Federalism Constitutional Conspects* 5 (2005).

year of implementation of GST that the taxing powers of the states have been diluted which does not get compensated by the Centre for as the quotas of the taxes of states from the Central Government has not changed substantially over the past few years. The implementation of GST under the Modi regime and centralization of the fiscal policies leads towards the centralization of powers in the hands of the majoritarian form of a Government.

Fifthly, the Central Government failed to take the consent of all the states regarding announcement of demonetization (a term that is used for describing the abrupt withdrawal of the 500 and 1000 Rupee Note) scheme.

Sixthly, after the BJP claimed yet another majority in the year 2019, it moved forward with another decision and again without the consent of the states and this time it was with the abrupt decision to revoke the special status of the state Jammu and Kashmir into two Union Territories. Paying scant and negligible regards to the conceptual understanding of parliamentary democracy that still prevails in India, the Government has heaped humiliation on the regional people. It has been a brazen and temerarious assault on the cooperative federalism that persists in the very nature of Indian Constitution. This is likely to bring in a lot more alienation amongst individuals from various states in the nation instead of establishing an integration and leading towards the union of states as enshrined in the Constitution of India. It is to be understood that genuine unity can never be achieved through coerced centralization and all the fiats as mentioned above. Kalhana in his

twelfth century piece Rajatarangini had observed that “Kashmir can be conquered by power of spiritual merit but never by force of soldiers.” However, it seems that the current Government has failed to understand the principle behind the same. Even today, that is after 4 months of such a decision the schools, the economy, the internet and basic communication and mere living of content lives is affected in the region with still thousands of police roaming in and about the nooks and corners of the roads apprehending that any unpleasant situation may arise.

These aspects and policies definitely threaten the diversity and federal principles. The centralizing policies initiated by the Modi Government not only goes against the institutional architecture, but also contravenes the political trajectory of a country which continues to be defined in different varied states.

b) Detailed evaluation of the past and the present structure of the Coalition form of Government

Coalition Government in India has shown an extensively higher economic growth when compared to the majoritarian form of a Government. The coalition form of a Government may not cause policy paralysis. However, what remains to be the bulls eye for good governance may further shift from the capital New Delhi to other more progressive states like Andhra Pradesh and Telangana. Coalition dynamics definitely necessitate the requirement of intra party consultations consequently, decelerating the decision making power on behalf of the

Government, however there exists checks and balances in the coalition form of a Government. This checks and balance and the policy making and the economic growth has failed to develop in the majoritarian form of Government that is led by the Bharatiya Janata Party in the recent times. Furthermore, such rigorous scrutiny of the policies in the coalition form of a Government makes the measures passed more sustainable which automatically fails to take place in the Majoritarian form of a Government. The policies at both the central and the state level should be viewed with precaution as they further advance the politics of majoritarianism.

The re-decentralization of power that the Modi Government's administration has followed in the past five years partly expounds why India is now considered to be a case of centralized federalism, like Australia. This march towards the centralization of powers in the hands of one party and moreover, one man, partly reflects the ideology of the Bharatiya Janata Party. This ideology is the vision that the world strives to impose the culture of the majority community of India on everyone else.

It is in the obvious manner that the Modi Government thinks of cooperative federalism as a thing of the past and the inflicting of majoritarian power over the nation.

Proposal for a Course of Action and

Concluding Remarks

During the times of coalition politics that prevailed in the nation when there did not exist any majoritarian government was more of the aspect wherein the states played a significant role.

However, with the contemporary phase of the politics prevailing in India, wherein for the past two terms BJP has claimed the majoritarian power, the power significance has shifted from the states and to the centre.

The political power dynamics about the centre-state relations has changed drastically over the past seven decenniums. There has been a huge demand of restructuring the state and centre relation wherein the states are given extensive power to vocalize about their demands to lift the socio-economic condition of the states. This autonomy is suggested to be given to the states in order to lift from the kind of subordination and dependency and to give them greater shares of power and authority both. It can further be emphasized that the nation can develop and be strong only when the states are also strengthened and given their share of autonomy with certain checks and balances in order to restrict tyranny in the nation. Presently, the centre has been interfering in almost every aspect of the state government's rule which needs to be curtailed. The misuse of the power under Article 356 of the Indian Constitution which provides for the Presidential Rule when the President gets satisfied that there has been a breakdown of constitutional machinery in a state. This particular power has been proved to be disadvantageous for the states in the contemporary times. The centre should make an attempt to only provide with leadership, recommendations and suggestions to the states.

With regards to the kind of federalism, it needs to be understood that the Indian Federal System changes with the change in the party system at the

centre. The strong inclination of the Constitution of India is itself counterbalanced by different kinds of forces in the system. With the Modi Government in the rule, the states once again have lost the autonomy to vocalize their demands and further have been subordinated to the extreme level which obviously did not prevail in the coalition form of Government.

To provide with the concluding remarks, the author would like to emphasize that the centre-state relation under the rule of the coalition form of government is much more harmonious when compared to the one party dominant system.

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