**Hindutva federalism**

BY A . G . N O O R A N I 2020-12-26

INDIA`S constitution is not federal with unitary features but unitary with federal features, a British constitutional lawyer remarked. But that was shortly after it came into force in 1950. Now that judgement stands validated. After the Modi government came to power in May 2014, it is the unitary not federal features that have assumed greater force.

The reasons are largely but not entirely constitutional, though the constitution itself paved the way for its own distortion. The union wields vast powers over the states. The centre appoints their governors, mostly without consultation. The union could oust the state government and take over their administration. Constitutional amendments made matters worse. Law and order is an exclusively state subject. But this was whittled down by an amendment empowering the centre to deploy emergency paramilitary forces in states `in aid of the civil power` even without state consent. The centre enjoys wide powers of giving states `directives`.

By and large, the supreme court`s rulings were in favour of the centre. But in 1994, it imposed strong curbs on the centre`s power to impose direct rule, ie `president`s rule` The court ruled that it had the power to summon and see the material on the basis of which central rule was imposed.

But the governor is an anachronism unknown to most other federations.

Appointed by the centre, he can hold office for life. He is not removable by state law, even on grounds of proven misbehaviour. A hostile centre can keep him in office as long as it wishes.

Indira Gandhi appointed a commission on centre-state relations chaired by Justice R.S. Sarkaria who had by then lived up to his name. He had been used to `fix` Tamil Nadu chief minister M. Karunanidhi, and was later appointed chairman of the Press Council of India, a reliable favourite. His colleagues on the commission were both `reliable` bureaucrats. V.P. Singh appointed an inter-state council, only to let it wither on the vane.

One academic recently noted, `Having persuade d st ates to give up their constitutionally-mandated taxing powers ... with the promise that their revenue shortfall will be made good, the centre has now coolly reneged on that promise. ... Education ... is in the concurrent list; but the centre has recently come out with a new education policy, without any consultation.... Agriculture belongs to the state list; and yet the centre has just rushed three bills through parliament....

`...[Any] state can cease to exist as a state and can be carved up into any number of fragments any time, by placing it under governor`s rule, and taking the consent of the gov-ernor who is handpicked by the centre as being legally equivalent to the consent of the state legislature. When the very existence of a state becomes a matter of central discretion, a substantial step has been taken towards a unitary state. Converting India into a de facto unitary state is the agenda of both the Hindutva forces and the corporatefinancial oligarchy integrated with globalised finance capital; it constitutes therefore a prominent element on the common agenda of the corporate-Hindutva alliance that is currently dominating Indian politics.

The Modi government has accelerated an old process and inspired it with the Hindutva ethos. The Jan Sangh and its successor BJP never felt comfortable with the concept of federalism.

But then, not one prime minister, regardless of political affiliation, was known for empathy towards the states. That includes Jawaharlal Nehru, who had decided on a planning commission in 1949 even as the constitution was being drafted, but refused togive it any constitutional status.

States rushed to it for allocation of funds; the centre`s power increased. Governors loyal to New Delhi began throwing their weight about. The Sar-1(aria commission recommended that no governor belonging to an opposition party should be appointed; all ignored this. Modi`s regime has gone one better; it chose men hostile to non-BJP-ruled states who publicly criticise, even demonise, state governments. The West Bengal governor has begun acting as if he was the chief election campaigner of the BJP for the state election next year.

There is, however, a deeper malaise. The parties are centrist by their own constitution andnone hold elections to party posts. Tickets for election to the legislatures are awarded by party oligarchs. Chief ministers need the approval of their bosses at the centre to select and remove cabinet colleagues. Chief ministers cannot recommend dissolving the state assembly without central party leadership approval. Their own `election` by MLAs is a formality for they were themselves nominated by the party president in New Delhi.

How much can such chief ministers stand up to the centre for their states` rights? India`s democracy is run by undemocratic political parties, and its federalism is warped by highly centralised political practices.

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