

The Changing Dynamics of the Federal System during Modi's Regime: A Critical Appreciation

Rajendra Dayal

Associate Professor, Aryabhata College, University of Delhi

ABSTRACT

When the National Democratic Alliance led by Narendra Modi assumed office in 2014 after a spectacular victory at the electoral hustings, he had promised to rewrite the centre-state relations so as to effectively move away from centralised federalism of the past towards cooperative federalism. After some promising starts in the direction of cooperative federalism, the general drift of the federal -relational movement was towards centralization of power in the Union government, with open espousal for BJP's 'double engine' governments at the centre and states. There was a slide down on federal rhetoric as well. This paper dwells on the centre -state relations during the Modi regime. This paper is based on the assumption that the dynamics of the federal relations, inter alia, is mainly, shaped by transformations in the nature of the party system, as evident during the coalition era, but under certain conditions such as the ideology of the party in power, and the personality of the leader, the federalization process in the parliamentary-federal form of government that had gained momentum can even get reversed. After examining the dynamics of centre-state relations, based on a critical appreciation of the literature, this paper posits that cooperative federalism in course of the last nine years or so has given rise to a new notion of 'national federalism', but one which is deeply resented by non-Hindutva political formations.

Keywords: cooperative federalism, Modi, centre-state relations, national federalism, decentralization

Introduction

When the National Democratic Alliance led by Narendra Modi assumed office in 2014 after a spectacular victory at the electoral hustings, he had promised to rewrite the centre-state relations to effectively move away from centralised federalism of the past to cooperative federalism. After some promising starts in the direction of cooperative federalism, the general drift of the federal-relational movement was towards centralization of power in the Union government, with open espousal for BJP's 'double engine' governments at the centre and states. There was a slide down on federal rhetoric as well. This paper dwells on the centre -state relations during the Modi regime. 2014 is a significant point of departure for the study of federalism, for the obvious reason that after nearly three decades a single party had won an absolute majority in the Lok Sabha, and held the possibility of a new phase in the inter-governmental relations. This paper is based on the assumption that the dynamics of the federal relations, inter alia, is mainly, shaped by transformations in the nature of the party system, as evident during the coalition era, but under certain conditions such as the ideology of the party in power at the centre and states, and the personality of the leader, the federalization process in the parliamentary-federal form of government that had gained momentum can even get reversed.

Before this paper focuses on the dynamics of the centre-state relations post 2014, it will briefly touch upon pre 2014 period for marking out the changes and continuities that have characterised the federal relations during the Modi regime. This foray into the past is a sort of abbreviated discussion on the evolution of the federal system since independence. This would constitute the first part of the paper. The second part of the paper is about the centre-state relations during the Modi period. The focus here is on the desirability of establishing ‘centre-state on an even keel’, and the dynamics of these relations. Briefly, put the second part will be on the promise of PM Modi to transform the federal system so as to institutionalize ‘cooperative federalism’, and not just that, that is cooperative federalism, but also cooperative and competitive federalism. Here, the paper briefly alludes to the factors that framed Modi’s agenda of cooperative-competitive federalism. The third part of the paper looks at the dynamics of the centre-state relations post 2014, and examine the relations from three vantage points- the political, administrative and the fiscal. In the last section the paper takes up some of the criticisms of the Modi regime and then moves towards the conclusion that the idea of cooperative federalism in course of the last nine years or so has given rise to a new notion of federalism, which can be called ‘national federalism.

Centralization, decentralization, interdependence

Following Chanchal Sharma and Wilfred Swenden (2018) this paper uses ‘the concepts of self-rule and shared rule to assess centralizing or decentralizing dynamics in the management of public policy between central and subnational regions (states) across three dimensions: the political, fiscal, and administrative’.

As Sharma and Swenden mention, “The self-rule properties relate to policy making autonomy (political dimension), subnational revenue autonomy (fiscal dimension), and the devolution of responsibility for planning, financing and delivery of public services (administrative dimension). The shared-rule properties along these three dimensions involve: participation in public policy making through common institutions; sharing of centralized tax revenues and joint responsibility for planning, financing and delivery of public service’ (Sharma & Swenden, 2018, p. 55) .

Further they write: ‘A process of centralization is marked by a reduction in self-rule properties of the states without a compensatory increase in their shared-rule provisions. Where a reduction in self-rule is offset by increasing shared rule, interactions between both levels do not necessarily become either more decentralized (states acquiring a stronger voice in how the center is run) or more centralized (states agreeing to surrender certain powers to the central government in exchange for policy benefits and resources but, rather, more interdependent’.

‘Conversely, decentralization implies an increase in self-rule properties of the states. Thus, the trio of concepts—centralization, decentralization, and interdependence—constitutes the analytical core that can be applied to the study of center–state interactions in the three dimensions identified above. Interdependent policymaking may be pitted against independent policymaking which occurs when, in matters affecting other governments, a government takes action without consulting other governments or considering their interests and those other governments may be forced to adjust independently’.

The federal System before 2014 : Synopsis

Before the onset of the Modi regime, the evolution of India’s federal system can be described in two phases (Rudolph & Rudolph, 2010). Temporally, the first phase spans from the days of Nehru to the end of the Rajiv Gandhi tenure. The second phase from 1989 to 2014. Lloyd and Susane Rudolph describe the first phase as ‘old’ model of federalism and the second phase as the ‘new’ model. The evolution from the old

to the new model has been driven by a host of social-economic and political factors. For our purpose here we will not go into those factors or dynamics that explain the transformation, but merely delineate the features of these models or the phases. According to Lloyds, as Thiruvengadam points out, the first model or the phase was characterised by the following: [a] ‘the existence of one party system which enabled the Congress to counter constitutional divisions of functions across many levels’, [b] a planned economy that was being directed by an extraconstitutional body called the Planning Commission giving rising to centralization of power in the Centre, [c] ‘a model of fiscal federalism where the Union government and the Finance Commission which took cues from the Union government, dictated terms to the states with hardly any resistance (Thiruvengadam, 2017).

The second phase in Rudolphs is said to be characterised by the following: [a] ‘the replacement of the planned economy with a market economy, which saw a diminishing role for centralized institutions such as the Planning Commission, and a growing role for state chief ministers and entrepreneurs’, [b] ‘the substitution of a one-party dominant system with that of multiparty system, where regional parties began to play a key role in the formation of coalition governments at the centre and in the making of policy decisions’, and [c] ‘the transformation of the fiscal federalism wherein Chief Ministers could be seen pushing back against traditional directives issued by the Finance Commission and demanding market based measures to determine allocation of revenues and funds’ (Thiruvengadam, 2017).

MP Singh described the evolution of federalism in India on a parliamentary-federal scale. His argument is that India is a unique parliamentary-federal political system. India’s political system carries the attributes of both parliamentary and federal system. In the first phase, which broadly speaking lasted up to 1989, it was the parliamentary attributes of the system that dominated the parliamentary-federal government. This implied centralization of power in the federal /central government and the attenuation of the regional voices and political forces. After 1989 the federal features began to assert themselves, at the expense of the parliamentary attributes. 1989 heralded the rise of coalition era, fragmentation of the party system and the federalization of the polity, and rise of centre-state collaborative spirit in governance (Singh M., 2002). According to Ramachandra Guha ‘an atmosphere of mutual respect flourished between the centre and the states, with benefits all around’ (Guha, 2022). In this phase because of the party system fragmentation characterised by decline of the national parties and surge of regional political parties, the federal aspect in the parliamentary-federal form of government had come to dominate over the parliamentary much to the chagrin of the Union government. If in the pre 1989 phase the parliamentary aspects had dominated over the federal aspects in the working of the political system and taken the pendulum on -parliamentary-federal scale to one extreme, post 1990 the pendulum had swung to the other extreme where federal aspects had become dominant.

According to Verney, India’s Federalism in the first phase of one party dominant rule was ‘Quasi-federation’ in the second phase of party fragmentation and coalition government, India became ‘quasi-confederacy’ (D.V.Verney, 2003).

Federal Dynamics under Modi: Post- 2014

In the backdrop of the coalition era, of declining significance of the national parties, weak central governments, and over assertive state governments, and over bearing state parties, along with distributional failures of market driven economic growth, and the common man in distress, Modi- led BJP scored a phenomenal victory in 2014. Modi had run an election campaign in 2014 with a promise to ‘place centre-state relations on an even keel, ‘strive for harmonious centre-state relations’, and ‘revive and

make more active moribund forums like the National Development Council and Inter-State Council' (Kailash, 2019). He promised to establish 'cooperative federalism' and forge TEAM India for India's development and furtherance of national interest. The state governments were to be the drivers of development. His commitment to establish cooperative federalism was based on his experience as Chief Minister. During his tenure as the Gujarat Chief Minister, he had frequently lamented the excessive intrusion of the federal government in the exercise of state competencies, especially through the running of Centrally Sponsored Schemes (Sharma & Swenden, 2018).

Soon after assuming office, Modi's government took steps that appeared to be establishing cooperative federalism. In a major move his government abolished the Planning Commission, which had stood as symbol of centre's intrusion in state's domain of functioning and rights, and in its place constituted a new body called National Institute for Transforming India (NITI) Aayog. The Niti Aayog was given the task to "bring states to act together in national interest and there by foster Cooperative Federalism" (NITI Aayog, 2015). The cabinet resolution establishing the NITI Aayog explained that the "States of the Union do not want to be mere appendages of the Centre" and it endowed the new body with the task to reshape this relationship in such a way that states became "drivers of national development." 'Indeed, Narendra Modi often refers to NITI Aayog as "Team India", suggesting that it stands for the collective formed by the Centre and the states' (C Jaffrelot, 2019).

Modi's "Team India," envisaged a restructuring of intergovernmental relations. To that purpose, "Regional Councils of States," were to be created, and "moribund forums" such as the National Development Council and Inter-State Councils were to be revived. The state governments were to be made fiscally strong, resourceful and capable of exercising autonomy, even as the states exercised fiscal discipline.

Modi government created the Himalayan State Regional Council, made up of Jammu and Kashmir (which then had no government), Uttarakhand, Himachal Pradesh, Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, and some districts in Assam and West Bengal. But this Council was created at the very end of Modi's first term, in 2018, and it was the only one

Over the last nine years the Modi government has taken several concrete steps in different realms to build up cooperative federalism. To mention a few, the centre and states have been working together in 'Aspirational Districts Programme' since Jan 2018. The purpose of this programme is to fast track development in most backward districts across the country through the convergence of government programmes and schemes (PTI, 2023). Second, to foster collaborative Centre-state working, Modi government launched PRAGATI. Pragati stands for Pro-Active Governance and Timely Implementation. It is the Information and Communication Technology multi-modal platform. 'This unique initiative brings the highest officials of central government, state government and other officials on one table along with the Prime Minister, all working together to improve the implementation timelines of various programmes and schemes' (PTI, 2023).

Third, Modi government has been regularly holding meetings of zonal councils for strengthening and promoting cooperative federalism (PTI, 2023). Regular meetings of the PM with different ministers of state governments such as home, environment, labour etc have been held. He inaugurated the 'centre-state science Conclave' in Ahmedabad in September 2022 (PTI, 2023).

'Modi has also 'pioneered' post-budget webinar meetings with different ministries and stake-holders for effective implementation of budget provisions' (PTI, 2023). In these webinars state level officers also participate so that states can leverage budget related initiatives in an effective manner.

Modi chaired the national conference of chief secretaries in Dharmasala in 2022 and the second was held in January 2023 in New Delhi (ANI, 2023). Modi himself described it as an instance of cooperative federalism in the sense that the process of policy making and implementation was becoming more collaborative and consultative (ANI, 2023). The purpose of the chief secretaries was to deliberate on rapid and sustained economic growth in partnership with states in coordination as the PM believes that this is an essential pillar for the development and progress of new India (ANI, 2023).

In the fiscal space, the reforms in the indirect taxes and introduction of GST have been cited as an instance of the working of cooperative federalism. In the GST Council, both the centre and states are partners in decision making. The decision modality is based on wide base consensus.

Second, Modi government accepted the recommendation of the 14th Finance Commission. State's share in divisible pool of tax resources increased from 32 to 42 percent. This provided states with more resources to design and implement programmes as per their needs (PTI, 2023). There was a significant reduction in the numbers of CSS.

It is only in the political space that centralization of power was witnessed with the central government imposing its way on the state governments across at least four fronts: (1) attempts to deploy President's Rule for party political gain; (2) the unilateral nature of important decisions which impinge on centre – state relations such as demonetization in 2016; (3) the intention to forge simultaneous general and state elections; (4) and the approach of the central government in relation to Jammu and Kashmir. Across the three dimensions- political, administrative and fiscal, the degree of centralization has not been the same. Modi speaking at Niti Aayog Governing Council in August 2022 has credited 'cooperative federalism' for India's success in surviving pandemic, indicating a certain degree of decentralization of power, and state's autonomous exercise of its power (The Hindu Bureau, 2022).

Re-centralization process afoot

Critics, however, do not agree on the robustness of cooperative federalism. In the early months of covid-pandemic, there was a blatant attack on the federal structure – the states were not informed about the first lockdown. It was an outright unilateral decision. There was unilateral decision making regarding containment zones. This seriously impeded the ability of the states to battle the virus locally. This phase also encroached upon state powers related to transportation services. Then, there was fiscal constriction. Centre encroached upon financial instruments on which states have a claim. Demands for additional revenues by states were met not with relief but conditional credit. Even goods and services tax compensations to states remained unmet.

During the second wave – which was deadlier- there was 'unilateral decentralization'. There was heavy casualty as India lacked adequate preparedness to meet the scourge of pandemic. India-Union government had in fact become complacent by self-delusion of success in combatting pandemic in the first wave. When pandemic struck in the second wave the centre indulged in a pathetic blame game with the states. Covid experience does not really show that cooperative federalism was in fine fettle.

Even more generally, the policies of Modi government have contradicted BJP's poll promise: that is to place the centre-state relations on an even keel'. This means to 'strive for harmonious Centre-State relations'.

First, it has been pointed out by Jaffrelot that the introduction of GST has had a centralising effect. GST Council monitors the GST. In the Council states have only 66 per cent voting weight, while the centre

has the remaining. As 75 percent majority is needed for a decision in the Council, the decision making procedure effectively passes on a veto power to the centre.

Second, the promise to revive the Inter-State Council, an intergovernmental body that could anchor cooperative federalism very well was not given due attention by the Modi government. It has been convened only once, and that too in the first term.

Third, Modi's resentment of Centrally Sponsored Schemes (CSS) sponsored by Manmohan Singh government, when he was the Chief Minister has been replaced by his more than favourable inclination towards those he has initiated- The Swachh Bharat Mission, PM Awas Yagna, Jan Dhan Yagna, Ujjwala Yagna. All these initiatives are very closely linked to Modi's persona and act as vehicles of Modi iconography. Where there is dual engine sarkar, there is no problem. But there is a real problem with opposition ruled states, especially as the state governments cannot derive credit in elections over effective implementation of the CSS. During the UPA, state government ran away with credits of the CSS by its effective implementation. But under Modi dispensation, this is no longer feasible.

Fourth, Modi's government did not bring on board the state governments and consult CMs when he took the demonetisation decision. When covid pandemic struck, Modi unilaterally clamped lockdown in March 2020. The suddenness of the decision to shut down establishments in the cities and town and suspension of transportation brought much consternation and helpless migrant labourers were caught in lurch that brought suffering and hard survival times. March 2020. Such unilateral decisions are a far cry from any notion of cooperative federalism.

Fifth, the centre put restrictions on some opposition ruled states in their interaction with foreign countries. For instance, the Union government interceded to prevent Kerala receiving a Rs 700 crore financial assistance from UAE, for coping with the after math of devastating floods in 2018. The Union government took a position that India did not need any foreign aid. In another instance of Union not agreeing with an opposition government proposal, the Delhi CM was denied permission to address the World Cities meet in Singapore in 2022.

Sixth, the politicisation of the office of Governor has increased during Modi's regime. Governors are known to have shown deference to the party in power. But during Modi regime, the politicization of Governor reached a new height. Allegedly at the prompt of the Union government, the Governor of Goa, after the 2017 Assembly elections asked the BJP parliamentary leader to form the government even as Congress had more number of MLAs, and ought to have been given the first go to form the government. In the NCRT Region of Delhi the Lt-Governor and the elected government have been all along in confrontation over jurisdiction of the government, with the Lt. Governor clearly batting for the Union government.

In Karnataka in 2019 the chief minister alleged that BJP was into a government toppling game by bribing MLAs. The government fell. Governor did not do anything. In Madhya Pradesh, a Congress government fell as BJP engineered defections in the Congress party, and Governor installed a BJP government, which had received a drumming in the last elections. All this happened with a partisan Governor.

Constitutional pundits have noted abuse of Article 356 by the Union government for imposing President's rule in Arunachal Pradesh and in Uttarakhand. In both the states, the centre claimed that the party in power- Congress, had lost majority. This was factually incorrect. Judiciary forced the government to reverse its decision. Governor of Arunachal Pradesh was strongly criticised by the Supreme Court.

When the statehood of Jammu and Kashmir, was abolished, critics of the government, such as Guha interpreted the act as the most savage attack on the federal principle ever undertaken by a prime minister

(Guha, 2022). The Supreme Court has subsequently upheld the constitutional validity of abolition of Article 370, and to that extent the abolition of statehood was not altogether arbitrary. When it comes to use or misuse of Article 356, the record for all governments in the past has not been clean. Nehru's governments over fifteen years used it on eight occasions, not all of them were party-politics driven – except the controversial dismissal of the Communist government in Kerala in 1959. Indira Gandhi used this provision much more frequently 50 times (1966-77 and 1980-84). Most of the use was for partisan purposes. During Modi's regime Article 356 has been invoked only eight times. When judged by this single criteria, Modi has been much more respectful of the rights of the states than Indira Gandhi. Yet, Guha believes that he has weakened federalism far more than previous PMs (Guha, 2022).

During his regime, as several opposition governments in states have pointed out, Modi government framed important policies and passed important laws even without consulting the states, which have to implement them (Guha, 2022). This can be seen in laws relating to farm, education, cooperatives, banking etc. Second, although law and order is a state subject, Modi government has intruded territorial jurisdiction of states by invoking UAPA to 'suppress political dissent' and sending 'National Investigation Agency' to states after states and thereby it 'seeks to centralize punitive powers in its hands' (Guha, 2022). Third, the invocation of National Disaster Management Act without consultations with states has continued even after pandemic (Guha, 2022). This act has given enough power to centre to regulate many fields in the state list. Fourth, Investigative agencies, such as Central Bureau of Investigation, and the Enforcement Directorate have been let loose on political opponents. In many cases the corrupt have been targets, but political considerations too have been there in plenty while using the agency against political rivals. Fifth, politicization of the bureaucracy and demand of ideological obedience from officers further serve centralization of power. As Guha writes: "IAS and IPS officers in important states which are not ruled by the BJP, such as West Bengal and Maharashtra, have been under pressure to declare their loyalty to the ruling regime at the Centre" (Guha, 2022).

The centralising effects of Modi regime in the political space has given ground to the critics to question Modi regime's acclamation of cooperative federalism. For them as Jaffrelot points out, 'Modi and BJP are part of the Hindu nationalist movement- a school of thought traditionally in favour of a unitary state defending more effectively the culture of the majority community' (C Jaffrelot, 2019). Therefore, the deviation from the decentralising agenda he had promised at the very beginning is unsurprising. Aiyar and Tillin notice the emphasis of the Modi government on 'oneness', as in one nation -one ration card, one nation-one elections etc, a new centralized interpretation of Unity in Diversity theme, which is more in keeping with the majoritarian ethos of Hindutva (Aiyar & Tillin, 2020).

Concluding Observation

To conclude, India today is a case of centralised federalism- one of the most centralized federations, along with Australia (Singh A. K., 2019). Indeed, India is heading towards what Ajay Singh calls a national federalism (Singh, 2019). Singh writes: "In this form of federalism, sovereignty and autonomy of units have no intrinsic value. Units are viewed partners in the national governance agenda of the federal government. For national federalism, the term 'cooperative federalism' acts as a signifier of collective governance" (Singh A. K., 2019). One of the essential features of this view of federalism is, as Singh points out, (PTI, n.d.) 'centre and states are viewed not as distinct separate structures but as part of one integral whole. This is perfectly in tune with the ethnic definition of nation that supporters of the ideology of Hindutva are propagating' (C Jaffrelot, 2019). But as this approach is not shared by all, and especially

those who are cognizant of India's deep cultural plurality, the federal system under Modi has been under severe strain.

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