

# **FEDERALISM AND COALITION GOVERNMENTS**

## **THE INDIAN EXPERIENCE**

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# **FEDERALISM AND COALITION GOVERNMENTS**

## **THE INDIAN EXPERIENCE**

————— *Dr. Jayaprakash Narayan*

It is by now axiomatic that India is a vast, complex and plural polity with disparate groups struggling to coexist and achieve a measure of cohesion and national integration. Even a large district in India is bigger than half the nations of the world. Several of the larger states in the country are bigger than 90 percent of the nations of the world. Uttar Pradesh would probably rank as the fifth biggest nation in the world, if it were to be independent. In addition, given the linguistic diversity, political fragmentation of society, the uneasy co-existence of several layers of India from the middle ages to the 21st century and the enormous immobility of the bulk of the Indian population, there is no other nation on earth that can really be compared to modern India.

### **Constitutional Spirit Vs. Colonial Instruments**

2. In the aftermath of partition, about 10 million people migrated across the newly created borders; a million people belonging to both the faiths were butchered in the conflagration that ensued; 600,000 people were maimed and 300 thousand innocent women were raped. Given these cataclysmic events, it was but natural that the ruling elites, concerned as they were for the unity of the country and maintenance of stability and order, opted for a governance structure which were largely a continuation of the British Raj. The framers of the Indian constitution were undoubtedly, men and women of great calibre, commitment and understanding. However, the cataclysmic events surrounding partition compelled them to continue with the time-tested instruments of governance. Many scholars have pointed out that there is about 80 percent congruence between the Government of India act 1935, an Act of British Parliament that shaped the governance structure of India during the colonial era, and the Indian constitution of 1950.
3. Our democracy is extremely flawed, and its poor design ensured the eventual break- down. The preamble, the fundamental rights and most of the directive principles reflect universal human democratic values of modern civilisation. However, the antiquated instruments of governance are largely unsuited to the challenges of today in a vast developing nation with a high proportion of population oppressed under the weight of poverty, drudgery and illiteracy. In the early years after independence, this conflict between constitutional values and colonial instruments of governance was camouflaged. The euphoria accompanying the transfer of power led to a general belief that the moment Indian leaders acquired power, things would automatically improve even with the old instruments of governance. However, the subsequent events belied these hopes. In the two decades after independence, the aura of freedom struggle, the towering stature of the early leaders associated with that struggle, the hope of better things

to come, and the inadequate understanding of the loopholes in the mechanics of governance ensured certain measure of stability, hope and harmony. As all such hopes are dashed, and as persistent rejection of the parties in power does not seem to result in any significant, tangible improvement, people are increasingly sullen and resentful.

### **Fragmentation and Politics as Zero-sum game**

4. The complexity of India gave our constitution a federal appearance, though with a pronounced unitary character. Continuance of Westminster model in our highly plural society led to increasing resort to coalition governments as the dominant national party declined eventually, and the governance system was not conducive to the emergence of a coherent political party structure. Federalism has to be examined from various angles. The political role of the constituent states in shaping their own governing structure is important in a truly federal polity. In India, given the stultifying uniformity prescribed by the constitution, various laws and executive orders, the rich diversity of the Indian union is not reflected in the design of the political structure of the constituent states. The fiscal devolution is not commensurate with the enormous tasks of governance and providing services including education and health care that the states are entrusted with. Over the years, however, the states' role in shaping the policies of the union has been increasing. While the states are reasonably free to frame their own policies, the mechanism of the Planning Commission and the centrally-sponsored schemes made sure that the room for manoeuvring is very limited. Most of all, true federalism should encompass genuine local self-governance. In this area, the failure of the Indian state has been extremely disappointing and debilitating to our democracy. Recent half-hearted attempts to bring about constitutional changes facilitating local self government amount to too little and too late.
5. The problems of flawed federalism have been complicated immeasurably in recent decades as the Indian social fragmentation is further accentuated by the political process. For some time now, there have been no national mandates in our parliamentary elections, and the national verdict is merely an aggregate of the state mandates. The electoral verdicts at the state level in turn have been largely plebiscitary in nature, and in most cases are motivated by a strong anti-establishment sentiments. This process is further complicated by the increasing caste and sub-caste consciousness in people's voting patterns as well as in the state's decision making. The Indian political process, for the past five decades, has failed to encourage individuation. In any society, sectarian impulses have a potentially dominant influence on people's voting behaviour. However, the process of individuation, by which each citizen attempts to establish a nexus between his vote and his own welfare, acts as a countervailing influence in a well-designed system, and keeps sectarian loyalties under check. In the absence of such individuation, the character and competence of individual candidates has become increasingly irrelevant in our electoral process. With the fragmentation of our polity, the political parties failed in their interest-aggregation function, with parties increasingly identified with one or more castes or communities. Such sectarian political loyalties translated themselves into a largely immobile vote in

- many state. The shifting vote, based on the voters' perception of a party's performance or promise, which is so crucial in the electoral fortunes of political parties, is slowly disappearing in India. Increasingly, primordial loyalties are dictating the voting behaviour.
6. As a result, at the national level the electoral outcomes are fairly predictable and persistently indecisive, leading to unsuitable, weak and often incoherent coalitions based on the numbers game. In the states where caste divisions are kept under some check for historical reasons, there have been decisive mandates mostly based on anti-establishment feeling, with the two major parties or combinations sharing power alternately with almost unfailing regularity. Where there is a high congruence between caste and political preference, and where a majority combination has not emerged to acquire a decisive edge, there is persistent political stalemate with farcical consequences. The third, as yet incipient, outcome is the emergence of a strong, permanent, almost unbeatable majority combination of castes and communities with a stranglehold over the electorate.
  7. As a result of this complex process of fragmentation, all politics and governance have been reduced to a zero-sum game. Instead of creating a win-win situation by pursuing policies with the potential to enhance goods and services for all and to improve the quality of governance, a destructive and often counter-productive majoritarianism is coming to the fore.

### **Problems of Federalism**

8. The problems of federalism are by now fairly well-understood in the country. The emergency power vested in the union under article 356 of the constitution and its persistent abuse by almost every party and government in office at the union level has struck at the roots of federalism and democracy. The role of the puppet governors, who owe their appointments and their survival to the rulers of the party in power in Delhi, has been by and large less than satisfactory. The best that can be said in favour of the governor's institution is that many of them are harmless, even if they are irrelevant. The governor's institution has not served any useful public purpose, while it has done a lot to hurt our nascent democracy and negate people's mandates.
9. The distribution of powers listed in the seventh schedule of the constitution has given excess weightage to the union at the expense of the states. The concurrent list, while serving little useful public purpose, has stifled the states' initiative. In critical areas affecting the unity and integrity of India, the union has little effective powers short of dismissal of the state governments; while in matters which ought to be dealt with close to the people, there is needless central intervention. As a result, the union is a helpless bystander until too late in matters like terrorism and abductions employed as tactical weapons by insurgent groups, and there is no mechanism for a united national response. The measure of balance required between more autonomy to states and the imperatives of national unity and harmony is missing in our federal structure.

10. Fiscal dissolution is one area where there is significant improvement in recent years. With the acceptance of the recommendation of the 10th Finance Commission, all revenues of the union government are now made divisible, and 29 percent of the tax revenues are transferred to the states. This is a long-overdue and welcome shift. In addition, another 13 percent of central revenues are transferred to the states through plan assistance and centrally-sponsored schemes. While the states are seeking transfer of 50 percent of revenues, 42 percent is a satisfactory figure, provided it is progressively raised to 50 percent over the next decade. However, central planning and centrally sponsored schemes in a vast country of nearly a billion population are an anachronism. All transfer of resources must be by devolution, and the states must be free within the reasonable parameters to evolve their own priorities. The All India Services have clearly outlived their utility. There can be neither self-government nor good government without authority and accountability vesting fully in the state governments on all matters entrusted to them.
11. In all our debate on federalism over the past 50 years, the most neglected aspect is local self-government. There cannot be true federalism without the local people having near-complete control over their destinies through their elected governments or empowered stake-holders' groups over all matters of day-to-day concern to them. The locally elected governments at all levels, viz., village, town, city, sub-district or district must be completely autonomous and must be recognized as tiers of self-governance on par with the union and the states. They must have their own local legislatures to deal with subjects under their jurisdiction and their own elected executives. The local bureaucracy must be totally responsible to the local elected governments along. The much-talked-about 73rd and 74th amendments to the Constitution of India are but very hesitant initial steps in the direction of true democratization of our polity. Unless power is really transferred to the people, Indian democracy will continue to be illusory, and people will have no role or participation in governance. We have to create a nexus between the vote and the welfare of the citizens at the local level, and design local institutions with appropriate authority commensurate with their responsibilities. Only then can people understand the meaning of their vote and use it as a precision tool to judge their political leaders. Only then will sensitive, sensible and effective leadership emerge from the grass-roots to build a truly democratic, strong, independent India of our dreams capable of fulfilling its potential in a substantial measure.
12. These, then are some of the major issues that require our urgent attention to redress the imbalances that have surfaced in our quasi-federal polity and to establish true and effective federalism in which national unity is strengthened and democracy and people's participation become more real. In any such serious renegotiation of centre-state relations, there has to be a measured and balanced approach of give and take. While there is a lot of fat that the centre should shed and the states must be provided with appropriate sinews to deal with their enormous responsibilities, there is also a very strong case for greater central intervention in certain areas in order to achieve unity, national integrity and economic growth. Most of all, substantial powers and responsibilities in relation

to people's lives must be vested in local authorities in a manner that people can understand, relate to, and influence on a day-to-day basis.

### **Coalition Governments**

13. Most coalition governments in India at the union or state levels have tended to be rickety, unsuitable, incoherent and weak. In vast plural societies, coalition governments are both inevitable and desirable. However, the success of a coalition government depends on several key factors. Strong party loyalties and legislators' respect for people's mandate are absolutely essential for the survival and stability of an honest coalition. But, the Westminster model adopted by us recognises executive power only by legislative majorities acquired by means of fair or foul, often without reference to the public opinion or the people's mandate. As people's mandate and power are easily divorced, the rulers are increasingly obsessed with survival in power at any cost. The resultant distortions have made a mockery of our parliamentary system and severely undermined the legitimacy of authority and effectiveness of executive functioning. In the period between 1967 - 73, it is estimated that there were about 2200 defections by legislators and in various states. Considering that the total number of legislators at the state level is a little over 4000, and that defections during that period were confined largely to the northern states, the numbers of defections is staggering. The recent episodes in Uttar Pradesh, Gujarat and many other states do not need any elaboration. In such a climate, stability of governments, and coherence of governance would be the natural casualties.

### **Legislator as Disguised Executive**

14. The legislative office theoretically gives the incumbent the power to make laws, and keep the errant executive under check through various parliamentary procedures. However, in reality the legislators as well as the general public do not perceive the legislative office as one of law making and keeping the executive under check. Legislators are seen by the people and themselves as disguised executives. As the government is entirely dependent for survival on the support of the majority of the legislators on a given day, most of the time, energy, attention and efforts of governments are concentrated on mere survival. As huge investments in money are made to get elected, there is a natural propensity on the part of the legislators to seek patronage and share the spoils. There is an implicit understanding that the support of the legislators to the government is contingent upon the political executive doling out favours to legislators.
15. Rarely is this support based on principles, ideology or public opinion. Invariably there is a price extracted for such support in many forms. Appointment of public servants in key public offices, transfer of inconvenient employees, licensing, distribution of patronage in the form of subsidies and benefits to the poor, public distribution system, government contracts and tenders, mining licenses, permissions to exploit the forest produce, maintenance of law and

order, crime control, crime investigation and prosecution, execution of public works - all these are often at the mercy of legislators. Even a well-meaning and honest political executive is helpless in enforcing high standards of probity, fairness and competence as it is at the mercy of the legislators on whose continued goodwill and support its survival depends. As a consequence, integrity in public office at the political executive level and survival in power are increasingly incompatible.

### **Governance or Patronage?**

16. In such a climate, all governance is then reduced to patronage, and transfers and postings of bureaucrats. As Robert Wade pointed out, there is a well-developed market for public office in India. Money habitually changes hands for placement and continuity of public servants at various levels. These public servants in turn have to collect 'rent' from the public. The hafta paid to a policeman, the mamoolcharged by the excise official, the bribe collected by the revenue functionary or the corruption of a transport officer are all part of a well-integrated, well-organized structure. This vicious cycle of money power, bureaucratic placements, political power, muscle power and election battles based on these is extremely well-entrenched and resilient and cannot be dismantled by a few good deeds of a few good people or by incremental reform or tinkering with the system. It is this vicious cycle that leads to the pervasive corruption that large sections of citizenry in all walks of life are disenchanted with, and which is enfeebling ordinary citizens. With the exclusion of the people from the political process or governance, except voting once in a while in favour of a candidate who is imposed on them, most people are sullen, resentful, angry and frustrated. No matter how many times they reject a government or party in power, no matter how often they give vent to their anger and frustration through public protests, demonstrations, and at times violence, the real character of the governance does not seem to change. The local public servant behaves in the same manner as always - corrupt, greedy, arrogant and arbitrary.

### **Choice of Ministers**

17. In the Westminster model of government that we have chosen, the choice of ministers is extremely limited, since ministerial offices have to be held only by legislators. In a fragmented polity, as the local legislator is locally elected more as a representative of the dominant castes and groups, he often does not stand for an ideology or poll platform or a mandate. His main purpose is to recoup the losses sustained in the elections or while out of office, and to further the interests of the dominant groups or castes as a legislator and as a minister, if he can muster enough support to become one. Under the circumstances, it is almost always certain that we have a class of ministers, who have neither common purpose nor larger vision, nor understanding of the public affairs. The Council of Ministers is very often a loose collection of warring tribes perpetually feuding for crumbs of office or to further their own group or caste interests. Even in the rare instance when a minister is well-informed, competent and honest, the demands made on his time and energy by his constituency and party, the compulsions of influence pedaling and constituency-nurturing and the need for political survival

by continuously extending patronage to legislators make it impossible for such a minister to diligently apply himself to the complex issues of governance, policy making and promotion of public good.

### **Perceptions - Macro Level Vs. Micro Level.**

18. The elections are largely plebiscitary and the people vote for a platform or a leader or a promise or, as is seen more often, vote to reject the incumbent government or party in power. The individual candidate's ability is rarely an issue in our electoral politics. At the same time party workers and local oligarchies do not regard election as an opportunity to vindicate their policies or ideologies. In most cases, election of their chosen candidate is merely an opportunity to have control of state power and resources, to extend patronage selectively to people of their choice, to get pliant local bureaucrats appointed in plum postings, to humiliate and harass the inconvenient employees who would not do their bidding, and increasingly to interfere in crime investigation and prosecution by doctoring evidence, influencing investigation and letting criminals loyal to them go scot free and implicating people opposed to them in criminal cases. In the midst of this, governance is an irrelevant, and often inconvenient ritual without any meaning to those in power and without any positive impact on the people.
  
19. At the macro level when we examine a whole state or the country, the electoral verdict does broadly reflect public opinion. More often than not this verdict is a reflection of the people's anger and frustration and is manifested in the rejection vote, or their support to a leader, promise or platform. However, at the local level, caste or sub-caste, crime, money and muscle power have become the determinants of political power. All parties are compelled to put up candidates who can muster these resources in abundance in order to have a realistic chance of success. While political waves are perceived around the time of election or afterwards, at the time of nomination of candidates all parties are uncertain about their success and would naturally try to maximize their chances of success at the polls by choosing those candidates who can somehow manipulate or coerce the voters. As a net result, irrespective of which party wins, the nature of political leadership and quality remain largely the same, and the people end up being losers. This is then followed by another rejection vote in the next election and the vicious cycle keeps repeating. Where the candidate cannot muster money or muscle power, he stands little chance of getting elected irrespective of his party's electoral fortunes. Increasingly in several pockets of the country, people are spared even the bother of having to go to the polling station. Organized booth-capturing and rigging are ensuring victory without people's involvement.

### **New Entrants Into Politics**

20. If we examine the new entrants into politics over the past three or four decades in the country, very few with intellect, integrity, commitment to public service and passion for improvement of the situation could enter the political arena and survive. Almost every new entrant has chosen politics exactly for the wrong reasons. A careful analysis shows that heredity and family connections are the



commonest cause for entry into politics. This is closely followed by those who have large inherited or acquired wealth and have decided that investment in politics is good business. In recent years, many local muscle men, whose services were earlier sought for extortion or vote-gathering, are now directly entering the fray and gaining political legitimacy. A few persons have entered politics out of personal loyalty to, and close contacts with those in high public office. People with very high visibility on account of great success in mass entertainment like sports or films have also been increasingly drawn into the vortex of politics. Occasionally, accidents of fate are pitchforking certain individuals into elective public office. If we exclude these methods of heredity, money power, muscle power, personal contacts, high visibility, and accidents of fate, there will not be even a handful of persons in this vast country of ours, who have entered politics with deep understanding of public affairs and passion for public good and survived for any length of time over the past four decades. There is no activity more vital and nobler than governance. In the true sense, politics is about promotion of happiness and public good. But if the best men and women that society can boast of are either prevented or repelled or rendered incapable of surviving in the political arena, then that governance is bound to be in shambles. Over the past forty seven years of our republic, the unsuitable constitutional and legal mechanisms that we evolved landed the Indian republic in an extraordinary crisis of governability.

### **Dysfunctional Anarchy**

21. As individual candidates and party workers see the election as an exercise in promoting the disguised executive of their choice to further their interests exclusively and selectively at the cost of their rivals' interests, and at the cost of public interest, all elections become battle fields for supremacy. Perpetuation of feudal oligarchies and their dominance of state instruments are the chief purposes of electoral battles and power, as perceived by local elites and party cadres. As the disguised executive power of a legislator is informal and unaccountable, there is no effective check on it. In a society which is vertically fragmented, extraordinarily diverse, and relatively immobile, the electoral process under the circumstances explained has become highly divisive and contentious without reference to national or state issues or public good. Neither larger national and state issues nor issues of fundamental importance to people's lives like school education and health care are allowed to figure in the election process. As there is no nexus between authority and accountability, most state functionaries escape with plausible alibis. The resultant public anger and frustration in the political process is evidenced by the persistent rejection vote in most elections in India over the past 25 years or so.
22. Often the fear of rejection compels governments to adopt highly short-sighted and populist measures. However, as a general rule they do not help, as the exchequer is soon depleted, and the people have no respect for a government that is venal and ineffective, irrespective of the direct subsidies. In any case they realize that even when a government makes earnest attempts to improve their lot, its power to do good is extremely limited, while its capacity for harming public interest is enormous. A large and important part of people's lives is neither touched by the

government, nor are the people given control over it to guide their own destinies. Many perceptive observers noted this extra-ordinary crisis of the Indian polity over the years and commented on the ungovernability of India. Galbraith, for instance, characterized India as a "functioning anarchy" decades ago. Increasingly today, it has become a dysfunctional anarchy.

### **Strains in Federal Polity**

23. By the very nature of things, parliamentary democracy necessitates irregular elections and possibility of dissolution of the house at any time on account of instability or at ruling party's choice and discretion. As the elections for the union parliament and state legislatures cannot be guaranteed simultaneously, the impact of one on the other is profound. For instance, even when a stable government is in power at the union level, electoral failure in one or two major states during the middle of the parliament's term severely undermines the authority of the union government. Therefore the government is forced to concentrate its energies on winning the local elections even at the cost of larger national interest. Similarly even if a government has stable majority in a state, loss of ground in parliamentary elections in the state seriously undermines the government's authority, credibility and even majority support. Therefore the state government tends to concentrate entirely on the parliamentary elections even at the cost of public interest. In addition, the frequent by-elections to legislatures lead to unbridled populism. In effect, a government is never secure and sure of a reasonable period of stability, during which its declared policies can be vigorously pursued and results scrutinized by the public at the end of the term. With this sword of Damocles hanging perpetually, it is not possible to give good governance.

### **Need for Holistic Reforms**

24. In the light of this unhappy experience with our federalism and coalition governments, a time has come to undertake holistic governance reforms. Isolated efforts to correct individual ills have largely been frustrated or failed because of the evil engulfing all facets of governance. No matter how well-meaning and necessary an isolated reform is, it will not yield adequate dividends, when it is unaccompanied by the other necessary changes. In this backdrop, the vested interests and status quoists can always cite the failure of the partial reform and use it as an argument against any serious reform. Time and again, the half-hearted, well-meaning, isolated, necessary but insufficient reforms have failed to energize the polity and improve the content of our democracy. The sporadic attempts to improve the conduct of elections, the repeated attempts of the various Administrative Reforms Commissions, the many Law Commission Reports, the tortuous course of Prasar Bharati Act for over twenty years, the introduction of the much talked-about Panchayati Raj institutions in the 50s and 60s and the 73rd and 74th constitutional amendments in the 90s, and efforts like the Anti-defection Act through the amendment of the constitution are all examples of sporadic, isolated, insufficient and ultimately ineffective efforts to reform the Indian governance system over the years.

25. In this all-pervasive crisis of governability, the only realistic way out is a peaceful, democratic, holistic transformation of Indian governance structure. Such a transformation must address the basic processes of power and ensure that truly democratic, self-correcting mechanisms are in place. Every facet of reform must counter adequately the elements of crisis of Indian governance - the imbalance between the exercise of positive and negative power, the alibis for non-performance on account of the disjunction between the vote and welfare of citizens on the one hand, and between authority and accountability on the other, the incapacity of the administrative - legal structure to reward good behaviour and punish bad behaviour consistently, and the increasing incompatibility between honesty and survival in political executive office on the one hand and honour and politics on the other. In such a comprehensive reform process, each element of reform will reinforce the other elements, bringing out synergies and minimizing risks. A holistic reform also ensures adequate checks and safeguards against failure of any institution individually. Instead of failure at one level leading to failure at all other levels eventually, failure is arrested quickly and countered effectively before it does serious damage to the body politic. All the elements of transformation of our governance structure together must be capable of strengthening every facet of our democracy - freedom, self-governance, empowerment, rule of law and self-correcting institutional framework.

### **Governance Reforms**

26. The governance reforms aimed at balanced federalism, and ensuing strong, stable and purposive governments based on the following principles must be undertaken without loss of time.
- \* The governments at the union and the state levels must be strong and stable, and capable of giving coherent and good governance on sustained basis.
  - \* State and local governments must be made impervious to undue political pressures from the union and the states respectively.
  - \* There must be substantial participation and empowerment of citizens in the governance at the local government level; and greater autonomy and resources to states to discharge their legitimate responsibilities.
  - \* The redistribution of the powers between the union and the states must adequately address the imperatives of national unity and integrity; and must promote inter-state trade and commerce, protect common citizenship, and fundamental freedoms of movement, residence, trade and profession.

- \* The reforms must establish true democracy by enlarging freedoms, promoting self-governance, empowering people, enforcing rule of law and constituting self-correcting mechanisms of governance.

The following are the key reforms which ought to be vigorously advocated and undertaken to safeguard our republic, strengthen our democracy and promote peace and prosperity.

### **1. Separation of Executive from Legislature**

27. There is need to insulate executive branch of government from the day to day vagaries and pulls and pressures of individual legislators. Ideally there must be complete separation by a direct election of chief executive at every level with the government having fixed tenure of office irrespective of the composition of the legislature. Such a government will have the freedom and flexibility for implementing the policies for which it obtained public mandate. Similarly the legislature must have a fixed and guaranteed term without any scope for dissolution either by the chief executive or by the higher tier of government. There must be an order of succession prescribed constitutionally in case of vacancy of executive or legislative office, so that frequent by elections will become unnecessary. The elected head of government at every level must have the right to appoint ministers of his choice, who shall serve office at his pleasure. These ministers must be from outside the legislature.
28. These reforms have many obvious advantages. In a pan-national or pan-state election for the chief executive, the dominance of local groups tends to become irrelevant and therefore elections are likely to be free from corrupt practices and violence. The legislator will be the law maker and will exercise check on the executive without determining the fate of the government. Since he is no longer the disguised executive, people with money and muscle will not have any incentive to waste their resources and time for elective public office. Decent, well-intentioned, public-spirited citizens will then be attracted to elective public offices - both executive and legislative.
29. The governments will be stable with secure tenure of five years during which period they can implement their policies and go back to the people for their verdict on their performance. As there cannot be any dissolution of legislature, elections will be held on a regular basis for all elective offices throughout the country simultaneously. The executive will not be compelled to live from by-election to by-election, or from one parliamentary vote to the next, in perpetual fear of changing moods of the public or the legislators. Honesty and political survival will be compatible in such a climate. There will not be any strain on federalism, as elections to parliament and state legislature will be held together and one will not affect the survival of the other. The elected chief executive has the freedom to invite the finest creative minds with administrative acumen into his cabinet without any political or partisan considerations. The quality of

governance, and credibility of authority will be enhanced substantially. As the chief executive is elected by the whole nation or state, there will be tremendous political socialization, with informed public debate and dissemination of knowledge on issues becoming more easy. Democratic ethos will thus take deep roots with passing time.

30. As a well laid-down succession procedure will be available, the sudden vacancy of the office of the chief executive will not cause serious dislocation of government or polity. As the legislature can never be dislodged until the end of the term, the chief executive must always have the ability to carry the legislature and the people with him. Since separation of powers will be real, both the legislature and the judiciary will act as efficient safeguards against abuse of executive authority.

## **2. Genuine Federalism**

31. The much abused article 356 which is a relic of the British Raj must be repealed forthwith. With governors elected directly as proposed above, the question of central imposition of state governors would not arise. There must be a complete renegotiation of centre-state relations. There is an unassailable case for the centre retaining the obvious subjects like Defense, External Affairs, Currency and monetary policy, communications, international trade and inter-state trade. Almost all other subjects must be vested in the states and the local governments. Concurrent list should be dispensed with and residual subjects must be vested with the state and local governments. The constitution must provide for three lists - union, state and local - with cohesive and definite jurisdiction over these subjects for the respective governments. All India Services must be dispensed with. However, in the light of the experience of the past 50 years, there is a strong case for the union being vested with certain special responsibilities, which are now not within its province.

- \* Development of natural resources with inter-state ramifications - in particular, inter-state water resources.
- \* Disputes between states, including border disputes.
- \* Certain crimes of national significance affecting our unity and integrity, for instance terrorist offenses, abductions etc.
- \* Ensuring non-discriminatory and equal treatment of all citizens - particularly the linguistic and religious minorities.
- \* Ensuring free and uninterrupted inter-state trade and commerce eliminating all barriers.

- \* The right to send armed forces to the states to protect the unity and integrity of the nation, or to enforce any of the obligations of the union under the constitution.

32. It is clear from the foregoing that any meaningful renegotiation of centre-state relations cannot be a one-way traffic. There has to be a measure of balance between greater autonomy to states and the imperatives of promoting national unity and harmony, keeping in view our past experience. Both states and centre must be stronger and work in tandem. In order to ensure that the constitutional functionaries at various levels will adhere to federal principles in letter and spirit, and will promote unity and integrity of India at all times, it may be necessary to define a new class of Constitutional Offenses, which may entail impeachment and removal, as well as criminal prosecution and punishment. Action may be initiated against a constitutional functionary on the basis of a complaint from a prescribed number of members of the appropriate legislature. Then the appropriate court will hear the case; and if the court indicts him, the legislature will proceed to impeach and remove him, followed by prosecution. Such a safeguard will go a long way in ensuring greater accountability of our elected leaders and other public functionaries at various levels.

### **3. Genuine Local Governments**

33. The much-publicised 73rd and 74th amendments of the constitution have little to offer by way of improving the quality of our governance or empowering the people and their locally elected governments. All that these amendments have ensured is mandatory creation of local bodies, and compulsory periodic elections. They have also ensured that the elected local bodies cannot be dismissed en masse, though they can be individually removed after due inquiry. The creation of an independent state election commission and state finance commission to oversee the local body elections and to advise state and local body financial relations respectively are also welcome steps. However, there cannot be a genuine local government unless it has complete jurisdiction over the subjects entrusted to it. The twenty nine subjects listed for entrustment to local bodies are merely indicative and have no constitutional force. The states are free to transfer such subjects as they deem fit, and to such an extent as they wish. As a result, there has been no meaningful empowerment of local governments. In fact, the rigid constitutional provisions for local body elections have snapped the organic links among the three tiers - district, intermediate and village - with resultant incoherence and lack of coordination. Finally, local governments must have total control over the bureaucracy responsible for the subjects entrusted to them. Only then can there be genuine self-governments at the local level. In addition, provision must be made for direct empowerment of citizens as stake-holders, wherever they can be clearly identified in respect of specific government services and institutions. For example, the parents of children going to the government school, or the ration card-holders who buy

their essential commodities from a ration shop, and such other clearly identifiable recipients of a service must be given the right to manage those institutions in which they have stakes. The election procedure in the local bodies must be suitably modified to establish a wholesome linkage among the three tiers. Only when there is a list of subjects under the complete jurisdiction of the local governments, local bureaucracy is wholly accountable to the local governments, and there is adequate devolution of resources commensurate with their responsibilities and duties, will democracy be real and meaningful.

#### **4. Safeguards against Abuse of Authority**

34. In order for the elected governments and public servants to be accountable to the people, the following safeguards are critical.

- \* Right to information guaranteed under constitution, with the obligation to report to the public on all aspects of governance, without prejudice to national security, enforcement of law, individual privacy and commercial confidentiality.
- \* Crime investigation must be insulated from the vagaries of politics at every level. There must be independent prosecutors constitutionally appointed, with the police force functioning under their control and supervision. Then and only then can criminalisation of politics be effectively arrested.
- \* Independent appointment of constitutional functionaries through a council and state, whose composition represents the whole nation, not merely the ruling party.
- \* A strong, independent, constitutionally appointed mechanism to combat corruption at every level, with adequate powers and resources.

#### **5. Electoral and Political Party reforms**

35. In any democracy it is the strength, dynamism, vibrancy and openness of political parties that sustains institutions and safeguards public interest. Unless the political parties are well-regulated in matters of membership, choice of leadership, funding and its utilisation, and most of all, choice of candidates put up by the parties for elective public offices, all the other institutional safeguards will eventually be ineffective. While the choice of their own leaders or policies has to be the business of the respective parties and none else, the way they elect their leaders, raise the funds and utilise them, frame policies, and put-up candidates must be democratic, transparent, and accountable and enforced by a constitutional authority like election commission. Centralized, autocratic political parties, and decentralized governance are not compatible. In addition there must be other effective election reforms facilitating the participation of

our best men and women in the political process, and curbing electoral malpractices.

### **Need for Broad Consensus**

36. The above proposals constitute a comprehensive set of reforms. There is ample evidence that people of India are ready and willing for such holistic democratic reforms. Moreover there is a broad measure of consensus on most of these reform, except on the issue of direct election of chief executive at every level. On this issue also the painful experiences in many states, and in recent times at the union level, have made most people accept the idea of the executive being independent of legislature. With proper safeguards against abuse of authority, real separation of powers with checks and balances will only strengthen democracy and freedom. However, given the complexity of the nation and a need for a broad consensus on far-reaching reforms, we may have to consider a broad spectrum ranging from a direct election of chief executive at every level, to an improved Westminster model facilitating stable governments. For instance, there could be dual power centres with an elected President and a cabinet, both sharing the responsibilities - patterned after the French model. However, in the Indian context, duality of executive power is somewhat unsustainable. Alternatively there can be a direct election of chief executive in states, co-existing with an improved parliamentary system at the union level. Or we could think of the Israeli model, where the prime minister is directly elected to function within the cabinet responsible to the parliament. At the union level, there could also be the German model with stable governments in a parliamentary system, which makes it difficult to dislodge a government without any stable alternative.

### **More and Better Democracy**

37. The complexity and magnitude of the crisis that the Indian polity is going through demands a truly creative, democratic and effective response; failing which increasing anarchy and the spectre of balkanization may engulf the nation. Already the middle classes are losing faith in democracy and are yearning for an authoritarian alternative. Such authoritarianism is the very negation of the fundamental values we cherish. The crisis of democracy has to be resolved by more and better democracy, and not by its negation. The real question today is not whether there should be democratic reforms; but how to achieve them.

### **National Referendum - the Way Out**

38. The lack of resilience of our political process, the demonstrated incapacity of the existing institutions and political parties to provide meaningful reforms over the years despite persistent pressure and broad consensus, the increasing fragmentation of our polity, and the power of the vested interests who fear short-term loss of privilege -- are all formidable obstacles to democratic reform through the normal political process. In this back-drop, we have to pursue a



creative and democratic method to engineer these reforms. A non-partisan National Referendum on the need for fundamental reforms is a creative way out of this impasse. The many referendums held throughout the world in mature democracies from time to time on fundamental national issues have amply demonstrated the efficacy of this method in bringing about major reforms relatively painlessly. As the people are the ultimate sovereigns in a democracy, the right of the people to directly decide on issues of fundamental reforms is inherent in any democracy. Most Indians, cutting across barriers of caste, creed, region, religion, language and class feel that there must be fundamental reforms in our governance process. The fragmented political process has failed to give any expression to this urge. The National Referendum is a creative, democratic and peaceful method of bringing about the consensus and unity in the fragmented polity on vital national issues. The persistent political instability, the near-absence of trust in politicians, the increasing political fragmentation, the incapacity of politicians and political parties to resolve the crisis by traditional means, and the unsustainability of the status-quo will make the National Referendum a logical imperative and a compelling necessity. The logistical details of the referendum and the post-referendum situation will have to be resolved in consultation with constitutional scholars, jurists and political parties.

### **Need of the Hour**

39. We have to build an India, in which Dalits will be liberated from centuries of oppression and neglect, and can participate in our political, social and economic processes with dignity, honour and equality. We need to build an India in which intermediate castes, whose dynamism and enterprise have sustained our economy and society through decades of distorted state policies, undermining individual initiative through license-permit-quota Raj, can participate vigorously and effectively in keeping with their potential and aspirations. We need to build an India with full and equal partnership of the upper social segments, whose vision, talent and work have all given our society endurance and stability, and our family its unique strength and resilience. We need to build an India with unrestricted access to social and political institutions and state power to people of all faiths, in keeping with our traditional eclecticism, tolerance and acceptance, and our noble constitutional goals. What we need is a democratic, free and united India in which all citizens are partners and receive the benefits of good governance. We need to raise a banner of revolt against irrational prejudices which are tearing apart our national fabric, and undermining our potential as a people. We need to reject hate-filled campaigns and false slogans based on narrow sectarianism of all kinds, which are fragmenting our society and polity, denying us good governance. All people, born in India, or have adopted her as their land, have all but one country - India - and have a full, equal and inalienable right to enjoy full fruits of citizenship. The children of all Indians have all but one hope, the hope of dignity, peace, equality, prosperity and good governance enabling them to fulfill their full potential. All true politics is, and ought to be, about promotion of happiness; not about causing misery to the people. There is no true freedom until we put a

stop to the enrichment and aggrandizement of the rulers at the cost of the true masters in a democracy, the people.

40. The need of the hour is to build a National Platform of credible Indians in all walks of life with proven record of service, commitment to democratic values and good governance, and public recognition at various levels. This National Platform must fight for common goals around which there is broad consensus, and build a national network with at least one branch in every district in the country. Such a National Platform with the participation and leadership of respected Indians; fighting for goals which are acceptable to most; and building a local network accessible to the concerned citizens facilitating their participation, will encourage people to spare their surplus energies, time, talent and resources for the cause of national rejuvenation. Given the Indian crisis today and the mood of the people, such a national movement seeking a referendum on the reform agenda will achieve undoubted success in a few years' time. As some one said, there is nothing more powerful than an idea whose time has come. This is the time for holistic reform of our governance structure; to build a strong, democratic, self-governing India; with all its citizens enjoying peace, freedom and harmony. History beckons us.

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