

**POLITICAL PARTIES AND INDIA'S FEDERAL POLITY :
AN ANALYSIS OF SUBMISSIONS TO THE
SARKARIA COMMISSION**

DISSERTATION
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D E C L A R A T I O N

This dissertation entitled "Political Parties and India's
Federal Polity : An Analysis of Submissions to the Sarkaria
Commission," submitted by Vinny Jain for the award of Master of
Philosophy is an original work and has not been submitted
previously for any degree, of this or any other University.

We recommend that this dissertation be placed before the
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PREFACE

This dissertation is a submission towards part fulfillment of the requirements of the M.Phil course of the Centre for Political Studies at Jawaharlal Nehru University, New Delhi. The subject undertaken is complex and comprehensive. The publication of the Sarkaria Commission's Report has given renewed vigour to debate and discussion as to federalism in India. The Report is a comprehensive document and the present study is not claimed as a finished output examining all the issues raised therein. The study implies the primary concern for getting initiated into one of the more pressing issues confronting the Indian political system in present times. It is much more of a training and learning from the experience consequently made available to the student, and is an unpretentious effort. For the several limitations therein, I alone am responsible.

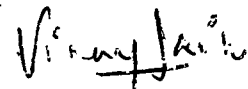
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Chapter I. :

Introduction. :

The word 'federal' , roots in the Latin 'Foedus' , which according to Lewis's Latin Dictionary, means 'League' or 'treaty'. 'Foedus' is cognate to Latin 'Fides' i.e. trust and English 'Bind' . Clearly then the root meaning is some sort of mutually trusting agreement among parties, a trusting promise. In a very broad sense any inter governmental alliance would be a federation, yet by medieval times, the word acquired a more restricted sense. It referred to that particular kind of alliance in which the allied governments create an additional government to act for them in at least certain matters. In the original sense then, federalism can be defined as a political organisation with constituent units and a Central government. Riker, writing in the Handbook of Political Science, defines a federal government as, an organisation in which the activities of government are divided between the regional government and the Central government in such a way that each level has some activities on which it makes final decisions. Riker further makes a decision between a minimal federation and a maximal one. In the former category would be those federations, the rulers of which can make decisions in only one narrowly restricted category of action, without obtaining the approval of the rulers of the constituent units. A maximal one would be a federation, the rulers of which can make decisions without consulting

the rulers of the member governments in all but one narrowly restricted category of action.

The concept has over time come to acquire various shades of meaning. Two broad perspectives can be identified. First is the view that identifies federalism with the two levels of government, dynamic and interacting, and identifies federal functioning with the working of Centre-State relations. The other is the broader Instrumentalist approach. Federalism with Institutionalists is essentially a pluralistic device intended to operate through the articulation of interests and mutual accommodation between the levels of governance. It would follow that the traditionalist distinction posed between the federal and unitary forms of government, is viewed not as dichotomous, but as the two representing opposite poles of a continuum along which governments are ranged. Developmental and modernistic, this latter perspective facilitates the establishment of pluralistic democracy, (which is also a prerequisite) through processes of popular participation in decision making and governance.

There is nothing in the federal concept that limits it to two levels of functioning. Experiments with multi-layer federalism, such as 'marble-cake' federalism find adequate space in this perspective. One then has to link federalism not only with general questions of perspective, but also to specific issues as the nitty gritty of distribution of finances.

This study is an attempt at understanding federalism in relation to India's federal polity, in the light of the submissions made by various political parties to the Sarkaria Commission. The publication of the Commission's Report has given renewed vigour to the question of federalism in India. The Commission set up in 1983 was assigned the task of examining and reviewing the existing arrangements between the Centre and the States. To achieve this objective the Commission prepared and circulated a detailed questionnaire amongst political parties, State governments, institutions and individuals. Replies received to this questionnaire, as also other submissions to the Commission were published as Volume II of the Comprehensive Report. Volume I contains the Commission's recommendations which were based on the study of these documents.

The Commission in its questionnaire has divided the entire issue of Centre-State relations into seven parts. These are-

- (i) Introductory ; essentially questions on federalism and connected matters.
- (ii) Legislative Relations,
- (iii) Role of the Governor,
- (iv) Administrative Relations,
- (v) Economic and Social Planning
- (vi) Financial Relations.

(vii) Miscellaneous.

These issues would be examined in the context of the Role of the Centre, the question of autonomy for the States, and Centre-State Cooperation. The attempt is to ascertain the views of the political parties as to these concerns. The parties chosen for study are -

- (i) The Indian National Congress(I)
- (ii) The Communist party of India and the Communist Party of India (Marxist).
- (iii) The Bhartiya Janata Party,
- (iv) The Indian National Congress (Socialist.)
- (v) The Janata Party,
- (vi) The Lok Dal,
- (vii) The Dravida Munnetra Kazhagam ;
- (viii) The Shiromani Akali Dal(L)

Alongwith the views of all these parties, those expressed by Sarkaria Concerning, the issues taken up in each chapter are also examined. The student is aware that given the plethora of political parties in India, this selection leaves many important parties out of the scope of the study and that the selection is somewhat arbitrary. However in the context of the constraints of the researcher, an attempt has been made to select a representative section - representative of shades of opinion as to federal perspectives.

This introduction, is followed by the second chapter entitled 'Indian Federalism:A Historical Overview.'It deals with

- (a) The historical antecedents of federalism in India,
- (b) The nature of the Indian Union as per the 1950 Constitution and
- (c) Reform proposals suggested since 1950.

The third chapter, entitled : 'The Role of the Centre,' deals with the areas identified as falling within the scope of Central functioning by the chosen political parties and State governments. Similarly the fourth chapter entitled, 'The Question of Autonomy for the States,' deals with the areas identified as within the scope of State functioning by the chosen political parties and State Governments. The fifth chapter deals with the areas of 'Centre-State Cooperation', similarly identified. The last chapter is by way of 'Conclusion'.

The Commission's report is a voluminous document and provides considerable material for study. Many political parties have gone on record for the first time as regards their perspectives and suggestions for reform concerning federalism in India. Given the constraints of time and the abilities of the researcher, only a part of this material has been examined. This is by no means an all encompassing study, but an attempt at understanding the basic issues informing federalism in India today.

All national parties which submitted memorandums to the commission as also those State governments which had (at the time when such submissions were made) governments run by these national parties(if any)and which replied to the Commission's.

questionnaire are also taken up for study. In addition the cases of two State level parties - the DMK and the Shiromani Akali Dal (L) have also been analysed, basically because these parties have been on the forefront in demanding considerable reform in the Indian polity. The attempt is not to trace the origins of, the evolution or the manifestation of each party view as to federalism. Rather it is to present the case of these parties as in their submissions to the Sarkaria Commission and analyse these in the context of other perspective presented therein. It is thus a limited exercise. Nevertheless, it is hoped that the study will result in a useful exposure to the issues and problems informing federalism in India.

Chapter-II.

Indian Federalism : A Historical Overview.

The constitution as it emerged from the constituent Assembly envisaged India as a Union of States. There has been considerable debate amongst academicians and political circles as to the exact character of the Indian Political system. There are those who describe the constitutional edifice as a federation with unitary features or a quasi - federal federation. Pungent criticism describes the States as 'no better than glorified municipalities' or 'dole-getting corporations.' It is not the purpose of this study to define the contours of such a conceptual debate, rather one would begin with the premise that though the 1950 constitution does not meet the exacting requirements of an ideal federal structure, it nevertheless is an unorthodox federation and reflects a desire on the part of the founding fathers to put India onto the federalising path.

This chapter deals with the historical antecedents, the nature of the Union as per the 1950 constitution and the reform proposals put forward prior to the constitution of the Sarkaria Commission. As such it is intended to present the historical background to the commission inception and provide a context to its work.

(a) The Historical Antecedents.

The constitution of India, as it emerged from the Constituent Assembly in 1949, envisaged important federal features, although it could not be called federal in the classical

sense. Federalism was, in many respects a natural order for India to adopt upon independence. The Indian sub-continent has geo-political and historical characteristics which have few parallels. The size and population, geographical, linguistic, religions, racial and other diversities give it the character of a sub-continent. However its natural boundaries marked by mountains and seas, give it a degree of insularity and serve to identify it as a separate geographical entity. This insularity over the years led to the evolution of a composite cultural unity, a feeling of common heritage and a pervasive under-current of one-ness. These gave the country a general Indian personality.

Federalism, it was acknowledged would be the ideal system which would help translate this one-ness into a political order allowing for unity in diversity. Too centralized an administration, the British realised bred administrative inefficiency and local discontent. The first small step towards decentralization was taken by the Indian Councils Act of 1861. It reversed the centralizing trend that had been set by the Charter Act of 1833. Decentralization of finances, started by the Mayo scheme in 1871, was formalised by the Government of India Act 1919. This helped in the evolution of a 'dispersed' political system in India.¹

Indian nationalism, fueled by dreams of self-government, mounted persistent pressure on the British, especially after the formation of the Indian National Congress. Modulating their strategy step by step with the demands and pressures of the

Nationalist movement, the British started devolving more and more powers to the provinces. The strategy involved increasing association of Indians with the government on one hand and the promotion of divisive forces on the other.²

This strategy was extended by the Act of 1909, which further increased the association of Indians with the governance of the nation, but on the basis of separate electorate, narrow franchise and indirect elections.

The Government of India Act 1919, was the first attempt at the development of a two-tier polity in India. While conceding representative government in a small measure in the provinces under a 'dyarchical' system, it demarcated the sphere of provincial governments from that of the Centre.³ Important as they were, the reforms of 1919 failed to meet the aspirations of the people for full responsible government. In reality the structure remained unitary with the Governor-General-in-Council in effective and ultimate control. Finance was a reserved subject' in charge of a member of the Executive Council and no progressive measures could be put through without his consent. The main instruments of administration, the Indian Civil Service and the Indian Police were under the control of the Secretary of State for India and were responsible to him. A large measure of discretionary power was reserved for the Governor. All bills required the assent of the Governor General to become law.⁴

'Dyarchy' was a miserable failure. Intense nation-wide agitation continued for full responsible government. The British

responded by appointing a Statutory Commission under Sir John Simon for considering the grant of a further instalment of responsible government. All the seven members of the Commission were British. The Indian National Congress and all other major parties boycotted the Commission. On the demand of the Congress three Round Table Conferences were held. The White paper published in 1933 sought to extend separate electorates further to the scheduled castes and tribes, which had to be withdrawn after a protest fast-unto death by Mahatma Gandhi. Political activity from 1919 to 1935 was intense and resulted in the Government of India Act of 1935.

The Act envisaged an all India federation which was to consist of 11 Governor's provinces, 6 Chief Commissioner's Provinces and such Indian States as would agree to join the federation. The federal subjects were classified into reserved subjects and transferred subjects. The Governor-General administered the 'reserved subjects' with the help of the Councillors, and transferred subjects with the aid of the Council of Ministers responsible to the Central legislature. Wide discretionary powers were given to the Governor-General. The Instrument of Instruction issued under the Act enabled the Governor-General to include in his Council of Ministers, representatives of the minorities and the native States. Governmental subjects were divided into three lists, Federal, Provincial and Concurrent. The provinces were given exclusive power to legislate with respect to matters on the Provincial list. Similarly the Central legislature was given the

exclusive powers to legislate on the Federal list. The Centre and the Provinces had concurrent jurisdiction with respect to matters on the concurrent list. The Act thus introduced Provincial authority with responsible government. Although certain safeguards by way of special powers and responsibilities were provided.

The Act allocated primary powers to the Federal and provincial legislatures making them supreme within their respective spheres and thereby fulfilled one important pre-requisite of a federal polity.

The Princely States did not opt to join the federation and that part of the Act never came into force. However its provisions relating to the provinces came into effect in 1937 when elected governments responsible to legislatures assumed office in the provinces.

Provincial authority soon appeared to be a misnomer with the Congress led State governments seeking to work from within at obstructing imperialistic policy, and the British Government invoking 'discretionary powers' to tide over numerous situations of constitutional deadlock. The Congress governments resigned in protest when the government of India declared a State of emergency in 1939 without consulting the provinces. Provincial autonomy for all practical purposes came to an end.

The Cripps proposals of March 1942 were an attempt to

resolve the political deadlock in India. Cripps proposed a representative Constituent Assembly that would frame a 'Dominion' Constitution for India. The British government would accept it on the condition that any province could opt out of it and its Constitutional position as in the 1935 Act. Cripps also requested collaboration. While the war lasted, of Indian parties with British government who would continue to bear the full responsibility for India's defence.

The Congress disliked the provisions about a Dominion Constitution rather than full independence, the representation of Indian States in a Constituent Assembly by their rulers rather than their popular representatives, and above all, the recognition of the idea of partition. It was for the last reason that Gandhi opposed the proposals and urged the Working Committee to reject, the post-dated cheque. Arrangements as to defence were far from satisfactory. The Congress especially Jawaharlal, insisted the Defence member of the Council be an Indian in place of the Commander-In-Chief.⁵ This was not acceptable to the British, even a personal and private appeal by Cripps to his friend Jawaharlal, could not save the proposals from failure.⁶ Both the war cabinet (barring Atlee) and Linlithgo's government had no wish to see the mission succeed. Cripps' technique of negotiation and his brief left little room for manoeuvre.

The failure of the Cripps mission viciated the atmosphere. The stage seemed set for a collision between the Congress and the government.

The next important event in the Constitutional history was the announcement of the British Cabinet Mission Plan, by Atlee on May 16, 1946. It envisaged a Central Government with very limited powers and relatively strong provinces having considerable degree of autonomy and all the residuary powers.⁷ Partition, on the basis of either a large or a small Pakistan was rejected. The Indian Union would deal with foreign affairs, defense and communications and have the powers necessary to raise finances for this purpose. The idea of parity at the Centre was dropped, but any major communal issue in the Central legislature would require a majority of each community as well as on overall majority. All other subjects and powers would vest in the provinces which would be free to form groups, and each groups would determine the provincial subjects to be taken in common. Any province could, by a majority vote of its Assembly, call for a reconsideration of the Union and group Constitutions periodically after ten years.⁸

The Constituent Assembly would be elected by the Provincial Assemblies with each province being allotted a number of seats proportionate to its population and this unumber divided between the communities on the basis of this population. The members so elected would divide up into three sections, Section-A comprising Madras, Bombay, U.P., Bihar, C.P. and Orissa. Section-B Punjab, NWFP, and Sind, and Section-C Bengal and Assam. Each section would draw up a provincial Constitution and, if desired, a group

Constitution. Any province could elect to come out of any group in which it had been placed after the first general elections under the new Constitution. The framing of the Constitution would of course take time, but an interim government having the support of major Political Parties and in which all portfolios were held by Indians would be set up immediately.⁹

The Mission Plan was intended as a compromise, yielding some points to the Congress and some to the league in the hope that both would accept the whole even if not wholly satisfied. The idea of Pakistan was rejected and at the level of the Indian Union there was to be no weightage for the Muslims. However, to make the Plan acceptable to the league, Section-B and C, comprising the five Muslim majority provinces were created in the Constituent Assembly. Groupings of provinces was optional, but meetings of members of the Constituent Assembly by sections was made compulsory. Groupings in other words would in practice not be voluntary at all, at least till the first general elections under the new Constitution were held.¹⁰

The Congress had reservations about the plan, but in the hope of securing the co-operation of the Muslim league and thereby preventing the threatened partition of the country, they accepted the Cabinet Mission Plan. Accordingly, the objective resolutions moved by Nehru in the Constituent Assembly were based on the Mission Plan. However all such concessional resolutions, conciliatory gestures and persuasive efforts failed to achieve the league's cooperation. By the end of January-1947 it became clear that no further negotiations and compromises were possible.¹¹ With the

league adamant and the Princely States taking their cue from it and avoiding a decision taken in the constituent Assembly, with the virus of communal rioting spreading across the face of Northern India, it became increasingly difficult for the interim government to function as an effective, cohesive body.¹² Partition became unavoidable. The partition of the country was announced on June 3, 1947. The constituent Assembly, thereupon sharply reversed its approach and resolved in favour of a strong Centre. This realisation found unequivocal expression in the second Report of the Union Powers Committee, dated July 5, 1947. :-

"Now that partition is a settled fact, we are unanimously of the view that it would be injurious to the interests of the country to provide for a weak Central Authority which would be incapable of insuring peace or coordinating internal matters of common interest..... and that the soundest framework of our Constitution is a federation with a 'strong Centre.'¹³

Several factors contributed to this shift of opinion. To the framers of the Indian Constitution the primary lesson that India's history afforded is that only that polity could endure and protect India's unity and integrity and sovereignty against external aggression and internal disturbances which ensured a strong Centre with paramount powers accommodating at the same time, its traditional diversities. The partition of the country along religious boundaries made the founding fathers aware that "notwithstanding the common cultural heritage, without political cohesion, the country would disintegrate under the pressure of fissiparous forces."¹⁴

It was also realised that Indian democracy, which had found full expression only in the 1950 Constitution, did not have behind it nurturing roots to give it sustenance, and was yet in its infancy. Hence to prevent possible breakdowns of Constitutional machinery in the Constituent units, it was essential to invest the Union with overriding powers.

Contemporary events, also had an inevitable impact on the formation of the Constitution. The mood of elation evoked by the achievement of independence was wiped out within hours. As early as March 1947, communal rioting in what was to be West Pakistan had led to migrations of non-muslims, and the collapse of the non-league government and the administration had added to communal tensions.¹⁵ Yet the riots that broke out on the 14th of August-1947, in Lahore and Amritsar, large towns lying just within the new border on either side, and spread out to West and East Punjab and even to Delhi,¹⁶ were catastrophic, unprecedented and evoked utter helplessness. Nehru termed the riots and the resulting carnage a human earthquake.¹⁷ The following weeks saw a great number of people killed millions uprooted from Pakistan who brought with them to India colossal problems that could only be tackled with the pooled strength and resources of the nation.

Even as the government was struggling to deal with the problems born out of partition Jammu and Kashmir was invaded by well organised tribes men from Pakistan who were marching on Srinagar. An undeclared war was being waged between the two

countries, such a situation could obviously not continue indefinitely and would, if not brought under control extend into a regular general war. Nehru, shying away from the prospect of a widening war with Pakistan, accepted the solution of the United Nations Commission.¹⁸ A ceasefire, with drawal of troops (and tribesmen) on both sides, and that the future of Kashmir would be determined by a plebiscite.¹⁹

Princely States, free to join either dominion, posed a delicate problems which had to be solved in a Statesman like manner averting further disintegration of the country. The external aggression in in Kashmir as well as the outbreak of violence in many parts of the country, coupled with the massive problems of the Princely States underscored the need of building a strong Centre capable of protecting the unity and integrity of India against dangers from both within and without.

Once the immediate crisis of partition had been surmounted, freedom had to be translated into economic and social policy. Prime attention had to be given to the standards of living of the Indian people and for this great economic disparities had to be overcome, within those provinces areas and regions that were economically and industrially relatively behind others.²⁰

"...Two questions stood out, one question was how to achieve a federal economic and fiscal integration, so that the economic policies affecting the interests of India as a whole could be carried out without putting an ever

increasing strain on the unity of India, particularly in the context of a developing economy. The second question was how to foster the development of areas which were underdeveloped without creating too many preferential or discriminative barriers."²¹

Not much had been done for the economic development of the nation in the pre-independence era. To catch up with the developed world, the progress that took them centuries had to be capsuled within a few decades. It was felt by the constitution makers that such a transformation could only be brought about by strong Central government.²² All these considerations prompted the Constituent Assembly to opt for a constitution which blends the imperatives of strong national control with the need for adequate local initiative. In a country too large and diverse for a unitary form of government, they envisaged a system which would be worked in a cooperation by two levels of government - national and regional.

In the next section we consider how these imperatives of a strong union were transcribed onto the tabaleau of the Constitution.

(b) The Nature of the Indian Union :

The constitution as it emerged from the Constituent Assembly in 1949 had important federal features but it cannot be called federal in the classical sense. It cannot be called unitary either. It envisages a diversified political system of a

special type. Academicians and political pundits vary in their description, their perceptions falling along a continuum from unitary to quasi-federal to federal. This academic concern as to the true nature of the Indian federation is beyond the scope of the present study and we would proceed with the view that 1949 constitution makes India a federation with important unitary features.

Article 1 describes India as a 'Union of States',²³. These States are specified in the first schedule of the constitution. Article 2,3 and 4, enable parliament to admit a new State, increase diminish the area of any State, or alter the boundaries and name of any State. A special aspect of the Indian Union is that the union is indestructible but not so the States. Dr.Ambedkar chairman of the Drafting Committee, while introducing the Draft Constitution explained the position thus-

"... 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 the 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 indestructible. Through the country may be divided into different States for the purposes of administration, the country is one integral whole, its people a single people living under a single imperium derived from a single source."²⁴

Another distinctive aspect of the Indian Union is that it provides for a single citizenship for the whole of India. There is no dual citizenship, one of the Union and the other of the States²⁵. In this respect the Indian Union differs basically from the American federation that recognises a dual citizenship and consequent diversity in the rights of citizens of different States.

An elaborate arrangement has been made for the distribution of governmental powers-legislative, administrative and financial-between the Union and the States. To make the Union strong weightage has been given to the Union by allocating it dominant and relatively larger powers.²⁶

The Union legislature or Parliament has two Houses, The Council of States (Rajya Sabha) and the House of the People (Lok Sabha). Most federations provide for equal representation to all Constituent units in the Council of States. In India, however, representation in both is on the basis of population, though indirect election in the former and direct election in the latter is provided for.²⁷ The Council of States has been given some special function regarding States while the House of the people has been given some special role regarding financial matters.

The subject of legislative power has been classified into three lists - the Union list (List-I), State list (List-II) and the Concurrent list (List-III) in the Seventh schedule of the Constitution. Parliament has the exclusive power to legislate with respect

to the Union list. Similarly the States have exclusive power over the State list. Parliament and the State legislatures also have powers to make laws with respect to any matter on the Concurrent list. Residuary powers of legislation have been vested in the Parliament. Normally the executive powers of the Union and the States are co-extensive with their legislative powers. However with respect to matters in the Concurrent list, the executive power remains with the States unless the Constitution, or Parliament by law expressly provides otherwise.²⁸

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 The Constitution also makes a distribution of taxing powers between the Union and the States (there is no subject of taxation on the Concurrent list). The Constitution recognises that the financial resources of the States may not be adequate for the discharge of their responsibilities. It therefore envisages certain tax revenues to be raised by the Union and shared with the States. It provides not only for their distribution between the Union and the States but also among the States in accordance with the recommendations of the Finance Commission (Articles 268 to 281).²⁹

Dr. Ambedkar, while introducing the Draft Constitution, pointed out the need for maintaining basic uniformity within the country. The means adopted were three -

- (i) a single judiciary,
- (ii) Uniformity of fundamental laws Civil and Criminal.
- (iii) A common All India Service to man important posts.³⁰

The legislative powers of the Union were made superior to



those of the States in several respects. Where with respect to a matter, there is irconcilable conflict or overlapping as between the three lists of the seventh schedule, the legislative powers of the States must yield to that of the Union.³¹ A law made by a State legislature, repugnant to a law made by Parliament or an existing law applicable in that State, in regard to any matter enumerated in the Concurrent list, shall be void to the extent of its repugnancy.³²

Every citizen in a State is subject to the laws of the Union and the States. Implementation of the Union laws could be entrusted to either a separate Union agency, if any, or to a State agency. The latter course has been followed in our Constitution in regard to a large number of Union laws. Articles 256 and 257 cast obligations on the States to comply with Union laws and the existing laws, and not to impede the exercise of the executive powers of the Union. The Union is authorised to give such directions as may be necessary for this purpose.³³

If a State fails to comply with any valid executive direction of the Union government, it shall be lawfull (under Article 356) for the President to hold that a situation has arisen that the government of a State cannot be carried out in accordance with the provisionce of the Constitution and therefore warrents action under Article 356. The Union can, with the consent of the State entrust functions to that government or its officers, notwithstanding anything in the Constitution, under Article 258(1).

This power extends to any matter to which the executive powers of the Union extends. Under Clause(2) of Article 258, Parliament may by law confer powers and impose duties on a State Government, or its officers and authorities, notwithstanding that it relates to a matter with respect to which the legislature of the State has no power to make laws. The consent of the State is not a condition precedent to the exercise of the power under this clause. Article 258A provides for entrustment by a State, of functions in relation to any matter in respect to which the executive powers of the State extends with the consent of the government of India to the latter or its officers.

The control of the Union executive over State legislation reserved for the consideration of the President is another special feature of the Constitution. Article 200 provides that a Bill passed by a State legislature shall be presented to the Governor who may assent, withhold his assent, or return the same for reconsideration by the State legislature. However if the Bill is passed again by the State legislature with or without amendment, the Governor shall not withhold his assent. The Governor may also reserve the Bill for consideration by the President (in effect Union Council of Ministers) who may in turn signify his assent, withhold the same, or return it for reconsideration. However in contrast to the position of the Governor, the President need not give his assent when such a Bill is returned with or without amendment after reconsideration by the legislature of the State, as per Article 201. There are special provisions also, some of

which were inserted by subsequent amendments, which require that certain type of State Bills for certain purposes be reserved for consideration of the President.³⁴

Another unique feature of the Constitution is that it enables the Parliament to legislate with respect to a matter in the State list if the Council of States by a two-thirds majority of the members present and voting, declares that it is necessary or expedient to do so in the National interest (Article 249). Such a resolution remains in force for a period not exceeding one year. The Constitution under Article 252, also enables Parliament to legislate in respect to any matter in the State list, if resolutions to that effect are passed by the legislatures of two or more States. Any Act so passed may be adopted in like manner by the legislatures of other States.

Emergency Provisions:

According to Dr. B. R. Ambedkar, Chairman of the Drafting Committee of the Constituent Assembly, the Constitution is "unitary in extraordinary situations such as war and federal in normal-times".³⁵ The Indian Constitution is unique in the sense that it envisages a frame work of government that would work effectively in times of national emergencies and makes provisions to this effect under Articles 352 to 360.

The constitution provides for proclamation by the President of a grave emergency whereby the security of India is threatened by war or external aggression or armed rebellion, under Article 352.

When such a proclamation is in operation, the Union may assume for its organs all legislative and executive powers of the States. Consent of the State governments is not a condition precedent to such assumption(Article 353.) A proclamation of emergency has the effect of converting the State list to the Concurrent list and therefore if the Union legislates on any subject in the State list, State laws, to the extent of repugnancy shall be null and void and the laws made by Parliament shall prevail. The executive powers of the State also become subject to the directions to the Union as to the manner in which these powers are to be exercised.

Another important feature of the Constitution(under Article 355) is the express provision casting duty on the Union to :

- (a) Protect every State against external aggression and internal disturbance ; and
- (b) ensure that the government of every State is carried out in accordance with the provisions of the Constitution.

Public order is the responsibility of the States, however the State governments may require the assistance of the Union's armed forces for this purpose. In case of a serious disorder amounting to 'internal disturbance' the Union may deploy its forces, to put it down. 3:6

If the President on receipt of a report from the Governor of a State, or otherwise, is satisfied that a situation has arisen in which the government of the State cannot be carried out in

accordance with the provisions of the Constitution, he may by proclamation assume to himself all or any of the functions of the State government or all or any of the powers vested in or exercisable by the Governor or any authority in the State. He may also declare that the powers of the legislature of the State shall be exercisable by or under the authority of Parliament (Article 356.) The purpose of Union intervention under this Article is to remedy a breakdown of the Constitutional machinery in a State and to restore the functioning in accordance with the Constitution.³⁷

Yet another type of emergency, namely, Financial emergency is envisaged under Article 360 of the Constitution. If the President is satisfied that a situation has arisen whereby the financial stability or credit of India or any part of its territory is threatened he may proclaim a financial emergency. When such an emergency is in operation, executive authority of the Union extends to the giving of directions to the State for the purpose of securing observance of canons of financial propriety.

In all the above cases the 'President' actually means the Union Council of Ministers in as much as under Article 74 the President is required to act on the aid and advise of the Council. A promulgation under any of these articles effectively transfers political and administrative power to the Union, making the systems centralized and authoritarian..

Inter-Dependence:

Federalism makes for a dynamic ever-changing polity. A process of cooperation and shared action between two or more levels

of government, with increasing interdependence and centrist trends.³⁸ The framers of the Indian Constitution took note of these changing concepts and functional realities. Avoiding a dogmatic approach, they fashioned a system of two-tier polity in which the predominant strength of the Union is blended with the essence of cooperative federalism. Several features and provisions of the Constitution appear to have been deliberately designed to institutionalize the concept of cooperation.

In the legislative sphere the most important of these is the provision of a fairly wide field of Concurrent jurisdiction. It was realised that there was a category of subjects of common interest which could not be allocated exclusively either to the States or the Union. However, a certain uniformity of law was essential in the national interest and therefore these were included in the Concurrent list. The list includes such important subjects as criminal law and procedure, economic and social planning, education including technical education.³⁹

Moreover, several entries in the Union list are expressly intertwined with certain items in the State list. These entries have been so designed that Parliament may by making a declaration by law of public interest or national importance, assume to the extent so declared, jurisdiction to legislate on the State list.⁴⁰ Examples of matter in this category are provided by entries 7, 23, 24, 27, 32, 52, 53, 54, 56, 62, 63, 64 and 67 of the Union list.⁴¹

Overlapping responsibility between the Union and the States

may also occur when aspects of the same subject are put in more than one list. For example, different aspects of 'trade and commerce' find mention in all the three lists, namely entries 41 and 42 in list-I, entry 26 in list-II and entry 33 in list-III.⁴² These criss-cross patterns of entries in the lists indicate not only flexibility in the division of powers but also postulates cooperation between the Union and the States in their working. There are inbuilt techniques in Articles 246 and 254 for resolving conflict and ensuring harmony and cooperation between the Union and the States in the exercise of their legislative powers in areas of overlapping jurisdiction.

The Constitution also envisages forums for resolving issues and ensuring coordination of policy and action in the exercise of governmental functions by the Union and the States. Article 263 enables the President to establish an Inter-state Council for enquiring into and advising upon disputes between States and for investigating and discussing subjects in which some or all of the States or the Union and one or more of the States have common interest. The Council may make recommendations upon any such subject, particularly for better co-ordination of policy and action with respect to such subjects.⁴³

In the area of Inter-State trade and commerce the Constitution (Article 307) contemplates the appointment of an authority for carrying out the purposes of Articles 301 to 304. Parliament

has also been enabled by law to provide for the adjudication of disputes relating to waters of inter-State rivers or river valleys, as per Article 262. The Inter-State River Water Disputes Act 1956 provides for the Constitution of Tribunals for adjudication of such disputes.

The role and structure of the Judiciary also institutionalise the idea of co-operative federalism. Although the Constitution empowers the Parliament to establish separate courts for the enforcement of Union laws, it has, in the interest of unity and integrity of the nation and the economy, continued the system of a single integrated judiciary for the Union and the States.⁴⁴

The Supreme Court is at the apex of the combined judicial system. Article 301 confers exclusive and original jurisdiction on the Supreme Court to decide cases between the Union and the States inter Se.

Judges of the Supreme Court are appointed by the President after consultation with the Chief Justice of India and such judges of the Supreme Court and the High Courts as the President may deem necessary. For every State or group of States and Union Territory there is a High Court. Judges of the High Court are appointed by the President after consultation with the Chief Justice of the High Court, the Governor and the Chief Justice of India.

The role of the judiciary in India, as in most federations, is one of guardian of the Constitution. With a view to maintaining the Constitutional division of powers, the Constitution authorises

Courts to review and pronounce upon the Constitutional vares of the legislative and executive actions of the Union and the States. The comprehensive nature of the constitution , the detailed enumeration of powers of the Union and the States and the comparative ease with which the Constitution can be amended, limit the scope for bringing about , through judicial interpretation any substantial alteration in the balance of Union State relations. There are only a few judgements of the Supreme Court in this area, dealing directly with the Constitutional issues between the Union and the States.⁴⁵ A review of these would show that most of them has, in effect, up-held the primacy of the Union vis-a-vis the States. The need for a strong united India , which was the prime objective before the Constitution makers appears to have been the silent premise dominating the process of adjudication of the Union-State disputes in these cases.⁴⁶

(c) Reform Proposals:

The working of Union-State relations since the inception of the Constitution, has witnessed continuous expansion of the responsibilities of the national government. The centralizing-trend in the Indian federation, echoed by most other federal governments, could be attributed to various factors. Broad socio-political-economic concerns, as well as particularistic legislative and executive action of the Union. The predominant position of the Congress in the Indian political system for a long period of time, helped consolidate this trend. As also the taking over of the functions

normally left to the States through the exercise of dominant legislative power. Acts passed by Parliament by virtue of entries 52 and 54 of the Union list are typical examples. Under entry 52, Parliament has passed the Industries (Development and Regulation) Act 1951. As a result, the Union now controls a very large number of Industries mentioned in Schedule-I of the Act. The Constitutional effect is that to the extent of the control taken over by the Union by virtue of this Act, the power of the State legislatures with respect to the subject of 'Industries', under entry 24 of the State list has been curtailed.⁴⁷ Similar Acts have granted greater powers to the Union at the expense of the States.

Centralised planning through the planning Commission is a conspicuous example of how through an executive process, the role of the Union has extended into areas such as irrigation and fisheries, soil and water conservation, minor irrigation, area development, and rural reconstruction and housing etc. which lie within the State field.⁴⁸ The Planning Commission set up as an advisory body has over the years assumed considerable importance vis-a-vis the Finance Commission. The role of the Finance Commission has come to be limited to channalising the revenue transfers (including a very small capital component). The capital resources (including a revenue component) are now transferred on the recommendation of the Planning Commission.

It would be simplistic however, to presume that a country

as diverse as India, a polity as complex as ours would follow a unilinear path towards centralization. Centralizing centripetal forces, mainly economic, have been accompanied by the development of very strong centrifugal forces, unleashed in the country on account of break-up of old political order, split of national parties, ever increasing exploitation of populist slogans, and caste, language, money and muscle power in elections.^{4.9} The very logic of development brings to the forefront the aspirations of the minority groups, which increasingly clamour for a share of the national cake. This is a positive development. Negatively, however, the emergence of linguistic chauvinism and fissiparous tendencies all point to rough weather ahead for our ship of State.

Federalism makes for a political system that depends on mutual cooperation and interdependence to be able to function effectively. This very dynamism of the system with all its checks and balances brings in its wake problems and conflicts in the working of Union-State relations. These irritants and 'tension areas' have been expressly manifest since the 1967 elections when the uni-party rule at both levels of government, crumbled sowing the seeds of a multi-party polity. Discontent and debate as to the institutions and processes of federalism in India, held in check through the extra-Constitutional mechanism of the party, now came increasingly to light.

Rationalisation of the boundaries of the Indian political units on the basis of certain principles such as language and culture

was affected in 1955-56, based on the recommendations of the States Reorganisation Commission, set up for the task. The Commission noted that the unique feature of all the States of the Indian Union was that none of them represented a "pre-existing sovereign unit"⁵⁰. The reorganisation of States could, "only be regarded as providing the necessary adjustments to remove tensions and to enable the Union to function more effectively. It is a Union of India that is the basis of our nationality. It is that Union that our hopes for the future are centered on".⁵¹ Although the perspective of the Commission was distinctly centralist, the formation of federal units in India on linguistic and cultural basis in 1956 (and afterwards) strengthened the democratic forces in the process of federalisation.⁵²

Several perspectives on federal issues have since been expressed. Ranging from demands of complete autonomy for the States, to the plea for strong centralized federation, these perspectives fall along a continuum. Many are of the opinion that the basic structure of the Constitution is sound and should not be tempered with. On the other hand there are those who are of the view that it requires drastic alteration so as to bring it in accord with their own perception of an ideal federal State.

The Rajamannar Commission:

After the elections of 1967 several non-Congress governments came to power in various States. The Dravida Munnetra Kazagam govern-

-ment that came to power in Tamilnadu, appointed a Commission to examine the entire question of the relationship that should subsist between the Centre and the States. It was also to consider the existing provision of the Constitution with a view to suggesting changes to secure maximum autonomy for the States.⁵³

The Commissions' report submitted in 1971, argues that "the demand for more and fuller powers to the States and the need for amending the Constitution to the extent necessary is not a new phenomenon arising out of the change in the political complexion of Tamil Nadu Government. The question had been simmering almost ever since the Constitution was on the anvil."⁵⁴ No widespread Union-States conflict ensued due to the uni-party rule at the Centre and at the States. The need for safeguards for the States has been felt ever since the inception of the Constitution against the strong domination of the Centre not only on general policies but also in spheres that exclusively belong to the States. The Commission derides the tendency on the part of the Centre to exercise control over the States, drastically affecting the autonomy of the States. The uni-party rule has "encouraged Parliament to consider itself the apex of the legislative pyramid. The Prime-Minister and other Ministers have not hesitated to take an indirect and some times even a direct hand in settling and deciding issues which are Constitutionally the responsibility of the States. The limited sovereignty of the States is thus being surrounded by usage and sufferance and

it would be difficult for a State later to reassert or regain its Constitutional authority"⁵⁵.

The limited autonomy of the States is being further circumscribed by the "Centre assuming the initiative in crucial spheres of finance and Planning. In some measure, the States are also discontented about the restraint sought to be clamped on their initiative in what is purely their own responsibility like the maintenance of internal peace and law and order."⁵⁶

Although, the acceptance of the Centre's authority even by Congress Ministers had not always been unquestioned, This pattern of settling Centre-State relations at the Congress High Command level would not possibly be extended to conditions prevailing at a time when non Congress Ministries were in power in some of the States.⁵⁷

The Commission quotes with approval Wheare, who delineates the "self-consciousness and self assertiveness of the regional governments",⁵⁸ which is slowly but perceptively gaining ground in India as a decentralizing force. Annadurai is quoted to emphasize that a reallocation of powers between the Centre and the States was necessary as "the ideal Centre was one which left sufficient powers to the States and kept just enough powers to itself to protect the integrity and sovereignty of the country."⁵⁹ Annadurai further calls for a strengthening of the resource base of the States

to enable them to meet the developmental demands of the times. Once the plan resources have been allocated on an agreed basis the States should be left free to utilize them in accordance with their own judgement.⁶⁰

Accordingly the Commission recommended considerable curtailment of the Centre's legislative powers and consequent increase in those of the States. The Residuary powers were to go to the States. It recommended the creation of an inter-state council which would consist of all Chief Ministers and the Prime Minister and would give its opinion on all matters of national importance. Its advice would normally be binding on the Centre and the States, there would be an considerable increase in the financial resources of the States with Corporation tax forming a part of the divisible pool. An autonomous Planning Commission was to be created, with no member of the government of India being on it. The discretionary powers of the Governor were to be curtailed. Articles 356 and 357 regarding the breakdown of Constitutional machinery in the States were to be omitted as also Article 360 regarding financial emergency. The council of States (Rajya Sabha) was to have equal representation of all the States.⁶¹

The Rajamannar Commission's perspective was a reflection of Dravida Munnetra Kazagam- ideology. It was premised on the traditional understanding of what federalism was all about - the States the primary units would come together for common interest

and gives up some powers to a Central administrative set up. The Centre would have the minimum powers required to ensure uniformity and to protect the unity and integrity of the Nation. This would facilitate the creation of a relatively weak Centre with strong states. The Commission opined that this alone could stabilize the balance of relationship between the Centre and the States. The Commission's report was not acceptable to the government of India although it provided an important document of non-Congress opinion as to Centre-State relationship.

Administrative Reforms Commission:

The report of the Administrative Reforms Commission published in June 1969 presented a different perspective. beginning with the premise that the unity of India was of paramount importance it was of the view that, "no Constitutional amendment is necessary for ensuring proper and harmonious relations between the Centre and the States, in as much as the provisions of the Constitution governing Centre and State relations are adequate for the purpose of meeting any situation or resolving any problems that may arise in this field."⁶² Hanamantaiya, the Chairman of the Commission was of the opinion that, "The Constitutional edifice of India is neither unitary nor federal in the strict sense of the term."

The report called for greater interface between the Finance Commission and the Planning Commission. The Finance Commission's role was to be made more effective, it was to make recommendations which would govern the distribution of plan grants to the States. The appointment of the Finance Commission was to be

so timed that when making its recommendation it would have before it an outline of the five year plan as prepared by the Planning Commission. A member of the Finance Commission could be appointed to the planning Commission in order to secure the effective coordination of the Finance Commission with the Plan. Loans to the State governments for plan schemes were to be given only when they were of the productive type. The assistance for non-productive capital schemes would be in the form of capital grants.⁶³

The conciliation-cooperation approach was encouraged. The Chief Minister should be consulted before the appointment of the Governor of the State, who should be a person who has had a long experience in public life and administration and can be trusted - to rise above party prejudices and predilections. He was, however, to retain his discretionary powers and must make adhoc reports to the President based on his own judgement. He should not only receive information as provided for in Article 167 but should actively look for it. with a view to discharging his Constitutional responsibilities effectively.⁶⁴

The Commission recommended that an Inter-State Council should be Constituted under Article 263 of the Constitution. It may consist of -

- (i) The Prime Minister as Chairman,
- (ii) The Finance Minister,
- (iii) The Home Minister,
- (iv) The leader of the opposition in the Lok Sabha (when one is

not available representative should be elected by the opposition parties by single transferable vote.)

(v) Five representatives, one each from five zonal Council.

Any Union Cabinet Minister or Chief Minister who may be concerned with a particular subject may be invited for discussion when the relevant subject is under consideration.

All inter State , Centre State differences may be settled by mutual discussions. To the extent possible these should be held in Camera . Only the decisions may be issued in the form of statements.⁶⁵ The use of Naval, Military or Airforce or any other armed forces of the Union , in aid of civil power can be made either at the instance of the State governments or sue - motu by the Centre. The Centre was to continue to exercise its discretion to deploy them for maintaining public order for purposes of this Centre such as protection of Central property, Staff and works.⁶⁶

The report thus displayed a prominent Centralist tendency, long standing State grievances were recognised but resolutions were to be dependent on the goodwill of the Centre. The Centre was to maintain predominant position in the polity with the State as secondary appendages little if at all, decentralization of actual power and decision making authority was suggested. The report did not envisage sweeping changes in the Constitution which was considered flexible enough to ensure its successful working, provided those who were in power meant to work it in the spirit in which the founding fathers intended it to work.

The West Bengal Document 1977:

On the other side of the spectrum is the document adopted by the West Bengal Communist Party Of India (Marxist) cabinet in December-1977. While it was a Centralized federation that found expression in the 1950 Constitution, it was the idea of considerable State autonomy within a federal framework that had gained acceptance in the public mind during-the course of the freedom movement. As the document "India has been inhabited since ancient-times by diverse peoples, diverse in language and culture. United before independence in their common aspiration for freedom from Colonial bondage, they are today united in their common aspiration to build a prosperous life for themselves, as well as to develop fully the national resources, free from imperialists interferences and according to their respective socio-economic , linguistic and cultural needs".⁶⁷

The perspective therefore, is of diverse nationalitiés coming together to strengthen common goals. The primacy would consequently lie with the federating units rather than with the Central government. The document goes on to deplore the fact that while the demand has been growing for greater powers to the States as to make their autonomy real and effective, there have been persistent efforts to erode the limited powers of the States and to reduce the democratic functioning of the governments there.

The document views the establishment of a multi party system as a healthy democratic development that gives a boost to the development of federalism in India. A strong and unified India can only be one in which the States are respected and not treated with disdain. Devolution of powers to the State would help ward off fissiparous tendencies. The plea for strong States need not mean a weak Centre. The document argues for strong States and a strong Centre, Once their respective spheres of authority are clearly marked out. An amendment to the Constitution of India is called for to ensure the effective functioning of federalism in India.

The recommendations include the inclusion of the word federal in the Preamble, the transfer of Residuary powers to the States, mutual non-interference in each others spheres of authority by the Centre and the States. Equal representation for all States in Rajya Sabha, expansion of State finances with 75% of the total revenue falling within the devisible pool. The deletion of Articles 356, 357- & 360 regarding emergency provisions, as also Articles 200 and 201 which empower the Governor to reserve Bills passed by the Assembly for the President's assent. The Centre would preserve its authority in subjects such as defense , foreign affairs, trade, currency, communication and economic coordination. The Centre would also work to affect coordination and lay down general guidelines. In the sphere of economic planning the Centre would conform to guidelines of the National Development Council, constituted to give re-

-presentation to both the Centre and the States.⁶⁸

This "comprehensive proposal for federal reform" accompanied by the suggestion that a national conference be convened to discuss the question of autonomy for the States. The reaction of the (then) Janata Government was hostile. Morarji Desai declared that this was unnecessary and that 'the country is one. The party and the government were satisfied with the existing situation.⁶⁹

Federal concerns have weighed heavily on the minds of politicians and academicians ever since. The Srinagar Declaration, signed by 16 major non-Congress parties & 5 Chief Ministers recognised that the democratic values of our freedom- struggle are under assault, and the assertive trend of Centralization of power leading to authoritarianism has resulted in disturbing signs of alienation in some parts of the country.⁷⁰ There is therefore, need to review Centre -State relations. The meeting welcomed the appointment of the Sarkaria Commission, although this to them- was an inadequate step. It was nevertheless in the right direction. Sarkaria's voluminous report has provided considerable material for analysis, that is the focus of this work.

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- (31) Non Obstante clauses of A 246 (2) and (3).
- (32) Article 254 (1).
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- (33) Ibid.
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- (39) Entry 1-3 of the Concurrent list in the Seventh Schedule, Entry 20, Entry 25, respectively.
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Chapter-III.

The Role of the Centre.

This chapter is an attempt at examining the sphere of Central functioning in the light of submissions made to the Sarkaria Commission by various political parties. It would be in order to examine in passing the position of the Central Government as envisaged by the makers of the 1950 Constitution, as also the role of the Central government has come to play during 40 years of federal functioning.

The Constitution of India envisages a ' Union of States ' , a polity with a strong Centre. That the Indian federation is coloured with several unitary features is a fact which is generally accepted and which has been explained in some detail in the previous chapter. The Constituent Assembly adopted such a framework for the Indian Polity in the light of certain circumstances while keeping in mind the gigantic task of socio-economic development that long ahead. Such a system it was felt would facilitate the achievement of India's ambitions as also enhance and encourage unity and integrity amongst the federating units.

The 40 years of federal functioning in India have witnessed a continuous expansion of the responsibilities of the Union government. The factor which have brought about this centralizing trend, are many and varied. Such forces can be identified within most federations as in Canada, the USA and Australia.¹, as the focus

of this study is to be political parties, it would be pertinent to examine the transformations that have occurred within the federal structures and institutions as a result of their constant interaction with evolving political processes.

India has witnessed a uni-party rule for the past 35 years with a few brief exceptions. The norms evolved as a result have had a lasting impact on federal structure and constitute a powerful constraint on the independent exercise of powers by States even in the periods of multi-party federal functioning.² The limited autonomy granted to states has been surrounded by 'usage and sufferance' and it has become increasingly difficult for the states to reassert or regain its Constitutional authority. 'Irritants' and 'tension areas' in federal functioning have in the past been prevented from erupting into major issues through the resolution of crisis at party forums.

The party resolutions that have commanded the Congress govt. in the States to pursue certain policy have been those which have been passed by the Working Committee, and obviously have reflected the thinking of the Central Govt. The basic policies are evolved at the top of the party organisation which are passed on to the State government for elaboration and implementation.³

Moreover the presence or absence of democratic decision making processes within parties particularly when they dominate the party system, have a direct impact on the functioning of the

federal system, it can be argued that given the overriding powers of the Centre in the institutional framework itself, the extent to which federal principles incorporated in the Constitution can operate effectively depends primarily on the degree of federal functioning within the parties in power at the Centre.⁴

These and other concerns have a bearing upon the analyses that follows:-

The Indian National Congress. :

The All India Congress Committee(I) in its memorandum to the Sarkaria Commission highlights, the monarchical and highly centralized polity that existed in India in British times. The Act of 1935 made a bold departure in as much as in place of the unitary structure of the Indian Polity, the Act prescribed a federation, treating the provinces and the Princely States as units of the federation, albeit it was still to be a unitary and centralized government, with the Governor-General in Council as the key stone of the whole Constitutional edifice.⁵ The Act is important as the division of powers between the Centre and the Provinces adopted by the Act are largely adopted by the Constitution of India.⁶

The memorandum asserts that at the time when the Constituent Assembly proceeded to forge a Constitution for India, the circumstances obtaining did not justify the adoption of a decentralized federal structure "With the creation of Pakistan and the abolition of the native States, whatever justification had existed for a loose

federation disappeared."⁷

Normally, in a federation the independent States which desire Union but not unity, shed a part of their sovereignty to set up a Central authority, retaining all the residuary powers with themselves. In the Indian experience however, a unitary structure had to be broken up to set up a federation. The Centre had all the powers concentrated in the unitary form and parted with some powers in the favour of provinces being converted into States.⁸ The study of the Constitution would result in the inescapable conclusion that the framers of the Constitution provided for a strong Centre with State autonomy as demarcated in and deriving from the Constitution. The first Article of the Indian Constitution describes India as a 'Union of States,' even though the founding fathers wished to establish a democratic Republic.

The 'strength' of the Centre, however, is not considered a static concept. Strength according to the AICC(I) memorandum should be taken as a function of effectiveness. Any fresh power calculated to ensure the continued effectiveness of the Centre should not be looked upon either as unwarranted assumption of more power by the Centre as such or as erosion of the powers of the States. The right approach would be to look upon the Centre and the States as partners and the division of powers as the modus to get the multifaceted functions of government performed by the appropriate Constitutional agency.⁹

The document identifies several areas in which the inadequacy of the Centre's existing powers have been demonstrated in recent years. Law and order problems particularly in the context of communal or sectarian clashes have underscored the limitations of local law enforcing agencies. The Centre, it is argued, needs to be empowered to face with strength the determined efforts of disruptionist and destabilising forces. By such empowerment the States would lose nothing, while if no such steps are taken the nation's unity and secular character could be imperilled. We have a long border to protect, for the purposes of which a strong Centre with adequate powers is indispensable.¹⁰

In the State of Rajasthan and others Vs Union of India etc.. ... Chief Justice M.H.Beg, is quoted that , "if the special needs of our country to have political coherence, national integration and planned economic developments of all parts of the country, so as to build a Welfare State where Justice, social, economic and political are to prevail and rapid strides are to be taken towards fulfilling the other noble aspirations set out in the Preamble, a strong Centre seems inevitable. It is the country's need that at any rate seems to be the basic assumption behind a number of our constitutional provisions.¹¹ "

That being the perspective, the document, goes on to deal with legislative relations. Article - 249, which confers powers on the Parliament to make laws with respect to any matter enumerated in the State list provided the Council of the States empowers it to do so.

by the requisite majority, is found adequate and appropriate. It has not been misused during the last 35 years and hence no change is called for. No change is called for in the distribution of legislative powers, unless it is to arm the Centre with greater powers to deal with terrorism and sessionist tendencies.¹²

It is argued that the very fact that the Governor has been ~~assigned~~ a number of functions under various provisions of the Constitution makes it abundantly clear that the office of the Governor is indispensable to our set up. It is essential for the Governor to be armed with discretionary powers, and for him to exercise them, in order to enable him to fulfill his Constitutional obligations towards the State. In the case of President's rule under Article 356. He became the agent of the President. The Governors have so far played their role satisfactorily and successfully in the context of Centre State relations. Articles 200 and 201 which empower the Governor to retain certain Bills for Presidential assent are essential to ensure that there is no conflict between the Central laws and State laws and hence should be retained.¹³

Administrative powers of the Union under Articles 256, 257, 365 and 356. empower the Union to give directions to the States in the exercise of the executive power of the Union and these are sought to be retained. All India services inculcate abroad National outlook in the Officers and are generally not guided by narrow regional or parochial considerations and hence no change is called

for. Central Reserve Police and other Armed forces of the Union are equally important to combat disturbances and hence essential to the interests of the Indian nation.¹⁴

A Council under Article 263 is not a necessity in fact "the general establishment of such a Council is fraught with unsavoury consequences even if the Council is to be presided over by the Prime-Minister."¹⁵

The existing financial arrangements are formed satisfactorily and any alteration is bound to create imbalances and the weakening of the National fabric. The plea to transfer greater resources to the the States is based on inadequate appreciation of the resource constraints facing the Centre.¹⁶

While it is not possible to transfer any of the taxation powers of the Centre to the States, it is found that there is considerable buoyancy in the taxation base of the States under the existing system. State governments in order to keep in tact their vote banks do not levy taxes (on agricultural income for examples) and shed crocodile tears of shortage of resources.¹⁷

The planning exercise is seen as a national endeavour, with the State plans being only a part of the National plan. The planning commission formulates the concept of the National plan, and the States formulate their plans accordingly. The Union assists the States by undertaking Centrally-sponsored schemes in various regions where the States are unable to undertake such schemes, sometimes giving

grants for the purpose etc..... On this vital and relevant consideration it is submitted that there is no justification for any change in the present pattern.¹⁸

The Kerala Unit of the Indian National Congress however presents a different perspective, The memorandum, distinctly points out that, "there is concentration of economic power at the Centre the economic power of the State govt. and that of Districts vis-a-vis the States in turn is seen to be far meagre in relation to their clearly defined responsibilities".¹⁹ Moreover the present institutional frame work does not give the States sufficient role in policy formation process. It is necessary, therefore, to establish an interstate council with adequate representation to State governments.²⁰

The CPI and the CPI(M).

For purposes of analysis, the two major Communist parties of India are dealt with as forming a unit, though there are differences in their positions as to federal concerns and issues, these do not form the focus of study here. Their perspective, informed as it is by their ideology which finds inspiration in similar sources is essentially similar, as is evident from their memorandums submitted to Sarkaria Commission.

The 1950 Constitution retained most of the provisions of- the Government Of India Act 1935 , including the special powers conferred on ^{the} Governor. The idea being to prevent the balkanization of the nation by keeping the State under tight Central supervision. Also the

bourgeoisie which stood at the head of the freedom movement and which now became the ruling class was interested in an extensive home market, which requires a centralized rather than a federal state.²¹

While it was a centralized federation that found expression in the 1950 Constitution, it was the idea of Considerable State autonomy within a federal framework that had gained acceptance in public mind during the course of the freedom struggle. As the freedom movement developed, the various linguistic communities or 'nationalities', in search of their distinct identity in the federal set up started demanding the formation of separate states for themselves.²²

The emphasis therefore is on unity in diversity. The picture is of diverse peoples (if not independent govt.) coming together to strengthen common goals of- 'building prosperous lives for themselves and developing fully their national resources.'

Thus, though it was the idea of a federal scheme with wide autonomy for the provinces that came to be woven into the fabric of the future constitution during the freedom struggle, it was a centralized federation which was adopted by the 1950 constitution.

"Though our Constitution is broadly a federal one' what predominates it are its Unitary features".²³, and "while the basic nature of the Constitution was declared to be federal in principle its content was excessive centralization."²⁴ A perusal of the

VII schedule of the Constitution would show that the autonomy and the powers of the states in the legislature economic and administrative spheres are circumscribed and subordinated to those of the Centre. Furthermore even this restricted autonomy has been steadily eroded and undermined during the decades since the Constitution was framed and adopted. The fact that the same political party was in power at the Centre as well as in the State encouraged this process. The states were made to surrender voluntarily the rights that they had in the original provisions of the Constitutions. Therefore the moment parties other than the Congress came to power at the State level the question of Centre-State relations became an issue of critical debate.

Both the CIP and CIP(M) categorically state that the roots of our present problem lie in the Constitution itself, it is not just the working of the Constitution that is at fault, but the provisions as well.²⁵

A strong and unified India can only be one in which the democratic aspirations of the people of the different States are respected and are not treated disdain. Devolution of powers to the States may help in warding off fissiparous tendencies instead of encouraging them.

The emphasis is clearly on obtaining greater powers for the states however the idea is not to render the Centre in-effective. The CPM Central Committee document clearly states, "Our party stands for the unity of the country and fights all forces of dis-integration, we definitely stand for an effective centre capable of defending the country, organising and consolidating its economic

life and adequately armed with powers to discharge its jobs like foreign policy communication foreign trade etc....."²⁶

Unfortunately this urge for unity and desire that India should be protected against external aggression has been exploited by the ruling party to appropriate dictatorial powers to the Centre. The ruling party's idea of a strong centre is a dictatorial centre carrying out its behests.²⁷ Clearly then the Communist parties while not questioning the sphere of the Central functioning in important concerns of National interest would welcome a greater association of the federating units with the policy formulation. A democratization of the decision making process is not a desire that could render the centre ineffective. Moreover the concept of a strong centre has over the years come to be equated with the size of the centrally functioning, a quantitative reckoning of the subjects under direct central administration. A strong centre would be one that functions effectively and authoritatively within its over allotted sphere, without encroaching upon the sphere of the States. It is not the strength of the centre per se that the Communist parties oppose, it is the over-riding powers of the centre in relation to the States that are questioned. A strong centre capable of effective socio-economic change is a prerequisite of socialistic development and is enshrined in concept of democratic socialism, that the Communist parties desire. As such they declare - "We are definitely for strong States but on account do we want a weak centre".²⁸

Thus, the States are enjoined to act in such a way while exercising their full rights in their own spheres, that they do not transgress the sphere allotted to the central govt. Union authority is sought to be preserved and strengthened in subjects that can be carried out only by the central authority and not by any single State such subjects as defence foreign affairs, including foreign trade, currency and communication & economic coordination. In areas such as planning, fixing of prices, weights etc...., the centre may not only coordinate but also issue general directions. Heavy industries, electrical powers, oil and coal or irrigation schemes which concern more than one state have to be kept in the Union list, so that there can be a common policy.²⁹

The Centre is also to have the overall responsibility of working for integrated economic development, and the strengthening of the economy with due regard to the needs and legitimate aspirations of the under developed states and regions.³⁰ This would clearly give to the centre a distributive and interventionist role which is a long way from the idea of a weak Centre.

Bhartiya Janata Party. :

The Indian Constitution has been described as quasi-federal by many constitutional experts. It has a pronounced unitary bias. However a vast country like India can be administered only through regional governments. As there are particular problems pertaining to different parts of the country. Hence solutions are bound to be different as well. Thus decentralization is imperative,

both to strengthen the democracy and to ensure the efficient governance of the country.³¹

The working of Constitutional arrangements as to distribution of power & functions have resulted in strains and tensions in Centre-State relations. While the Centre has to be prevented from becoming authoritarian, the States cannot become Centres of parallel or conflicting loyalty.

The BJP is of the opinion that nothing should be done to weaken the unity of the country. Continuing conflict or friction between the Centre and the States should be eliminated. The provisions of the Constitution should be implemented in both law and spirit. Unfortunately this has not happened while the Centre continues to grab more and more powers, the States have not devolved powers to local bodies.³²

Although the Indian Constitution is seen as flexible enough and the development of conventions and procedures might help ease tensions, these in themselves may not be enough - some changes in the Constitution itself are also suggested.³³

However the BJP is in consonance with the founding fathers of the Constitution in favouring the unitary character of the Indian Constitution and does not favour changes to undermine this arrangement. (As the Raja Mannar Commission Report, suggested.)³⁴

Specifically no change is favoured in Article 251 (inconsis-

tancy in laws of Parliament and laws made by legislatures of States), Article 256 (Obligation of States and the Union) Article 257 (Control of the Union over the States) Article 348 (Language to be used in the Supreme Court, High Court etc.) and Article 355 (duty of the Union to protect the States).

The distribution of legislature power made in lists I, II and III are accepted by and large. Administrative and executive powers of the Union, which extend in consonance with its legislative powers are accepted as such. Devolution of powers to the States are recommended basically in the financial sphere. The post of the Governor is to be retained, although his role is to be limited to the Constitutional sphere and his appointment made in Consultation with the concerned state by the President and from a panel prepared by the inter-state Council.³⁵

Although a detailed reply to the questionnaire has not been made available, the BJP clearly seems largely to favour the status-quo. Minor changes are recommended, keeping the existing centralized structure of the federation intact. A disciplined, centralized party, the BJP's perspective has been authoritarian, that attitude must have some bearing upon its thinking as to federal issues. While recognising regional disparities the BJP has identified with a stance that perceives essential similarities in the Indian people, their culture, heritage, ideology and life style. As such the unity and integrity of India, is seen to be best served and strengthened by the institutions of a centralized polity.

Indian National Congress. (Socialist.)

The party holds that the compelling logic of our evolution into nationhood is that there cannot be any uniformity, but only harmony and unity and diversity, acting as cementing bonds of the nation. given Indians unparalleled diversity of languages, Sub-national groups, regional personalities, religions and cults, neither the concept of Indian unity or nationhood, or the Constitutional arrangements and institution that we have evolved, can be based on a concept of uniformity. On the contrary the emphasis has to be on the acceptance of our great diversity and on harmony and unity in diversity.³⁶

The 1950 Constitution created a United India and a dominant centre with unique executive powers assigned to the Union in the context of the early challenges to national integrity. The constitution and its working have exhibited ' a fundamental disequilibrium over the last 35 years and the need is to redress the imbalance.³⁷

Federalism and democracy being the two major themes of Indian political evolution, no attempt should be made to belittle the States and authority of the Constituent units. The overseeing role of the Centre is perceived 'as being incompatible with the traditional ideas of federation. The strength and stability of the States give strength to the apex of the federal pyramid viz the centre.³⁸

Although the entire tone of the statement favours the granting of greater autonomy to the States the central sphere is to be curtailed only in areas where it has transgressed onto areas of State control. The central government is seen as an independent functionary efficient and capable in its own allotted spheres of administration. The states are to be given greater financial powers and the federal overseeing role of the centre is sought to be done away with. It would still be a centre effective enough to meet external emergencies and internal calamities, although the states too would find their own dignified status in the scheme of the renewed polity.

The Jānata Party. :

The unity of India is the unity of a land of diversity. The democratic constitution of our country, therefore, is to be in essence a federal constitution.³⁹ However, in the historical circumstances that prevailed at the time of the birth of independent India, some unitary features were considered essential to preserve the unity of the country. After more than three decades, experiences have enabled us to see the strength and weakness of the constitution. They have revealed the loopholes and shortcomings that can result in the subversion or erosion of some of the basic values and concepts of our constitution, including, democracy, federalism and decentralization,⁴⁰ It is therefore has become imperative to have a second look at the Constitution and to take corrective action through constitutional amendments & conventions. These amendments should strengthen the federal

character of the constitution with emphasis on devolution of political and financial powers not only from the centre but also lower to the Panchayat levels.

Though the spirit behind the views expressed by the Rajamannar Committee are generally endorsed⁴¹, The party's own suggestions for reform are not as fundamental as the Rajarammar Committee Report. The legislative and administrative spheres of central activity are largely to remain the same, though some changes to strengthen the State list are suggested. The post of the Governor is to be retained although discretionary authority is to be exercised in accordance with certain norms. His appointment is to be made with prior consultation with the state govt. The emergency provisions of the Constitution are also to be retained to deal with exigencies.⁴²

Although the States are to be strengthened, especially in the financial sphere, and are to be associated to a greater extent with the formation of developmental policy and plan priority, the sphere of central functions is to be curbed mainly to do away with encroachment into the Constitutional sphere of the States. The Centre is to be strong and capable effective in its functioning.

Lok Dal. :

"The Constitution of India is not unitary, it is federal... Our country (is) geographically a big country with the second

largest population in the World, and a federation is a 'must' for administrative purposes.⁴³

The Central Government can only be strong when the States are strong. If the States are dependences of the Centre, they will have no real initiative for development. The Constitutional relationship between the Centre and the States should be such that while the Centre should remain strong enough not only to meet any foreign aggression, it should also have powers to curb fissiparous and sessionist tendencies in any State on its parts.

Misuse of the powers of the Central government, because of differing political ideologies, has to be checked while maintaining the essential features of Indian federalism. Central authority is to be maintained, only its unbridled misuse in pursuance of narrow political ends is to be checked.

Article 263, it is suggested should be amended to make it mandatory for the President to appoint an inter-state Council to coincide with the beginning of the Lok Sabha. The Council must be consulted on all steps taken by the Centre against the States, including these under Articles 356 and 357 (break down of Constitutional machinery) and Article 360 (financial emergency) Central powers should largely remain similar to those existing now. Enough in any case to maintain its over seeing, regulatory role.

Dravida Munnetra Kazhagam.:

The views of the party are based on the recommendations of the Rajaramma Commission Report submitted in 1971, largely based on

that Report , M.Karunanithi, the then Chief Minister of Tamil-Nadu moved a resolution on State Autonomy in the legislative Assembly of Tamil Nadu, and the resolution after a discussion of 5 days was passed on 20.4.1974.⁴⁴ These documents form the DMK's memorandum to the Commission^{on}/Centre-State Relations.

According to the DMK , the experience after the achievement of independence is that the powers concentrated in the Centre have been so exercised as to inhibit the States and to deprive them of their initiative. K.Santhanam, is quoted to emphasise that though a strong Centre is indispensable if India is not to disintegrate and dissolve in chaos. It would not be right to equate the strength of the Centre with the range of formal constitutional powers.⁴⁵ In a true federation it is held, the Central Government should have only powers relating to defence, foreign affairs, interstate commission and currency. All other powers alongwith residuary powers should only vest with the States. The federal governments and the State governments should be completely independent of each other in their respective sphere.⁴⁶

The document categorically state that the aim of the changes suggested, is the creation of a true federation with the federal govt. having powers relating to defence foreign policy interstate communication and currency.⁴⁷ All other powers are to go to the states.

Consequently it is suggested that Articles 256, 257, 339(2) and 344(6) empowering the Central Government to issue directions to the State governments should be omitted. An Interstate Council should be constituted consisting of all Chief Ministers or their nominees with equal representation to all the States, and with the Prime Minister as chairman. No other Union Minister should be a member of the Council. In respect to any action to be taken in any matter relating to defense, foreign affairs, Interstate communication, and currency, in so far as it affects the Centre-State relations or State or States, the Inter-state Council should be consulted, similarly, the Inter - State Council should have the opportunity to discuss all economic, fiscal, monetary and financial measures undertaken by the federal government. Recommendation of the Council should normally be binding on the Centre as well as the States.⁴⁸

It would be evident that the DMK considers the States to be the primary units of the federation, having come together to meet common interests, Central functioning therefore is to be drastically curtailed. Rather than grant the Centre overseeing and policy formulating powers, this role is envisaged for the newly created inter-state Council, in effect a forum dominated by the States.

Emergencies provided for would only be those falling under Articles 352 and 354, arising out of war or external aggression. Changes are suggested in the distribution of powers as affected by the three lists in the seventh schedule, to give expression to this

perspective.⁴⁹

The DMK thus envisages a limited area of federal functioning, that too overseen, discussed and debated by the interstate Council. By its own admission, this is the traditional view regarding federalism and represents DMK's efforts at adjustment within the Indian polity after its conscious abandoning of its sessionist programme in the early sixties.⁵⁰

Shiromani Akali Dal. :

The Shiromani Akali Dal claims to have been consistently on the forefront of the national forces that have been seeking "systemic changes in Indian Policy". The kind of changes that would on the one hand provide full opportunities for self development to various community and regions, and on the other hand ensure a stronger united India. From this angle the reconstruction of the Centre-State relationship on federal lines and the consequential decentralization of power^{is} imperative if the national system is to realise the Directive principles of State policy in an effective way.⁵¹

The Anandpur Sahib resolution which pleads for really autonomous States characterised by decentralization of power, with the Centre retaining the federal functions in respect of defense, foreign Affairs, communication and railways and currency, is perceived to be in consonance with what Pt. Nehru had been urging far before 1947. "It is a plea for fulfilling, even at this belated stage. The assurance given by Nehru/ and other minorities^{to the sikhs} that they would be in their corporate being, co-sharers of the political sovereignty of free India and that they would have

full opportunity for preserving their identity as well as all avenues for autonomous self development.⁵²

The Anandpur Sahib Resolution categorically states-

" In this new Punjab and in other States the Centre's interference would be restricted to Defence, foreign relations, currency and financial communication, all other deptt. would be in jurisdiction of Punjab (and other states) which would be fully entitled frame their own laws on these subjects for administration"⁵³

The Punjab (Akali) government in its memorandum to the Sarkaria Commission.⁵⁴ puts forth its case for greater autonomy to the States on the grounds that India being a multinational state the development of each federating unit as a homeland for a distinct people would provide an effective device to foster the unity and integrity of the country.

The progress among the different linguistic and cultural groups in acquiring a sense of distinct identity was uneven over the different parts of the country. The principle of reorganisation of Indian provinces on a linguistic basis was legitimised⁵⁵ as those groups which had achieved a distinct identity were now organised into a home land "There are now deliberately organised homelands of different linguistic groups. These groups are in fact growing into distinct nationalities."⁵⁶

The growth of a multi-national society in India is seen as part of a development syndrome. Democratic legitimate

aspirations of these groups have to be recognised and satisfied to build a democratic, secular federal India. The federal format in such a society would have to be a national govt. that would take care of the common interests and aspirations of the United varied nationalities while the autonomous federating units cater to their distinct interest and urges.⁵⁷

The Indian Constitution has several unitary features that have whittled down the federal character of the Constitution. Even in the normal times. On proclamation of emergency by the President/^{the} Constitution gets transformed into a largely unitary dispensation.⁵⁸

The lengthy memorandum details the changes to be affected to bring about a true federation leaving bare minimal powers with the Centre, enlarging ^{and} enhancing those of the States. That would be the focus of the next chapter. The Central sphere under scheme would be such as to qualify for a weak Centre. The logic of the argument advanced as to the development of distinct identities by various groups could culminate in a minimal state with the Central govt. increasingly dominated by the States that would be a complete reversal of the status quo:

Sarkaria Recommendations:

Sarkaria Commission was appointed in response to demands for reexamination of Centre-State relations in the Context of criticism that the limited federalism envisaged by the constitution had been eroded whether by natural processes or willfully, as a

result of increasing Centralization and personalisation of power over the years. Its report does attempt to redress the balance if only to a degree. It seeks to do this not by proposing drastic Constitutional amendments as much as by seeking to revive or establish certain conventions relating to Centre-state consultations and by activating the dormant constitutional provisions.⁵⁹

The Indian state is seen as a 'Union with a strong Centre'. The Constitution ^{it} as emerged from the Constituent Assembly in 1949 had important federal features, but it cannot be called federal in the classical sense. It cannot be called unitary either. The circumstances of the times made it imperative to invest the Union with overriding powers.

The constitution makers envisaged a system which would be worked in cooperation by two levels of govt. national and regional as a common endeavour to serve the People. They realised that the feelings of the Indian nationhood ^{were} still in the making and required to be carefully matured. Indian democracy was still in its infancy and to prevent or remedy possible breakdowns of constitutional machinery in the States, it was essential to invest the Union with overriding powers. To make the Union strong they allocated to it, dominant and larger powers in administrative, legislative and financial spheres.⁶⁰

Sarkaria largely endorses this position. The founding fathers created a system of two tier policy in which the predominant strength of Union is blended with the essence of cooperative

federalism. This forms the major thrust of his recommendations.

As in the USA, Canada and Australia Centralizing trends are also visible in India. The Union has taken over functions which were ordinarily left to the States, it is these that are addressed and suggestions made to restore them to the States.

Sarkaria does not subscribe to the homelands' perspective or the 'distinct nationalities' view. For him the very idea of a homeland within a country implies a pernicious discrimination between the so called 'sons of the soil' and the so called immigrants or outsiders from other States. This would lead to the creation of two or more classes all over the country. He espouses instead the view that the forces of modern communication and of industry are working against such incipient localized homeland ideas by promoting a country wide mobility. The whole of India is now in fact the homeland of every citizen of the country.⁶¹

While the search for identity, the need for security and demands for a fair share in the national cake are legitimate aspirations, these are often cleverly manipulated by perceptive influences into strident discord and dissent.

While poorer states have been pressing the Union earlier to ensure for them a greater share of the national cake, richer States have started asking for more powers to themselves so as to be able to protect their shares. Priority should be given to understanding each others' compulsions and the fostering

of mutual accomodation.⁶²

Sarkaria thus clearly has a Centrist view to the question of Union State relations. The constitutional structure is sound. Only its working is faulty the spirit of the Constitution has to be kept in mind, and attempts made to rise above narrow political ends. No major amendments are suggested Cooperation through conventional and institutions is encouraged, these would help redress the balance and promote goodwill between the Centre and the States.

It can be argued that the federal system and the pattern of Union-State relations laid down by the Constitution have stood the test of time. A federal system with a strong Union government has contributed to the preservation and consolidation of the integrity of India. Despite many separatist movements that have disturbed many parts of India such a system has helped the Union government to control centrifugal and divisive forces. Externally it has seen us through three major wars. It has put a vastly underdeveloped country, stricken by colossal poverty and a gross under utilization of resources, on the path to economic development and self sufficiency, genuine internal disturbances and breakdowns of constitutional machinery in many States have been dealt with.⁶³

However the fact that all is not well with the Indian federal system, is evident from the plethora of complaints against the growing Centralization of powers which has gone so far as to make the States' subordinates rather than equal partners. If the fact that the Congress held sway at both the levels of

government for a long time, did not help the development of federal processes and institutions., the Janata period (1977-1980) did not escape the dominating legacy of the earlier period-either. Partly because an influential section of the Janata leadership had been accustomed to federal functioning in the Congress mould and partly because a major component of the coalition, the Jansangh, was committed ideologically to the unitary "ideal of one nation one people."⁶⁴

Moreover, the new Congress party that returned to power, after the Janata phase, was Centralized to an unprecedented degree with an heavy emphasis on the criterion of personal loyalty to the party leadership.⁶⁵ As a consequence of the decline of the State level leadership and organisation of the party, federal functioning was further weakened, in that a large number of States were unable to exercise fully the powers and responsibility vested in them. This led to the greater abdication of powers to the Central leadership. A parallel decline to this lack of a second rung of State level leadership was witnessed in the decline of the federal character of such institutions as the National Development Council and Planning Commission. Both these institutions function largely as appendages of the Central government, further tilting the balance in its favour.

It is in this context that demands for greater State autonomy have been gathering force. With the advent of regional parties on the national scene, these demands have acquired added importance.

The extra constitutional mechanism of the party can no longer be extended to governmental concerns. The lack of inter-governmental institutions for crises and conflict resolution complicates the matter. The next chapter would deal with these concerns and focus on presenting the demands for greater economy for the States.

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Chapter-IV. :

The Question of Autonomy for States.

This chapter focuses on the demands for State autonomy as expressed by the chosen political parties and State governments, in their memoranda to the Sarkaria Commission. The format of the previous chapter and the units of analyses are retained.

An initial study of the memoranda and replies to the questionnaire circulated by the Commission, reveals a wide divergence of views. Many are of the opinion that the basic structure of the Constitution is sound and should not be tempered with. This view favouring the retention of a Centralized federation in India, has been dealt with in the previous chapter, as also the areas of Central functioning identified by political parties. On the other hand is the view that the Constitution requires drastic alteration to bring it in accord with their own (those political parties which demand greater autonomy for the States) perception of an ideal federal system. These demands for autonomy, suggested areas of State functioning, decentralization of powers by the Centre, would be analysed in this Chapter.

The Constitution is what we make of it, runs the argument of those who lay emphasis on the divergence between theory and practice. They point out that the actions of the Union have led to a very large degree of over centralization in all aspects,

reducing the States to mere administrative agencies of the Union. Such over centralization in legislative, administrative and financial spheres, it is contended has been affected by the Union to the detriment of the States.

They allege that the Union has occupied most of the concurrent field leaving little for the States, and by indiscriminately making declarations of public interest or national importance, taken over excessive area of the linked entries in the State field at the expense of the State legislative power. They point out that legislation in these fields is undertaken more often than not, with no or inadequate prior consultation with the States. The net effect of many recent amendments to the Constitution and judgements of the Supreme Court has been to give more powers to the Union than was contemplated by the Constituent Assembly. They question the wisdom of legislation that seeks to secure dull uniformity in all matters, instead of laying down the main parameters and leaving the States free to legislate with regard to other matters in the light of local conditions.¹

The instrument of the Governor, it is alleged has been made use of to destabilise the State Governments run by parties other than that in power at the Centre, to facilitate the imposition of President's rule and reserve for President's consideration many State Bills to thwart the States legislative process.²

It is also complained that the resources of the States have not grown at a rate commensurate with the growth in their responsibilities. The gulf between available resources and responsibilities is steadily widening. On this ground it is demanded that more resources be included in the sharable pool, if necessary by amending the Constitution.

Another issue raised is that the emergence of planned development has concentrated all power in the hands of the Union, with the Planning Commission acting as a limb of the Union government. It is emphasised that even in matters which lie within the exclusive competence of the States, through a variety of means, particularly the mechanism of Centrally Sponsored Schemes, deep inroads have been made by the Union. On these premises it is demanded that the Planning Commission be restructured to limit the scope of the Union's interference in the area reserved for the States.³

The system of controls, licences and permits, which had its origin during the second World War has proliferated greatly to subserve the requirements of a planned regime. This, it is argued has led to a vast expansion in the powers of the Union government at the expense of the State governments and local bodies. The consequent unhealthy Centralization giving undue power to a small coterie, it is urged, needs to be reversed.⁴ It is also pointed out that the institutions and forums specially designed by the Constitution for sorting out problems arising in

the working of inter-governmental relations have not been created at all. It is urged that in matters of dispute between the Union government and the State governments, the former should not be both the disputant and the judge, but should get the case examined by an independent assessor before taking the decision. This last would be discussed in greater detail in the next chapter.

The party system has a crucial role to play in the working of the federal process. 'The politics of federalism', may change the balance of power, and influence the creation of harmony or conflict between the Union and the States. Though the dominance of the Congress in the past, ensured political stability, it has also hastened the centralization of power in the hands of the Union government. The rise of a multi-party system and particularly the growth of regional parties led to a new type of power struggle within the federal process. Demands for greater independence of functioning within the State spheres, as also a greater role for the States in policy formulation, long suppressed through the mechanisms of party discipline, now found vociferous advocates in these regional parties which came to power in various States.

It was in this context that the Sarkaria Commission was appointed to study the existing arrangements regarding distribution of functions and powers between the Centre and the States, with a view to suggest changes to bring federal functioning to a balance. Sarkaria's recommendations would be examined in the

context of demands put forth by the political parties for greater State autonomy.

The Indian National Congress:

The Congress as is evident from a perusal of the previous chapter, favours the retention of a strong centralized federation in India. The All India Congress Committee (I) document holds that the existing provisions of the Constitution have proved to be satisfactory over the last 35 years and any alteration in them is likely to create an imbalance leading to the weakening of the national fabric.⁵

Consequently, the document favours the maintenance of the statusquo with all the issues highlighted in the preceeding paragraphs of this chapter. No change is called for in legislative, Administrative, and financial relations. The emergency provisions are to be retained. The Governor's post is seen as an essential link between the Centre and States and is to be retained along with all the discretionary powers vested in the office. The States are to be content with whatever role the Constitution envisaged for them.⁶

However the State unit-Kerala of the Indian National Congress in its memorandum to the Commission clearly states that, "there is concentration of economic power at the Centre."⁷ The economic power of the state governments and that of the districts vis-a-vis the States in turn, is seen to be far too meagre in

relation to their clearly defined responsibilities. The evolution of public finance over the last three decades presents a picture of concentration of financial resources at the top, the funneling of these resources has been of a higher quantum at the higher layers and of a lower quantum at the lower layers where in fact lie the largest areas of developmental activity.⁸

The document points out the serious issues of "artificially accumulated indebtedness of the States to the Centre". Loans from the Centre to the States have been well over three fourth of a aggregate non-statutory transfers.⁹ Moreover large sums of money granted to the States to undertake operations such as famine relief and anti-sea erosion (which create no tangible assets) have been treated as loans to be repaid with interest. These loans and capital assistance have largely rendered plan assistance inconsequential and even negative.¹⁰ Although the scheme of devolution envisaged by the Constitution was one under which most of the transfer of resources from the Union to the States through the Finance Commission, in present time the transfer of resources taking place defecto outside the Finance Commission is about 60 per cent. The Central government has by resorting to additional mechanisms of resource transfer acquired discretionary powers which are very often not exercised in the interest of the States.¹¹

The present institutional arrangement does not give the States sufficient role, it is therefore necessary to create a statutory body like the Inter-State Council, with adequate representation of the State governments ensured. Not only are the

poorer States not getting a fair share of resources, the share of States' in the totality of Centre's resources inclusive of taxes, non-tax and Capital has shown a progressive decline from plan to plan. If the State's share was 43% in the first plan period (1951-56) it was only 31 percent in the fifth plan period (1974-75).¹² This, while the Centre's resources have grown and the high rate of inflation and cost have further eroded State finances.

The States which have the benefit of larger surpluses from the Finance Commission are ipso facto allowed to have larger State Plans.¹³ Given the fact that the present practice of allocating as much as 50 percent of plan assistance outside the Gadgil formula, on the discretion of the Central government, a large number of irritants in the Centre - State financial relations can be avoided only if a well thought out formula ensures that all states have the same amount of per capita revenue surplus at the beginning of each plan period. But the total resources earmarked for transfer through both agencies should have a live relation to the resource gap assessed on the basis of a more scientific data base.¹⁴

Decentralization of the planning process and the building and strengthening of State and district/village level planning institutions is urged, as this would link the plan endeavour to the needs of the people at the grass roots level. Planning to be effective has to be undertaken from below rather than from

above.¹⁵ Inroads into the powers of the States have to be done away with to ensure a unified India. The planning process as indeed the developmental experience has to be tackled with a spirit of cooperation and integration.

The Madhya Pradesh and Andhra Pradesh State Unit's in their memoranda largely endorse the views expressed by the AICC(I). However, the fact that one State unit thought it in the fitness of things to air its grievances reflects on the fact that most State governments are desirous of autonomy, although party discipline often prevents them from coming out in open confrontation with their party High Command.

The Communist Parties, (CPI and CPI(M)) :

In keeping with their perspective of the Indian federation being the result of diverse peoples and nationalities coming together to better serve common interests, the Communist Parties demand considerable autonomy for the States. In fact autonomy for the States seems to be the basic thrust of their arguments as presented to the Sarkaria Commission.

State autonomy is to be ensured through substantial amendment to the Constitution, "to reverse a process that has reached a stage when it threatens to reduce the Status of the States to that of subordinate departments of the Centre under the aegis of the Central Home Ministry. "Also in a democratic polity, the State legislatures and governments must have sufficient freedom and

powers to fulfill the mandate of the people who elect them. Denial of this lops off one arm of Indian democracy. State autonomy would also go a long way in promoting a sense of unity and warding off divisive forces.¹⁶

The distribution of legislative powers between the Union and the States, a replication of the government of India Act of 1935, which was repugnant even to the Congress. The 1950 Constitution closely follows the Act. The Union and Concurrent lists are so all-pervasive that State autonomy is in fact negated. The Governors have been given powers to reserve for Presidential consideration important legislation. The Central government acting in the name of the President has the power to withhold assent to Bills passed by the State legislatures, making a mockery of the competence of the States.¹⁷

The West Bengal document of 1977 as also the CPM memorandum to the Sarkaria Commission, call for an amendment to Article 248, to the effect that Residuary powers of the federation should lie with the States and not with the Centre.¹⁸ The CPI qualifies the proposed amendment, Parliament is to retain some Residuary powers - confined to matters that concern the security of the country and national unity and integrity.¹⁹

The Centre is enjoined not to interfere in the sphere of the States both legislative and executive. Both parties call for the deletion of Articles 249 and 252 which give the Centre

power to legislate on State subjects of national importance. Entry 52 in list-I should be amended to restrict its scope in relation to the power of parliament to legislate with respect to 'Industry' which as Entry 24 in the State list is in the jurisdiction of the States. The list in the VII schedule should be reformulated so as to give exclusive powers to the States with respect to certain categories of Industries.²⁰

Similarly law and order though a State subject has come to be Central preserve. Law and order and policing functions are sought to be restored to the States. The right of the Centre to raise the Central Reserve Police Force or any other force to operate in the States should be withdrawn.²¹

The Institution of the Governor receives a great deal of flak. The West Bengal government categorically states, "it is most unfortunate that the Constitution provided for a Governor."²² This post is a legacy of the imperial-administration and in the changed context of an independent India, with democratically elected administration at the State level, the position of the Governor is altogether anomalous. The Governor is now the agent of the ruling party at the Centre. "The office has in fact been used by the ruling party at the Centre to deny the people of the States the right to have governments of their own choice and to impose on them unwanted governments."²³

West Bengal Chief Minister Jyoti Basi, drawing attention to the discretionary powers of the Governor, especially those under Articles 356 and 357, refers to the role of the Governor in

Jammu and Kashmir and Andhra Pradesh in July and August-1984 in Engineering changes in the complexion of the State government. In both States, Basu writes, "the Governor without ascertaining the views of the State legislature used his prerogative to dismiss the democratically elected Chief Minister and substitute an individual of his choice."²⁴

This role of the Governor often results in a conflict between the elected executive of the State and the formal head. As such the post deserves to be abolished. If however this is not possible the office should be filled by somebody who enjoys the confidence of the State legislature.²⁵ The CPI document proposes that the Governor (as long as the post is retained) shall have no power to reserve any Bill for Presidential assent that has been passed by the State legislature. Articles 200 and 201 should be abolished. The Governor is to be the titular head of the State functioning with the aid and advice of his Council of Ministers, much like the President at the level of the Union. It is suggested that the Governor be appointed by the President from a Panel approved by the concerned State legislature and that he hold office during the pleasure of the State legislature. The idea being to make him independent of Central Control. There should also be provision in the constitution for the impeachment of the Governor by the concerned State legislature. Similarly, the Governors powers under Articles 356 and 357 which enable the President to dissolve a State government or its Assembly or both, should be deleted. In the event of a

situation arising when there is no possibility of any ministry having a majority in the Assembly, provision should be made for the democratic step of holding elections afresh as is the case of the Centre. The CPI document specifies a period of 4 months for doing so, allowing the existing government to function as a caretaker government in the meanwhile.²⁶

A long standing grievance of the leftist government of West Bengal , has been with regards to Central and All India service personnel, as those belonging to the IAS and the IPS, being reluctant to implement such policies as are contrary to their own ideological commitment . Hence it is only to be expected that both the CPI and CPM would call for the abolition of such services whose officers are reposted to the States, but remain under the disciplinary control of the Central government. "There should be only Union services and State services and recruitment to them should be made respectively by the Union government and the State government concerned,"²⁷ with the personnel of each being under the disciplinary control of the employing authority. There should be no jurisdiction of the Central government over the personnel of the State services.²⁸

The most crucial issue concerns State finances. No other part of the Constitution has been subject to such universal criticism from State governments (including those headed by the party ruling at the Centre) as its financial provisions.

The Communist parties reiterate the basic communist notion that the problem of resources for national development arises basically from the present socio-economic order, from the capitalist path of development and from the grip of monopoly capital and other vested interests on the Indian economy. This factor compounded by the economic policy pursued by the bourgeois governments at the centre and the States has resulted in massive denial of resources to the States.²⁹ A permanent and total solution cannot be envisaged within the present socio-economic order, however a provision for greater resources to the States can be made enabling them to fulfil their tasks better.

While almost every department of administration involving heavy expenses (except defence and foreign affairs) falls within the purview of the State governments, almost all the revenue earning items are with the Centre. A complete overhauling of the entire field of financial relations is thus in order.

The CPM proposes that the Articles regarding the Finance Commission and distribution of revenue should be amended to provide 75 percent of the total resources that the Centre raises to the divisible pool. To what proportion and on what principle this 75% of the total realisation should be divided between the States should be decided by the Finance Commission. It should not be the job of the Commission to decide the proportion of revenues to be distributed between the Centre and the States. Article 280, clause 3, sub-clause (a) which provides for the "distribution between

the Union and the States of the net proceeds of the taxes which are to be, or may be divided between the Union and the States," should be omitted and the entire clause redrafted so as to make it clear that it is the duty of the Commission to make recommendations to the President as to the allocation between the States of their respective share of the proceeds. The States must also be accorded more power for imposing taxes on their own and to determine the limit of public borrowing in their respective cases. To achieve these objectives the Union State and Concurrent lists should be suitably amended.³⁰

The West Bengal government puts forward a two-fold solution to the present fiscal crises faced by the States, First, the States' financial powers should be enlarged, and whatever encroachment has taken place in the last 35 years should be made void. Secondly, the totality of resources at the disposal of the Centre including those raised through increase in administered prices should be considered a common pool and the States are entitled to share in this pool. Objective criteria for distribution should give weightage to the interests of the economically poor States.³¹

Resource raising as well as economic management should be left to State legislatures and other agencies. Once devolution of resources has been delinked from the so called revenue and capital gaps, and is governed by a set of objective criteria, and is accompanied by a substantial enlargement of the States' taxing and borrowing powers, the States will have considerable degree of autonomy. This alone will compel them to adjust their expenditure to

the resources placed at this disposal and cultivate fiscal responsibility.³²

Attempts should be made to move away from the principle of grants in aid altogether. A good part of the outstanding loans by the Centre to the States requires to be written off. The States authority to raise loans should be increased and there should be better accommodation in the matter of over draft by the States. In this context attempts should be made to improve the borrowing position of the States with public financial institutions.³³

The aim of these and other recommendations is to achieve for the States a greater degree of autonomy, to make them equal partners in the federal system, and to bring about an equilibrium in the lopsided arrangement of the Indian federation. The States, catering to the interests and aspirations of distinct 'nationalities' would require to be financially independent of the Central government to fulfill the mandate of their peoples, and to cater to their particularistic needs. They are the ones closer to the people and are in a better position to formulate their own developmental priorities. Decentralised planning would also fit into this scheme, that we discuss in the next chapter. It is proposed that the Planning Commission be made the Secretariat of a Inter-State Council. Once transfer of resources on an equitable formula is determined by this body, individual State Plans, their size, their priorities etc. be left to State governments. The scope of Centrally

sponsored schemes limited, and decentralization of planning below the State level encouraged.

Bhartiya Janata Party :

As discussed in the previous chapter, the party is of the opinion that the founding fathers of the Indian federation did not desire it to be a Classical one. It was given a federal form but was essentially unitary in character. The party does not favour changes to undermine this arrangement.³⁴ Nevertheless it identifies certain areas where the States should be allowed greater powers.

A legislative arrangements are accepted as such by and large, however, amendment is suggested in Article 200. This Article, it is felt has been misused and Bills have been reserved for the President to create difficulties for the States. This power is sought to be taken away, the Governor may either give his assent to the Bill or send it back to the legislature for reconsideration. He may not reserve it for the consideration of the President. However, a Bill relating to a subject on the Concurrent list may be reserved. The President may within a period of 3 months declare assent or refusal, if no decision has been given by that time the Bill shall become law.³⁵

The Constitutional position of the Governor (that of the titular head of State) needs to be strengthened. The Governor should be appointed for a period of 5 years from a panel prepared by the (recommended) Inter-State Council. He should be appointed in consul-

tation with the concerned State. He should be removed only by impeachment in Parliament by a procedure similar to the impeachment of a judge. He should not be transferred from State to State and should not hold office of profit after the expiry of his term.³⁶

The party feels that the scheme of distribution of economic resources has been a major irritant in Centre-State relations, and has caused justifiable resentment amongst the States. It follows that if this grievance is to be justly met steps must be taken to see that :-

- (i) the arrangements for devolution should be such as will allow the States' resources to correspond more closely to their obligations. States' share in the divisible pool should be enlarged,
- (ii) the devolutions should be made in a manner that takes an integrated view of the plan as well as non-plan needs of both the Centre and the States,
- (iii) The loans and advances by the Centre should be related to the developmental needs of the states.³⁷

A sore point with the States is that the Centre's authority to issue industrial licences is often used in a manner so as to obstruct industrial growth. This situation should be remedied.

It should be made compulsory for the Central legislature to impose duties and taxes of the seven kinds mentioned in Article 269. If the Centre does not wish to levy these duties, power to do so should be transferred to the States. Corporation tax, as also

surcharge on Income tax, must also be included in the divisible pool and shared by the Centre and the States. The States should receive royalties on an ad valorem basis on all major mineral resources. States should also be permitted to tax generation of electricity within their areas, as distinguished from mere sale of electricity.³⁸

The character of the Finance Commission should be suitably changed, to give greater representation to the States. Article 280 should be amended so that the composition of the Finance Commission reflects the quasi-federal character of our polity. The Finance Commission should be charged with the responsibility of earmarking funds for the local self bodies out of the devolution to the States. The composition of the Planning- Commission should also reflect the quasi-federal character of the federation.³⁹

Thus the party would advocate the granting of some powers to the States, to enable them to discharge their functions and to remove the aberrations that have crept in the working of the Constitution in the last 35 years.

Indian National Congress (Socialist.):

This party in keeping with its perspective, that there is a fundamental disequilibrium in the Constitutional system as it has existed for the past 35 years, calls for a- review of the major determinants of the institutions, issues and policies that led to the present situation.⁴⁰ Such a review should cover the following :-

- (a) The appointment and powers of Governors, especially the discretionary powers which are to be curtailed. All claims of majority are to be tested on the floor of the house and not in the Governor's Chamber.⁴¹, to prevent the misuse of this high office for narrow political ends. Articles 200 and 201 should be deleted.
- (b) Experience with emergency provisions and with President's rules in the States and the practice of Presidential assent to Bills passed by State Assemblies.⁴²
- (c) The role and structure of All India Services and Central Police Forces. The Kerala State Unit advocates that Central intervention under Article 355 is improper. The Union may locate and use its forces in aid of Civil power in any State only on the request of the State Govt. and not Suo-motu.⁴³
- (d) In the economic sphere, such a review should go into the role of the Planning Commission, which has steadily turned into an appendage of the Union Govt. It is essential to give a Constitutional status to this body and to put it under the NDC and to make it a model agency between Centre and States.⁴⁴ The structure of the Finance Commission must be looked into and it must be incumbent on the President to consult the States on the composition and terms of reference of the Commission and its staff.

The Commission should not be dependent on the Centre for its funds or Secretariate.⁴⁵ Fiscal transfers and divisible pool of taxes and plan assistance under Articles 282/275 and the way the lever of administered prices have to be used to raise resources and deprive State govts of their legitimate resources, have to be examined. As the finances of the States are quite inadequate, they have to be made financially secure so as to enable them to fulfill their responsibilities.⁴⁶

- (e) The role of NDC as an important adjunct of policy making has to be revived with a view to grant to the states greater role in policy making.⁴⁷
- (f) The role of deficit financing and financial institutions and domestic and external borrowings have to be renewed and a national borrowing authority based on the Australian loan Council set up. Foreign exchange budgeting, as also the states rights to obtain foreign loans have to be reviewed.⁴⁸
- (g) Any interstate Council set up under Article 243 should be granted extensive powers, These may extend- even to disputes between the states , an amendment to this effect is called for.
- (i) The States should have voice in the evolution of policy for administering the govt. controlled media, even in an autonomous, set up.⁴⁹

To sum up, major changes are called for, to place the State govt, on a sure footing. The party hopes that the Commission (Sarkaria) would address itself to the issues outlived and accomplish its historic task at this crucial juncture of time.

The Janata Party :

The party considers it imperative to take a second look at the constitution and to take corrective action to strengthen the federal character of the Constitution, through amendments and the building up of conventions.⁵⁰ The edifice of a strong Centre can only be raised on the firm foundations of strong States. Provisions of the Constitution which have been used to make inroads into the powers of the States should be examined, and amended in order to protect the power of the State governments.

In this context Articles 31A , 31C and 304(b) of the Constitution provide ample scope to the Union executive to encroach on the powers of the States .These should be amended.

The high office of the Governor has often been misused to subserve the interests of the ruling party at the Centre without regard to the provisions of the Constitution. Constitutional safeguards and conventions relating to the powers of the Governor's are called for. All claims of a majority in the State legislature must be tested on the floor of the House. In matters concerning assent to the Bills passed by the

legislature or in reserving it for Presidents' consideration, provisions should be made in the Constitution to ensure that the Governor acts with the aid and advise of the State Ministry. If no party is able to demonstrate its majority in the legislature the Governor must dissolve the Assembly and elections must be held at the earliest.⁵¹

An Inter-State Council should be set up without further delay . Article 355 empowers the Central government to employ Central forces in the States even suo-moto. This is highly objectionable and the Constitution should be suitably amended to provide for the convenience of State Govt. before deploying such forces in a State as Law and order is a State subject. Central monopoly of media must end and their control should be vested in autonomous bodies.⁵²

The problem of resource allocation to the States must be viewed in a more comprehensive perspective. For this purpose the following steps are essential-

- (a) Income tax including tax on companies should be shared by the Centres and States.
- (b) The due charges levied for general revenue purposes on duties and taxes including income tax should be treated as part of the divisible pool.
- (c) Atleast 60% of the net pool of excise, Auxilary and special duties should be made divisible
- (d) The grants to the States under articles 275 of the Consti-

titution must not be drawn from the States 'share of the divisible pool.

- (e) A National expenditure Commission should go into the expenditures of the States and the Centre.
- (f) To deal with the acute problems of Institutional finance a National Credit Council should be established under the aegis of the NDC.
- (g) Proceeds from any raising of administered prices, if this is not to combat shortages, should be part of the divisible pool.
- (h) The Centre should not monopolise market borrowing. The states should be allowed to do so for their markets.
- (i) Immediate Central assistance should be made available to the States in times of National Calamities.
- (j) Steps should be taken to ensure that there should- be no discrimination on political grounds against any state in the matters of overdrafts.
- (k) The States should have adequate role in the formulation of plans.⁵³

Lok Dal.:

The party is of the opinion that in the past 36 years of the enforcement of our Constitution decisive Central intervention has taken place more because of deferring political ideologies in the Central and State governments, rather than for checking any disruptionist trends in the States. It is this misuse that has to be checked while maintaining the essential features of the Indian federation.⁵⁴

to make

An amendment to Article 263 should be made/it mandatory for the President to appoint an Interstate Council at the beginning of the session of the Lok Sabha. The Council must be consulted on all steps to be taken by the Centre against the states. The Financial Commission and the Planning Commission should be appointed on the advice of the Council and they be answerable to it.

Parliament should have no power to make laws on subjects on the State list. Hence Article 249 should be repealed, similarly Articles 201 and 213 should be omitted and Article 200 amended so as to delete the provision of reservation of Bills for presidential consideration.⁵⁵

The Central govt. should have powers to declare an emergency only in cases of external aggression. The case for emergencies in cases of armed rebellion, financial crises (Article 360) Articles 356 and 357 (Breakdown of Constitutional machinery of the States) should be heard by the Interstate Council before such emergencies are applied. Article 365 which empowers the Centre to impose an emergency on the State if any state govt. fails to comply with Central direction should be omitted.

The NDC should formulate every year general principles for distribution of grants in-aid and the deficits in State budget must be made good by the govt. of India. There should be a complete review of all matters relating to the fundamental issue, that is the division of finances between

the Union and the States to maintain the federal character of the Constitution. Corporation tax, Customs and Export Duties and tax on Capital value of assets should all

be in the divisible pool. Under the Statutory division of resources not less than 50% of the total tax resources of the Central government should be transferred to the States.⁵⁶

Para Military forces of the Centre should not be stationed in any State without express request or consent except in the case of ^aNational Emergency (under Article 352). Officers of Civil services, as the IAS and the IPS should be under the control of State Govt. Administrative Tribunals should guard them against victimisation.

The party is of the view that the unanimous resolution of the All India Convention of Lawyers held at New Delhi in Aug.1973 under the Chairmanship of M.C.Setalvad be adopted, for appointment of Supreme Court and High Court judges and Chief justice .⁵⁷

The Governor of a State should be appointed by and on advise of the Interstate Council and should function as the titular head of the State administration. All claims of majority should be tested on the floor of the legislature within a period of three days.⁵⁸

Al most all National parties, (except the Congress) are in favour of granting more powers to the States and ensuring them protection against domination by the Centre . The degree to which they would want the federation units to be autonomous of Central control naturally varies with their perception of what an ideal federal polity should be. Unnecessary over-centralization, especially in the financial field is universally looked down upon. These themes are taken up in great detail by the two State level parties chosen for analysis. Both of them have a

Statist perspective, and hence demands for reform and more fundamental even, strident.

The Dravida Munetra Kazagam. (DMK) :

The party's recommendation for widespread reforms are based on the Report of the Rajammanar Commission (which has been discussed earlier). It espouses the view that in a true federation federal govt. should have power relating only to defence foreign affairs, currency, Interstate communication. All other powers alongwith Residuary powers should only vest with the States. The federal govt. and state govts should be completely independent of each other. in their respective sphere.⁵⁹ The following are some of the suggestions it has made to ensure a wide field of autonomous functioning for the States.

Articles 256, 257, 339(2) and 344(6) empowering the federal govt. to issue directions to the states must be omitted. An Interstate Council should be constituted and all actions under Central subjects that affects the States must be referred to this Council. Before any bill is introduced in the Parliament concerning any matter on the Concurrent list the Interstate Council should be consulted. Residuary powers should vest with the States. Articles 154 and 258 which empowers the Parliament to make laws conferring power on State and State authority should be omitted.⁶⁰

Articles 169(abolition or creation legislative Council.) should vest exclusively in State legislatures. Article 249 and 252 empowering Parliament to legislate for States should be omitted.

Similarly Articles 200 and 201 and 230 (regarding powers of the Governor to reserve bills) should be omitted.

The grants by the Centre to the State both for plan and non-plan expenditure must be made only on the recommendation of an independent and impartial body like the finance Commission. The members of the Commission should be appointed in Consultation with the Inter State Council, and its recommendations should be binding on the Centre as well as States. The Planning Commission should be made into a statutory body, independent of the Centre. The industries (Development and Regulation Act) 1957 should be repealed.⁶¹

The office of the Governor, a legacy of the imperial past should be done away with. Emergency powers under Article 356 and 357 (imposition of Presidential rule in the States) should be omitted as also Article 355 (issue of directions to the States) Powers under Articles 352 and 354 relating to proclamation of emergency and the consequential powers should be restricted to war or external aggression. The duty of the federal government to protect the states, under Article 355 should relate only to war and external aggression. The provision of financial emergency under Article 360 should be omitted.⁶² There should be only two classes of services (i) Services for the purpose of the Federal Govt. and (ii) Services for the purpose of State Govts. with each being regulated by the employing authority. Article 312 relating to all India services and creation of new services should be omitted.

The territory of the States should not be interfered with in any manner except in avoidance of any of the following three alternatives :-

- (a) The consent of the State legislature concerned should be obtained.
- (b) The issue should be referred to and decided by a high level judicial tribunal and its decision should be binding.
- (c) The opinion of the people of the area or areas concerned should be ascertained by holding a special poll.⁶³

There should be equal representation for each State, in the Council of States. There should be no nominations to the Council of States. The official languages of the Union will be all the languages specified in 8th schedule of the constitution. Till this is achieved English should be continued as the official language. It is demanded that the provision to make Hindi the official language of the Union be deleted.⁶⁴

The Central Reserve Police Force should not be deployed in any State except at the request or with the consent of the State. The Union executive is not to have a full fledged Ministry concerning a subject falling under the State list.⁶⁵

Every amendment to the Constitution irrespective of the provision involved should need ratification by the legislatures of all States.

The party has also prepared, revised lists, the federal list and the concurrent list, with the object of setting up a true federation with the Central govt. having powers relating only to defence, communication, foreign affairs and currency.⁶⁶

All these (and other) suggested amendments would bring the federation closer to the DMK's perspective of a true federal govt. The States would become the primary and principal units of the federation with the central govt. having very limited function. The State autonomy is the key word of the DMK documents. Autonomy is essential if the federation in India is to survive and the people are to achieve their progressive goals. In this context the recommendations of the Akali Dal came close to the DMK's perspective.

The Shiromani Akali Dal. :

The suggestions put forward by the Akali Dal (L) are based on the Anandpur Sahib resolution of 1973 which advocates the transfer of all powers to the States except those of defence foreign relations, currency and communications. By way of elaboration and concretization of its Anandpur Sahib Resolution, the Shiromani Akali Dal proposes inter alia the following measures:-⁶⁷

- (i) The Preamble of the Constitution should be amended so as to incorporate the expression federal to characterise the Republic of India as such. This is essential to underline that the Indian system is basically federal.

in nature and this would halt the general drift towards a unitarian set up.

(2) There should be a redistribution of subjects among the State list, the federal list and the Concurrent list on the basis of federal principles specified in the Anandpur Sahib Resolution.

(3) Residual powers should be with the States.

(4) The Centre should ^{have} no powers to destroy or dilute the ethnic, cultural or linguistic self identity of any federating unit.

(5) All autonomous units should have equal representation in the Rajya Sabha.

(6) Emergency powers should be restricted to the event of foreign aggression, it should be Constitutionally ensured that the federal set up remains intact during such a proclamation.

(7) The legislature of a State should have exclusive powers and competence to legislate over matters given in the redrawn State List.⁶⁸

(8) Executive powers in respect of matters included in the concurrent list, irrespective of the fact as to whether the legislation is by the Centre or by the States should vest with the States.

(9) The institution of the Governor, his powers, functions and duties should be brought in the line with a federal polity. So that the Governor does not remain an executive agent of the centre but becomes a truly constitutional head of the State.

(10) Article 356 and 357 (relating to the breakdown of constitutional machinery) should be deleted.

(11) Taxing powers should be federalised, the Union taxes/duties should be demarked from the States' domain taxation. Apart from statutory share in the Union Revenues, the State should have the exclusive power to levy, realise and retain the taxes (duties) within their own sphere. Larger resources should vest with the States in view of their larger and increasing developmental responsibility. Balance in dividing the financial and fiscal power between the Centre and the States should lean in favour of the States.⁶⁹

The Finance Commission should be reactivated to discharge its Constitutional duties, thus dispensing with the extraneous role of the planning Commission which has not only imposed centralized planning but also made the State dependent on the discretionary funds provided by the Centre.⁷⁰

(12) Planning should be decentralized (This is dealt with in the next chapter)

(13) To ensure executive autonomy of the States it is essential that the vast directive powers vested in the Centre should be dropped

(14) The field of all India federal services should be demarcated from the field of State executive machinery. The executive machinery should be under the direct control and discipline of the State govt.

The (then) Akalidal govt. of Punjab, also submitted to the Commission a lengthy memorandum spelling out in minute detail the demand for reconstructing centre-state relations on true federal principles in accordance with the spirit of the Anandpur Saheb Resolution.⁷¹ It closely follows the recommendation of the party and aims to substantiate them.

The Commissions Recommendations. :

Sarkaria had before him these and other shades of opinion while formulating his recommendations for reform. This perspective discussed earlier, dictates this inclination towards the development of healthy convention and goodwill to redress the grievances of the States. Amendments to the framework of the Constitution are suggested but no fundamental alteration to the Centre dominant polity is advocated.

Residuary powers of legislation in regards to taxation matter should continue to remain exclusively in the competence of Parliament, while the residuary field other than that of taxation, should be placed in the Concurrent list.⁷² The division of powers as envisaged in the three lists is to be maintained.

Articles 256 257 and 365 are (seen to be) wholesome provisions designed to secure coordination between the Union and the States for effective implementation of Union laws and National policies indicated therein. Nonetheless a direction (to State govts.) under Article 256 and 257 and the application of sanction in case of non compliance under Articles 365 is a manner of last resort.⁷³

The office of the Governor is to be retained however a person should be appointed as a Governor should satisfy the following criteria:-

- (1) He should be eminent in some walk of life.
- (2) He should be a person from outside the State
- (3) He should be ^a detached figure and not too intimately connected with the politics of the State .
- (4) He should be a person who had not taken too great part in politics, generally and particularly in the recent past.

In order to ensure effective consultation with the State Chief Minister in selecting a person for the post, provision must be made in the Constitution itself.⁷⁴ The Governor should test all claims to majority in the State legislature on the floor of the House and should follow the following order when no party can claim absolute majority :-

- (1) An alliance of parties that was formed prior to the elections,
- (2) The single largest party with outside support,
- (3) A post electoral coalition of parties, with all the partners in the coalition joining the government.
- (4) A post electoral coalition of parties with some of the parties in the alliance forming a government and the

remaining parties, including independents supporting the government from outside.⁷⁵

Most of his discretionary powers are left untouched, although Governors are advised to exercise these judiciously independent of political considerations. Reservation of Bills under Articles 200 and 201 for Presidential assent is also retained, although needless reservation is to be avoided. Conventions should be encouraged to the effect that the President should return such a Bill within a period of 4 months.

Emergency provisions are to be retained under Articles 352 to 360. Article 356 should be used sparingly as a measure of last resort. In the situation of a political breakdown, the governor should explore all possibilities of having a government enjoying majority support in the Assembly. If it is not possible and fresh elections can not be held without delay, he should ask the outgoing Chief Minister to continue as a caretaker government. The State legislative Assembly should not be dissolved either by the Governor or by the President before a proclamation has been placed before Parliament and it has had an opportunity to consider it. Article 356 should be amended to this effect.⁷⁶

The deployment of Central forces in the States may continue as before. It is desirable that the State government be consulted, though this is not obligatory.⁷⁷

A permanent Inter-state Council called the Inter Governmental Council (IGC) should be set up under Article 263. The IGC should be charged with the duties set out in clauses (b) and (c) of Article 263, other than socio-economic planning and development. Five Zonal Councils which were constituted under the States Reorganisation Act should be reconstituted under Article 263. 78

Though the Commission recognises the serious resource crunch facing the States it rejects the plea for restructuring the planning Commission to give more representation to the States. Its major financial recommendations are :-

- (i) The Centre should arrange to release to the States the amount representing the financial devolution withheld from them in 1984-85, flouting the recommendation of the 8th Finance Commission. The price level having risen by at least 50% in the meantime, the actual devolution should be price-indexed and an interest of 12% paid in accordance with standard arrangements of compensation.
- (ii) The 9th Finance Commission should make the sharing of the Corporation tax an integral part of its recommendation for the five years period 1989-95. It is also necessary to ensure that the imposition of surcharge on income tax for exclusive appropriation by the Centre is discontinued.

- (iii) The Finance Commission should take into account the expenditure liability of the States with respect to Dearness Allowance and application of Central scales to State employees in assessing the States share of finances.⁷⁹
- (iv) Necessary notifications should be issued that the royalty rates on minerals, Petroleum and natural gas are reviewed every two years instead of four as at present and payments are made to the States promptly.⁸⁰

The newly constituted National Economic and Development Council (NEDC)⁸¹ should be involved in the formulation of the plans right from the beginning. Other recommendations concerning planning would be dealt with in the next Chapter.

Even a preliminary examination of the Commissions recommendations would reveal that these are lukewarm as compared to the demands of the States and fall far short of expectations. The tone and tenor of the report is throughout marked by an anxiety not to rock the Central boat by taking a categorical stand on any of the matter affecting coequal Constitutional Status of the States. It is surprising that the Commission should opt for concentration of power at the Centre in the mistaken belief that this would make for a strong India and find the justification for it in the antidelucian Acts of British India. The major theme of the Commissions recommendations is the building of cooperative federalism in India.

Notes and References

- (1) Report of Commission on Centre-State Relations, 1988, Govt. of India Publication, 17
- (2) Ibid
- (3) Ibid, 17-18
- (4) Ibid 18
- (5) AICC (1) memorandum to the Sarkaria Commission Op. Cit., 671
- (6) For details see the AICC (1) document cited above - 657 774.
- (7) Indian National Congress Statement Kerala memorandum to Sarkaria Commission Op.Cit., 678-684.
- (8) Ibid
- (9) The late Prof. Gadgil made an attempt to sort out the plan component of these Non-statutory transfers, and found that the plan assistance in the form of grants was only of minor importance, loans amounting for about 78% of plan assistance.
- (10) Ibid
- (11) Ibid
- (12) Ibid

- (13) The size of the state-Plan is fixed on the basis of the available central assistance determined by the modified Gadgil formula to which is added the States' own resources including the revenue surplus arising out of the Finance Commission award.
- (14) Indian National Congress-Kerala State unit Op.Cit 680
- (15) Ibid, 683.
- (16) CPI (M) Central Committee Replies, Part I in Commission on Centre State Relations Report II Op.Cit. 640.
- (17) Ibid
- (18) Ibid, 641
- (19) CPI Central Office Memorandum in Commission on Centre-State Relations Report I Op.Cit, 626
- (20) Ibid
- (21) Ibid
- (22) Govt. of W Bengal, Replies to Questionnaire of Commission on Centre-State Relations Report II Op.Cit, 600
- (23) CPI (M) document Op.Cit., 641.
- (24) Govt. of West Bengal replies Op.Cit., 600
- (25) CPI (M) document Op.Cit. 622

- (26) CPI (M) document Op.Cit. 622
- (27) CPI (M) document 642
- (28) Ibid
- (29) CPI document Op.Cit., 623
- (30) CPM document Op.Cit., 642
- (31) Govt. of West Bengal replies Op.Cit. 605
- (32) Ibid
- (33) CPI Statement Karnataka, in Commission Centre-State Relations Report II, Op.Cit. 630.
- (34) BJP memorandum to Commission on Centre State Relations Report II Op.Cit. 619.
- (35) Ibid 620
- (36) Ibid
- (37) Ibid
- (38) Ibid, 621
- (39) Ibid, 621
- (40) Indian National Congress (Socialist) memorandum to Commission for Centre-State Relations Op.Cit. 695.
- (41) Indian National Congress (S) Statement, - Kerala, memorandum in Commission for Centre-State Relations Op.Cit. 696.

- (42) Ibid
- (43) Ibid
- (44) Indian National Congress (S) memorandum Op.Cit. 695.
- (45) Ibid 676
- (46) Ibid
- (47) Ibid
- (48) Ibid
- (49) Ibid
- (50) Janta Party memorandum to Commission on Centre-State Relations Op.Cit. 697
- (51) Ibid
- (52) Ibid, 698
- (53) Ibid 698-699.
- (54) Lok Dal Memorandum to Commission on Centre-State Relations II Op.Cit. 701
- (55) Ibid 702
- (56) Ibid 703-704
- (57) For details see document cited above.
- (58) Ibid, 706.
- (59) DMK memorandum to Commission on Centre State Relations Op.Cit. 719
- (60) Ibid

- (61) Ibid, 720
- (62) Ibid 721
- (63) Ibid 721-722
- (64) DMK's supplementary memorandum to Commission Centre State Relations Report II, 732.
- (65) Ibid
- (66) Ibid
- (67) Srinomani Akali Dal's case on the Centre-State Relationship as envisaged in the historic Anandpur Sahib Resolution", Akali Dal document submitted to the Commission on Centre-State Relations Report II 858.
- (68) Ibid
- (69) Supplement to the memorandum of Shiromani Akali Dal to Commission on Centre-State Relations Report II, 859.
- (70) Ibid
- (71) Government of Punjab memorandum to Commission Report II, 863 - 986
- (72) Commission on Centre State Relations Report I - OP.Cit.
89
- (73) Ibid 110
- (74) Ibid 135

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- (75) Ibid 179-180
- (76) Ibid 204
- (77) Ibid 242
- (78) Ibid 315 318
- (79) Ibid 385.
- (80) Ibid
- (81) Ibid

Chapter-V. :

Centre-State Cooperation.

Greater autonomy for the States, giving them an enhanced role in the national policy is indeed desirable. It is however, not proposed to create two levels of administration functioning in a manner independent of each other. A considerable area of federal functioning is identifiable that can best be tackled as a joint endeavour of the Centre and the States. The need for developing institutions and inculcating processes manifesting the spirit of cooperation is an imperative of our times. Given the context of a vastly underdeveloped economy and the gigantic endeavour required to lift the nation out of the misery of poverty, it is evident that the determined efforts of both the Centre and the States are essential. One such field of functioning is socio-economic planning.

The institutions involved (and proposed) in the process of planning, as also the process itself would form the core of this chapter. Such deliberations would quite naturally lead one to the issue of decentralized planning and the devolution of powers to levels lower than the States. Other forums of cooperative functioning as the NDC and the development of conventions would also be examined.

Almost all the State governments and political parties in their memoranda to the Sarkaria Commission have bemoaned the

inadequate involvement of the State governments with the formulation of National Plan Policy, as also with other stages of the planning process. Sarkaria sums up these as under -

- (i) The States are not involved sufficiently in national planning at the stage of policy formulation.
- (ii) The Planning Commission has functioned more as a limb of the Union government in exercising sway over the State governments, rather than as a truly federal institution restricting itself to advise on technical matters of planning.
- (iii) The role of the NDC as an institution to provide guidance in national planning has not been effective and has been characterised by mere formal approval of the plans prepared by the Planning Commission.¹
- (iv) There are three important factors which adversely affect States' initiative in Planning in their Constitutionally defined spheres-
 - (a) There is too detailed a scrutiny by the Planning Commission and other Central organisations of State Plan proposals.
 - (b) The Centrally sponsored schemes have made deep inroads into the States' sphere of activity and have effected their initiative and priorities.
 - (c) The States' crucial dependence on Central assistance for the plan and the mechanism of ear-marking of out-

-lays has restricted their manoevrability to allocate resources among developmental heads.

- (v) Although a multi-level planning framework is desirable in our context, the State Planning Boards and sub-State level planning have not become effective so far.²

Institutions and Planning Machinery. :

The Planning Commission (P.C.) was set up in 1950 with the Prime Minister as Chairman, by an executive order of the government of India as an advisory body to make recommendations to the Union Cabinet. It has since then come to acquire a major role in the national polity, regarding the formulation of the five year plans, the assessment of material, capital and human resources, and their most effective utilization.³ It works with the help of Advisers (State Plan) who perform the role of assisting the PC in the finalising of State plans, and the monitoring of the progress of various developmental programmes in the States. They are thus expected to function as a link between the PC and the State governments.

The National Development Council (NDC) set up in 1952 was assigned the three important functions of reviewing the working of the National Plan from time to time ; to consider the important questions of social and economic policy affecting the National development, and to recommend measures for the

achievement of the aims and targets of the National Plan. The NDC is not a statutory body. It comprises the Prime Minister as Chairman, the Chief Ministers of all the States, the members of the P C and on the recommendations of the ARC- the Ministers of the Union Cabinet, Chief Ministers of Union Territories, the Governor and Chief Executive Councillor of Delhi and other Union territories. Union ministers and State Ministers may also be invited. The secretary of the PC acts as the secretary of the NDC which is to meet "as often as may be necessary and at least twice in each year.

The Union ministers and departments, have their own planning cells/units for preparing detailed plans. The plan finance division of the Union Finance Ministry is also closely associated with the Planning process. Planning machinery has also been set up at the State level. since 1972-73 two thirds of the expenditure incurred by the State governments is met by the Union under a Centrally sponsored scheme. State Planning Boards/cells have been set up in all the States except Sikkim.⁴

As regards the working of the PC the main criticism by several State governments and experts is that over the years the PC has come to function as a limb of the Union government, a far cry from the original concept of an expert advisory body serving both the Union and the States "free from the burden of day to day administration." This view is based on the premise that the Union government has come to play too dominant a role in the formulation of Plans. Hence it is suggested that not only should the

PC work independently without being dictated by the Union government, but it should also be seen to be functioning as an impartial body on objective principles. These perceptions have led various political parties to suggest a variety of measures for reform.

On one end of the spectrum are the Communist Parties - the CPI and the CPM- who have suggested that the PC should be converted into a statutory body so that it becomes an expert body less prone to political influences. The government of West Bengal suggests that the NDC be supplanted by a properly constituted Inter-State Council in terms of Article 263, as amended, with due weightage given to the State governments. The PC should be converted into the Secretariat of the Inter-State Council and its personnel must be decided upon by the Council, again with appropriate weightage given to the points of view of the State governments. The Union Ministers must not be allowed to impose their ideas upon the PC.⁵

The Dravida Munnetra Kazagam would place the PC on an independent footing, as a statutory body without being subject to control by the Union Executive or to political influences. It would be an expert body, with no member belonging to the Government Of India. Its work would be to tender advise on plan schemes formulated by the States. Obviously primary plan

formulation would be at the State level with the PC only rendering advise to the Union Government of an independent expert nature.⁶

At the other end of the spectrum are many State governments and experts who, while arguing strongly for making the PC an independent body consisting of experts rendering advise free from political pressures, point out that making the PC a statutory body would introduce avoidable rigidity in its functioning.

The government of Uttar-Pradesh, in its memorandum to the Commission, for example, states that it would be impractical to adopt the view that the PC must be independent of both the Central and State governments. It must necessarily continue to remain an arm of the Union government but endeavour to discharge its functions in the federal spirit.⁷

It has also been pointed out that in making the PC an autonomous body under the NDC, there are advantages as well as disadvantages. While, it would make the PC acquire more independence and objectivity, it would also suffer the disadvantages of changes that may take place in the complexion of the State governments from time to time, The PC would in such situations lack coherence and the general direction of planning may suffer.

The Akali government of the State of Punjab has suggested that the responsibility of the PC may be limited to the Central sector of the economy, the preparation of the State sector plans being left entirely to the respective State Planning Boards. The PC should cease to perform a coordinating role with regard to State sector plans.⁸

Regarding the composition of the PC also the views differ. A few States as also experts have suggested formal representation of the States on the PC, for example by including two Chief Ministers as members for a year or two on rotation basis. But most of the suggestions favour that the PC should have the character of a high-level technical and advisory body with experts in the fields of economics, technology, management, Science etc.

Sarkaria, having carefully considered the various views placed before the Commission, is of the opinion that economic and social planning does not merely depend on the professional advice of experts. It is also a matter of political consideration, its association with the highest political executive gives it momentum and motivation, stature and commitment to Union policies. The fact that the planning process has an interface with matters in all the three lists of the VIITH schedule, and the fact that the bulk of the developmental finance for the States comes from the Centre, determine the view that planning is best undertaken in a national perspective under the Central

leadership.⁹ The Commission perceives the remedy to lie in reforming the working of the PC, rather than reconstituting it as a statutory body. "if healthy conventions are developed in regard to consultation with the PC and due weight is given to its recommendations, then all apprehensions in regard to domination by the Union and the PC being a limb of the Union government would disappear."¹⁰

The National Development Council (NDC) :

The NDC established in 1952 was expected to be an apex institution for arising at a consensus among the Union and the States on various matters relating to planning and socio-economic development. However its working over the years has been far from satisfactory. As early as in 1967 the Study Team of the ARC had found the measure of consultation and examination of issues by the Council inadequate, in as much as aspects of perspective planning and possible alternatives were not placed before the Council in sufficient details. The Study Team recommended a more systematic and in-depth involvement of the Council in all basic questions of planning Policy particularly those pertaining to goals and objectives and in evolving a national consensus.¹¹

The Sarkaria Commission summarises the shortcomings in the working of the NDC as under :-

- (i) The NDC meets only on the initiative of the PC which

- determines its agenda.
- (ii) The Council has been approving the Approach paper and the Draft Plans but has not been keeping track of the progress of the plan. Consideration of other policy questions affecting national development which is one of its stated functions, has been infrequent and insufficient.
 - (iii) The frequency and duration of its meetings is very inadequate. Only 39 meetings have been held since 1952, the 37th meeting was held after a gap of two years and four months whereas the Resolution Constituting it specifies that the Council will meet at least twice each year.
 - (iv) The PC does not always put before the Council alternative sets of perspectives, strategies and targets along with the assumptions made to enable it to decide among the choices available.
 - (v) The conference procedure consists of set speeches made by Chief Ministers with very little of mutual discussion.
 - (vi) The summing up of deliberations often does not reflect the variety of views.
 - (vii) The time given to States for crystallising their views is often insufficient.
 - (viii) The standing committees and the special Committees are not formed or convened on a regular basis for indepth analysis and consideration of issues.¹²

As a result the NDC has come in for criticism by several State governments, and in the evidence put before the Commission, the need to make the Council more effective was emphasised. Various suggestions have been put forward :

Most State governments and political parties are of the view that the NDC should exercise greater control over the PC- the general consensus seems to be to make the NDC a body which would lay down national guidelines as to planning.

The government of West Bengal has suggested that the NDC should be reconstituted under Article 263 of the Constitution and should be conferred wider powers. It must meet more frequently than the NDC does now-a-days. If that is not possible a Standing Committee of the Council must be convened at regular intervals. The PC should abide by the directives of the Council which would be the final deciding authority.¹³

The Akali government of Punjab has suggested that the NDC be entrusted with the following functions -

- (i) to approve the guidelines for preparation of the ten years developmental perspective, the 5 year plan and the annual plan.
- (ii) to approve the Approach paper to the 5 year plan.
- (iii) to approve the draft/final documents of the ten year development perspective, the 5 year plan and the annual plan.

- (iv) to approve the quantum and distribution of Central assistance to State Plans.

The State government has also suggested that a new organisation called the National Development Organisation (NDO) may be set up to service the NDC. The NDO may include planning and development experts supported by a complement of research and ministerial staff. It may function under the administrative control of a committee appointed by the NDC. The NDO may be made responsible for preparing documents with respect to the National economy corresponding to the plan prepared by the PC and the States Planning Boards. The cost of maintaining the NDO may be apportioned between the Union and the States in an agreed manner. The role of the NDO may be limited to giving its comments on the plans prepared and highlighting the departures from the guidelines. Agreed views on the plan document will be thrashed out by to the extent feasible by the PC and the NDC and the remaining differences considered by the NDC itself.¹⁴

It has been observed that in order to reactivate National planning as a joint endeavour of the Union and the States, the NDC should be restructured so that it becomes the focal point of debate on planning. The DMK government of Tamil-Nadu, for example, views the granting of statutory status to the NDC as the penacea for all its trouble.¹⁵ The NDC must appoint an expert advisory committee of eminent economists,

Scientists, management experts, sociologists and engineers. This committee must give its advise within a stipulated period, and must act "as a buffer between the NDC and the PC." This would ensure meaningful economic and social planning for the country both at the Central level and at the State level, and "in the ultimate analysis ensure a proper adequate allocation of resources between the Union and the States."¹⁶

There are those State governments and political parties, of course, who are reasonably satisfied with the working of the NDC and advocate little or no change in its composition or working. The government of Sikkim for example, would "allow the arrangement to continue provided much more time is devoted to detailed consultation with individual State governments and full consideration by the NDC itself of developmental plans."¹⁷

An apprehension has also been expressed that a statutory NDC would create a "parallel power-Centre", which would come into conflict with the authority of the Union government and promote groupism at that forum. It should therefore, remain an advisory body.

The Commission having considered the various views and suggestions with regard to the status and role of the NDC is of the opinion that casting such an institution in the tight mould of a statute would make it operationally rigid, whereas flexibility and ability to respond quickly to changing circumstances is the essence of the matter. But at the same time the

NDC as at present constituted is unable to impart the necessary dynamism to planned development.¹⁸

The Commission recommends that the NDC be restructured and reconstituted as the NEDC (National Economic and Development Council) under the provisions of Article 263, so as to give it direct moorings in the Constitutions. Taking an overall view from the conceptual institutional and functional aspects, planning both at the formulation and execution stages has to be a cooperative process of shared action between the Union and the States. The Commission further recommends that :-

- (i) NEDC should be involved in the formulation of plans right from the beginning,
- (ii) The draft Approach paper should be circulated to the States at least two months in advance of the meeting of the NEDC to consider the same. It should contain all relevant data alternative strategies etc.
- (iii) A preparatory meeting should be held by the PC with all deputy Chairmen/and or Secretories. of the State Planning Boards two weeks prior to the NEDC to consider the Approach paper/draft plan etc. to formulate an agenda for the NEDC meeting.
- (iv) Deliberations of the NEDC should be structured as to allow meaningful discussions on the agenda.¹⁹

Sarkaria also recommends the formulation of an Inter-Governmental Council to deal with matters other than socio-economic planning and development.²⁰ The general complaint is that the President has not adequately used the powers given to him by the Constitution to establish a permanent forum having comprehensive jurisdiction for mutual consultation and coordination of policy and action on all matters of common interest falling within the purview of clauses (b) and (c) of Article 263. Most of the State governments, some of the political parties and eminent persons are of the view that the proposed Council should have only such investigative, deliberative and recommendatory functions as would fall within the ambit of clauses (b) and (c) of Article 263. Only two State governments (those of Tamil Nadu and West Bengal) have suggested that Article - 263 be amended and reformulated so as to ensure-

- (i) That it is obligatory for the President to establish an Inter-State Council on a permanent basis,
- (ii) That the Council have a wider role including that of an appellate forum against the decisions of the Union affecting the States, and
- (iii) That the Council be consulted with respect to several other matters such as appointment of Governors and other Constitutional functionaries, imposition of President's rule etc.²¹

The Council which the Sarkaria Commission recommends, would be charged with duties in broad terms embracing the entire gamut of clauses (b) and (c) of Article 263. This is considered essential

to avoid-repeated references to the President for piecemeal orders under Article 263 authorizing the Council to deal with issues as and when they crop up.²²

The IGC will evolve guidelines for identification and selection of issues to be brought before it and will take care to ensure that only such matters of national importance relating to subjects of common interest are brought up before it as would fall within the ambit of clauses (b) and (c) of Article 263. The Council will consist of a General Body assisted by a smaller Standing Committee. The General Body will consist of - the Prime Minister as Chairman, All Chief Ministers, All Union Cabinet Ministers (or Union Ministers dealing with subjects of common interest to the Union and the States.) The Standing Committee will consist of the Prime Minister as Chairman, six Chief Ministers one each from each zone selected annually, Six Union Cabinet Ministers to be nominated by the Prime Minister. The General Body of the IGC is to meet at least twice a year and the Standing Committee at least 4 times a year.²³

Sarkaria also recommends the reconstitution under Article 263 of the five Zonal Councils set up under the States Re-organisation Act of 1956, each Zonal Council electing one Chief Minister as Chairman for a year. These Councils would provide a forum of discussion for most if not all regional and Inter-State issues. All issues which cannot be reconciled by the Zonal Council

would come up to the IGC although this should be done when all attempts at the Zonal Council level fail to achieve unanimity.²⁴

Cooperative action can be meaningful only when the federating units have the necessary infrastructure that would enable them to contribute towards the formulation of the plans. Most state governments have State level planning Boards and these should be strengthened. Decentralization of the planning process below the State level is also desirable, and necessary institutions should be created to facilitate such decentralized district level planning.

The Planning Process. :

The planning process consists of a series of formal and informal consultations both at the Union and State levels and between them. The process of formulation of a five year plan is spread over a period of two to three years and involves (or should involve) a good deal of horizontal and vertical-interaction. The process may be divided into the following stages -

- (i) Background studies, analysis of constraints on development and evolution of perspective.
- (ii) Preparation of Approach paper, setting up of working groups/ study groups. both at the Centre and in the States

for sectoral and other studies.

- (iii) Issuing of guidelines by the PC based on approved Approach paper, both to the Union Ministers/departments and to the State governments for preparation of detailed Plans including assessment of financial resources.
- (iv) Detailed estimation of financial resources.
- (v) Preparation of detailed sectoral plans, and formulation of Draft 5 year plan.
- (vi) Consideration of draft 5 year plan at various forums, academic institutions and expert groups, PC also organises special meetings with leaders of political parties, academicians, representatives of Industry and agriculture, trade union leaders and the like.
- (vii) Approval of the Draft plan by the NDC.²⁵

Besides, an Annual Plan is formulated every year. Since the plan frame for 5 years is available, the process of formulation of the Annual Plan is simpler and lays emphasis on reviewing progress of implementation and inter-sectoral balances.

Plan resources are assessed separately for the public and Private sector plans based on estimates of quantum and structure of savings and consumption in the community. A detailed exercise is undertaken for the public sector outlay. The resource

estimates for the national plan are categorised between external and internal - the latter including budgetary surpluses at current rates of taxation, estimates of additional resource mobilization, market borrowings, deficit financing etc... For the States' plans', Central Plan assistance and their own resources are estimated.²⁶

Central assistance to State Plans, since the 4th five year plan, is given in the form of block loans (70%) and block grants (30%). The total quantum of Central assistance is determined by the PC in consultation with the Ministry of Finance. Central assistance constitutes an average of 37% of the States' Plan finance (as in the 7th plan). Out of the total amount available, the provisions for the externally aided projects, special Central assistance for sub plans and for the special category States are first set aside and the balance is distributed on the basis of a formula (called the modified Gadgil formula) which became operational since 1980 after approval by the NDC, The formula consists of the following criteria - add weights for allocation of the overall amount :-

- (i) Population (60 per cent)
- (ii) Per capita State domestic product below the National average (20 percent)
- (iii) Per capita tax efforts of the State (10 percent),
- (iv) Special problems (10 percent)²⁷

Central assistance is not merely a source of plan finance to the States, it has also been used as an instrument to sustain plan priorities. In order to ensure that the agreed outlays are spent in aggregate and on programmes and sectors which are being accorded priority, since 1969 such outlays are being 'earmarked' on an annual basis. On an average as much as two thirds of the State Plan outlay is tied by the system of earmarking.²⁸

The Centrally sponsored schemes are initiated at the instance of the Union government and implemented in the States for which Central assistance is provided by the former. Simultaneously guidelines regarding the contents, coverage, expenditure pattern, staffing etc. are also provided.²⁹

The State governments and political parties in their memoranda to the Commission have criticisms as well as suggestions for reform to offer, as regards the process of plan formulation. A general complaint of State governments is that they are required to adhere to unduly rigid and detailed Union directives mainly because of their dependence on the Union government for plan funds and have consequently asked for a stronger financial base for the States. Most State governments have also maintained that they are not given due opportunity to participate in National Planning. The present process of consultation involving the States, commences after the broad features of the 5 year plan are already cast. While most of the State governments agree that the PC should

lay down broad national priorities and targets. They have urged that the States should have greater freedom and flexibility in formulating the details of the schemes concerning their spheres. They complain that their initiative in this regard is restricted by (a) the procedures of detailed scrutiny and finalisation of the State plans; (b) the mechanism of Central assistance and earmarking of outlays and (c) the control exercised by Union Ministers through Centrally sponsored schemes.

Some States have categorically stated that while national priorities may be incorporated in State plans, they should emerge as consensus among the Union and the States and for this purpose the PC and the NDC should be suitably reconstituted. These have been dealt with earlier on.

Sarkaria having considered all the above suggestions is of the point of view that the spirit of cooperation be encouraged and developed. Coordinated action between the Central working groups and the State groups be ensured. For this the Central working groups should take the initiative in establishing contact with their counterparts in the States at an early stage.³⁰ The Commission accepts that the role of States at the crucial stage of the formulation of the Five Year Plan is more in nature of being informed, and a more active involvement of the States in evolving plan objectives, priorities and strategy will go a long way in making planning result oriented. It would be necessary

for a through consideration of the Approach paper that it be made available to the States at least two months prior to the meeting of the NDC alongwith the relevant data and options considered by the PC in formulating it.³¹

The involvement of the proposed NEDC with the Plan process has already been discussed earlier on in this chapter. The Commission is of the opinion that the alleged over bearing approach of the PC in the process of formulation, scrutiny and finalisation of the State plans is more apparent than real and discourages the States from submitting plan proposals whose financial implications are far higher than the estimated resources. If the plan size of a state is agreed to be substantially enhanced at the meeting between the Deputy Chairman of the PC and the State's Chief Minister on the promise of new resources, this should be regarded as provisional, and the proposal examined in detail by the Advisor (State Plan).³²

A review of the two fold grant pattern of Central assistance (70:30 and 10 : 90) is advocated. It is to be replaced by suitable three or four fold patterns, The NEDC may decide on this. The NEDC should also discuss a periodic review of the earmarking of outlays alongwith other mechanisms of Central assistance at the beginning of each five year plan. Centrally sponsored schemes should be kept to a minimum, and should fulfil the criteria laid down by the Ramamurthi Committee for being taken up as a Centrally Sponsored Scheme. The State

governments should be involving in determining the contents and coverage of the Centrally Sponsored Schemes so that local variations and difficulties in their implementation are taken care of.

Although Sarkaria's recommendations fall far short of the expectations of more political parties, he has clearly made a conscious and considered attempt to encourage the development of what can be termed 'cooperative federalism'. Repeatedly the Centre and the States are enjoined to 'cooperate' with one another and this is clearly manifest in his recommendations concerning socio-economic planning. Several recommendations he makes here should be acceptable at face value. The reluctance to institutionalize the spirit of cooperation should be done away with. The proposed NEDC and the IGC should go a long way in providing forums for the airing of views, for discussion, debate and deliberation. The inadequacy of such institutions has left a communicational vacuum between the Centre and the States, and this should be filled up.

Sarkaria's other major concern, as to the development of healthy conventions seems to be rather optimistic. After 40 years of federal functioning, few conventions have developed that have not been breached in the face of political exigencies. Appealing to the goodwill of all concerned might prevent a rocking of the Central boat, but it is clearly not enough. Cooperation has to be institutionalised, and provisions written into the framework

of the Constitution to grant to the States the ability and capacity, the forums and procedures, alongwith the will to cooperate.

That this is an imperative of our times is evident from the multitudeneous problems the nation faces. Seminal issues such as development and planning have to be reconsidered, as 40 years of planned development has not brought us the level of achievement it should have done. Poverty prevails and has to be eradicated. This is best done with the cooperation of all concerned.

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- (2) Ibid
- (3) For details as to its composition and functions see, Government of India, Publication-"The Planning Process", 1976.
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- (5) Government of West Bengal, replies to questionnaire of Commission on Centre State Relations Report II Op.Cit. 600 ; Government of Sikkim, replies to questionnaire of Commission on Centre State Relations Report II Op.Cit. 659
- (6) DMK memorandum to Commission on Centre State Relations Report II, Op.Cit. 720.
- (7) Government of Uttar Pradesh to questionnaire of Commission on Centre-State Relations Report II, Op.Cit., 58
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Chapter-VI :Conclusion.

The sanctity of a Constitution, like that of any other contract, depends on the good faith of the parties subscribing to it - on the one part the people and on the the the occupants of the institutions and the incumbants of offices which they create and whose limits they prescribe. The Weimar Constitution was regarded as the Worlds' best but it was under its aegis that Hitler was pitchforked to power. The full range of possibilities of mischief under the Indian Constitution was not evident untill the ravages of the Emergency in 197 -77. Unfortunately, they have not been exhausted and in some cases stand even enlarged.

If the creatures of the Constitution themselves encroach on it, if levers of power derieved from the Constitution itself become engines of discrimination against a political party, and if the State become prey to Statesmen, it loses its binding force in the peoples eyes and no amount of harping on unity and integrity will ever be able to redeem it.

The Indian Constitution, the product of the best minds though it was has been vulnerable on a major count, it in corporates parts of the Government Of India Act of 1935. It is a irony that precisely those parts of the Constitution borrowed whole sale from the 1935 Act and meant to bolster colonial domination have proved the most tempting tricks of the politicians trade, and it is the high sounding parts on liberty, equality and fraternity,

social and economic justice and so on, that are proving to be most fragile in the hands of the rulers of free India.

In this context it is unfortunate that the Commission should opt for the concentration of power at the Centre, in the mistaken belief that this made for a strong nation and find justification for it in the Acts of British India. In fact the demand of the Congress party itself during the entire freedom struggle was for federation with checks and balances on the powers exercisable by the Centre, and that while conceding that some powers would have to be delegated by the Constituent States to the federal government, the Congress manifesto for 1946 elections had stressed that the Residuary powers should vest with the States. This argument of a decentralized federation being woven into the fabric of the freedom struggle has been built up by several political parties in their memoranda to the Commission.

While it is true that the trauma of partition made it imperative for the Constituent Assembly to bestow the Centre with extra powers, the kind of Centralization now evident in the Indian polity was neither desired nor envisaged. Seeking parallels in other democratic Constitutions, like to Commission attempts to establish with the Constitutions of Australia, Canada and U.S.A. to prove that there is a constant accretion of powers in the hands of federal government and also to state that this is inevitable in view of the complexities of governance and the need to maximise the effectiveness in marshalling the nations' resources, is missing the point. These systems however function in the context of developed

democracies where citizens are willing to pay the price of liberty with eternal vigilance. Moreover checks and balances have been built into these polities, some by the makers of the Constitution, others through Constitutional evolution and conventions. In India these are sadly lacking. In any event there can be no exact parallel to the ethnic, linguistic and cultural diversities in India and a rigid control on the initiative of the States is bound, in the long run to weaken both the Centre and the States.

There can be no doubt that the members and Chief Ministers of the Congress(I) party itself are in silent sympathy with the rationale of the demands of their non-Congress(I) counterparts, that there should be stoppage and reversal of new centralizing attempts and the Constitution should be amended where necessary to enable the States to regain their identity as equal-partners of the Centre. As Dr. Chandra Pal puts it :-

"the demand for State autonomy is not at all incompatible either with the process of nation-building or with national integration. Rather it is essential. The need of the hour is 'unity' not 'uniformity' . Unity in diversity cannot be maintained without permitting diversity in unity. Any attempt to crush the diversity is fraught with dangerous consequences and may eventually lead to disintegration and balkanisation of the country."¹

Over the years particularly in the post Nehru-Shastri era, the Centre's insensitivity and tactlessness in handling the States have led to a yawning gap between the Centre and the States. Far from building bridges to reach out to them, the existing mechanisms of mutual collaboration have gradually been rendered ineffective and those envisaged under the Constitution have been ignored. As Dr. Arora puts it -

"Given the vagaries of the functioning of the party system, it is important to strengthen the existing institutional arrangements for federal co-ordination. They offer a certain degree of autonomy for those States which seek to implement different policies and programmes within the spheres of governance constitutionally assigned to them."²

It is almost a universal complaint cutting across party lines that the institutional apparatus has largely been rendered non-functional. The NDC, supposed to be the Supreme policy making body on problems of social and economic development has met most infrequently. In October 1983 the Srinagar Conference of opposition Chief Ministers noted, that "given the modality of its meetings no serious activity can be carried out, nor substantive decisions taken. State Chief Ministers get little opportunity at the meetings of the Council to raise issues which are crucial for the development of their respective States as well as for overall National development. The PC has similarly been made an appendage of the Union government and has failed to reflect, or respond to

the needs of the people at the grass-roots.³ Mr. Jyoti Basu has given eloquent expression to the views of its critics-

"The PC which has no Constitutional sanction, nor any statutory one was set up by a resolution of the Central Government, its composition is decided upon by the Centre and its finances are also defrayed by it. It has become a convention that a Union Cabinet Minister is the working head of the Commission. All these arrangements have led to a situation where the Commission has become an appendage of the Centre with no mind of its own. The Commission cannot, therefore objectively assess the needs and requirements of the States vis-a-vis those of the Centre. In the name of coordination it issues directives and reaches decisions which exclusively serve the narrow short-term interests of the Union government."

Centre-State coordination was also sought to be achieved by way of the non-institutionalised, informal device of the Chief Ministers Conferences. These have over the years degenerated to forum where particularistic grievances of the States are aired, rather than serious debate on National policy. Moreover the non-institutionalised procedure, leaves a lot to the discretion of the Central government, as to the summoning, agenda and organisation of such meetings. These have therefore, failed

to emerge as effective forums providing policy directives, both to the Centre and to the States.

Given such a context, the Commission's recommendation for a NEDC which among other things will laydown guidelines for the PC should be acceptable. As also the Commission's recommendation for the setting up of an Inter Governmental Council with the duty of, (a) inquiring into and advising upon disputes which may have arisen between the Centre and the States, (b) investigating and discussing subjects in which some or all of the States, or the Union and one or more of the States, have a common interest, and (c) making recommendations for the better coordination of policy and action to enable the Centre and the States to act in harmony.

Such a Council, though outside the perview of the Constitution, and having only an advisory role, could serve as the first brick towards the formulation of an effective institutional framework facilitating Centre-State Cooperation.

The non-Congress(I) Chief Minister at their Calcutta-meeting on January 28, 1989, bemoaned the monopolised access of the country's banking system to public savings and the Centre's propensity to dictate the policies that the banks including the Reserve Bank follow. The Centre not only has the authority to print new money, it has also reserved for itself all powers of control over market borrowings and exercises them to the depri-

vation of the legitimate share of the States; as much as 80% of the borrowings are now in the Centre's account. Obviously of the issues vitiating Centre-State relations, the economic and fiscal have been the most hurting. The reasons are obvious, and could not have been couched in better language than in the views of the government of West Bengal on the Commission's report. -

"While the remote Centre will monopolise the nation's resources, the people will look towards the State governments, which are next door, for the redress of their grievances. The State governments will be without funds and thus unable to satisfy the needs and aspirations of the masses. The Centre will have the resources, but its priorities, as reflected in the pattern of expenditure, may not coincide with the urges of the people. It may also be beyond its capability to manage to supervise effectively the projects and programmes it undertakes. The consequences may well be a widespread outbreak of social discontent, with varying time lags all over the country."⁴

India is unique among the large countries of the World in that her unity constantly remains under question, even for her own people. History is partly responsible for this. Images of a fragmented past and of unstable empires linger in popular historical memory. In more recent times the sub-continent has been partitioned twice. Besides, sessionist movements have occasioned grave public anxiety from time to time.

It is not surprising, therefore, that to every thrust in federal direction there has been a reflex movement in the direction of unitary rule. Despite allegiance to a federal Constitution, there remains a subconscious attraction for the unitary model as the answer to the problem of national unity. This dualism may continue to haunt the Indian political psyche for a long time to come.⁵

This in itself need not be cause for concern, if such a political development is accompanied by a sufficient degree of self-awareness. It is the formulation of this degree of self awareness and conscious action that has presented the difficulties. The Emergency proved beyond doubt that Centralism could not be the solution to the political and social problems of the nation. It also showed that anti democratic and anti-federal attitudes merely choked the means by which these solutions could be made possible. Finally, it demonstrated the insensitivity of the national political elite towards the genuine aspirations of democracy which were beginning to come of age. The people proved this last proposition by voting against authoritarian rule in 1977.⁶

The Janata government, upon which the task of dismantling the Centralised system fell, was also slow in taking the cue. This was evident from the haste with which it dismissed 9 Congress governments. The reasons given were not

strictly within the bounds of Constitutional propriety and betrayed a desire to capture as much unitary power as quickly as possible. The move boomeranged on the Janata after the Congress returned to power in 1980. The same number of Janata governments were removed on the same grounds. Federal politics continued to be dictated by the rhythm of politics at the Centre.⁷

Though the return to power of the Congress party led by Indira Gandhi was spectacular, the Centre-State debate did not die down, and a few States still had non-Congress governments in office. Though the essential thrust remained tilted in the unitary direction, the federal case was kept alive primarily by the West Bengal government. Moreover the Congress that returned to power in 1980 was a more centralised party than before. During, "the crossing of the desert"⁸, it had lost a large number of State level leaders and the assent of the Central leadership was on the 'Loyalty' of the Chief Ministers towards itself. This inevitably led to the deepening of factional politics, and brought with it a good deal of discredit in the eyes of the people of those States, for the type of politics they were subjected to. Dissatisfaction erupted most powerfully in early 1983 with the defeat of the Congress in Andhra Pradesh and Karnataka.

After 1977, in the area of federal politics two major factors came in the way of the Centre's unitary predictions. The first was that one third of the country was

under non-Congress rule, and unlike the post 1967 governments, the opposition governments were now stable. The second factor was that they were eager to cooperate with each other in retexturing the federal polity around the autonomy principle. This was given concrete shape in the conclaves held at Hyderabad, Calcutta and Srinagar. Their cooperative endeavour not only placed them in a position to demand a share in decision making on major national issues but also brought about much needed credibility for federal politics.⁹

Predictably the Centre's reaction was a biligerent one, for federal consolidation restricted its freedom of manoeuvre. Besides it cast long shadows on the election prospects of the Congress party. Therefore regional demands for greater autonomy were deemed anti-national and the Congress presented as the defender of the country's 'unity and integrity'. Farooq Abdullah in Kashmir, N.T. Rama Rao in Andhra were toppled. The Centre-backtracked after having pulled the rug from under Bhaskara Rao, and so disgraceful was the whole manoeuvre that no one in the Congress was willing to own it. The Andhra episode proved beyond doubt that the federal principle had acquired the strength to resist unitary onslaughts.¹⁰

The situation changed with the assassination of Mrs Gandhi and the subsequent elections. Appeals to patriotism, nationalism and stability got the Congress the desired victory.

This election platform was unfortunate for a variety of reasons. It must be stated that India's unity is not a consequence of one party's rule over the whole country. The Nations unity must be premised on the assumption that people of all creeds and communities do wish to stay as one nation. The appropriation of patriotism by one single party or by a majority community will push the rest into alienation.¹¹

The centralization process that had largely remained stationary over the 1977-84 period was given a new thrust by Rajiv Gandhi. The attempt was to place in the Central sphere more and more areas of functioning. The involvement of the Centre was sought to be enhanced, both at the policy making and the implementation levels, to an unprecedented extent. On the other hand, contrarily perhaps, an effort was made to develop local governmental structure. Panchayati Raj institutions were to be revived and granted constitutional status. Decentralization to encourage functional autonomy was envisaged. Apprehensions, as to a possible direct link up of the Centre with these proposed institutions causing further-limitation of State level functioning were expressed. (and perhaps led to the fall of the Bill in Parliament)

The Rajiv Government fell before any Central commitment to the federal idea and the granting of greater autonomy to the units could be identified. These concerns are live today, and inform the nature of decisions taken by the govern-

-ment in power. Some decentralization, it is recognised is logically imperative, what shape it takes, when it is brought about is yet to be seen.

Over the last three decades, the federal idea has been developing and growing. This growth of federalism, has by and large taken place without detriment to the essential aspects of the 'strong Centre' idea. Essentially federal politics has gradually been able to function without the supporting prop of the Congress system. Though State governments are occasionally described as 'glorified-municipalities' all political parties and interest groups recognise the importance of capturing power and influence in the States. Moreover, notwithstanding the Punjab and Assam movements, State politics must be seen as part of the larger national politics, The States do want a greater participation in national politics, even while they are conscious of their own interests. A complex and populous nation like India cannot possibly be managed from a single source of authority, Regional and local issues need to be handled politically at those levels. That is why sharing of power with the federal units is an essential requirement for effective political management of the nation.¹² Dr. Rashid-ud-din Khan, argues that - "it is necessary for effective mass participation, democratic decentralization and socio-economic change that the viable entity of the socio-cultural sub-regions should be recognised as basic to the growth of federal polity."¹³

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The development of the federal idea and consequent decentralization, then, will be in the interests of national harmony and of political management. But decentralization cannot be considered in isolation from the need to formulate nationally coherent policies. Fresh cohesion strategies, arrived at through the federal process, would have to be thought out.¹⁴ While it remains the essence of a federal system that neither level of government should be wholly dependent on the other, it is impossible for them to be wholly independent of each other. It is, in fact, a combination of independence and interdependence that is the hallmark of the contemporary federal State.¹⁵

The Sarkaria Commissions recommendations as we have been, are essentially inadequate and 'lukewarm', given the context in which the Commission was appointed and the task that it was assigned. They fall far short of the expectations of most State governments and political parties. Nevertheless they come at a time when the mood is for change and reform, the report has set off considerable debate and discussion - The outcome would certainly have some bearing on the Indian polity and the directions in which it develops in the time to come.

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