

YES, NO, IT'S COMPLICATED

# 2019: Is a grand opposition against the BJP possible?

YES



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Coalition politics is an imperative because of the threat today to the ideas of social justice

The making of a coalition is no more a matter of choice for the parties opposed to the right-wing authoritarian postures of the BJP but a command from the common people. The churning on the ground among almost all social groups is exerting pressure on the Opposition parties to jettison their minor differences and rally together to protect and safeguard institutions that are currently under attack.

Reasserting democracy

The 2019 election is going to reassert and reconstitute the idea of de-

mocracy with particular emphasis on inclusion, representation and participation. The tenets of the making of a coalition or alliances this time are quite similar to those in 1977, when supposedly divergent political outfits came together to pose a united challenge to the hegemonic politics then of the Indian National Congress. By and large, we are committed to the core ideas which constitute the idea of India: freedom, liberty, social and economic justice, and secularism. These shall be the focal points of our manifesto or common mini-

mum programme.

We know that, in spite of a chequered history, coalitions in India have earned particularly bad publicity from the liberal quarters, especially the economic liberals who denigrate coalition governments as ‘weak governments’. As all popular ideas often are, this too is a fallacious idea. Coalitions, by virtue of embodying internal democracies within the executive, are more democratic because partner parties (especially small and regional parties) have their ears closer to the ground. They represent the true aspirations of national communities because they keep the



larger and national political parties more accountable and are less likely to lapse into arrogance.

Our scepticism of coalitions is rooted in several difficulties of coalition politics. The first is related to the difficulty of cobbling together a coalition. Ideological distance between parties is sometimes difficult to bridge; at other times, the social distance between voter constituencies is an obstacle. The second is to do with keeping a coalition together. Agreeing upon a practical common minimum programme is a must for providing stability to a coalition. Ideological nuances must be set aside against

an imminent threat or for a longer-term political project.

An imperative

The significant point is that all Opposition parties have also drawn their lessons from the points mentioned above. The past behaviour of coalition partners is often assumed to be the sole indicator of their commitments to any future coalition with them. This gives rise to the problem that parties in a coalition continue to labour under a trust deficit and never effectively prioritise investments in a coalition for fear of upsetting their core support base or in the hope of increasing their influence. Neither in real politics nor theoretically is it impos-

sible that coalition partners who have had trouble in the past can manage to come together again. The RJD has shown this by actually doing it in the last Bihar Assembly elections with the Mahagathbandhan. We continue to believe in the inherent value of coalitions.

Coalition politics is an imperative now more than ever before because of the stress and threat to the very ideas of social justice. If today, the Opposition parties fail to come together, they would be pushing the marginalised communities in India, especially Dalits and minorities who did gain a little ground in society and polity, to lose their meagre but hard-earned benefits from the state.

NO



BHUPENDER YADAV is a BJP member of the Rajya Sabha

The so-called Mahagathbandhan has neither an ideology of development nor a record for reliability

In the 2014 Lok Sabha elections, the BJP won with a full majority and established itself strongly in national politics. The proof of this is that when the BJP came to power in 2014, its governments existed in only five States. This has now extended to 19 States (where it is either in power or is a supporting party).

In Indian politics, the support of the people to any government or party strongly depends on how fond the people are of that party and the popularity of its record of governance. If we look at it from

this perspective, it's quite easy to say that the BJP has only gained more and more popularity among the people since it came to power in 2014.

A BJP wave

There was a time when the BJP was looked at as a party limited to a particular region. The times have changed; now, the BJP is active in every State, whether in the north, south, east or west.

It could be said about the 2014 Lok Sabha election that there was a

wave in favour of prime ministerial candidate Narendra Modi, which helped the BJP to win. After the 2014 election, acceptance for the party has only grown and new alliances have come up.

In the Uttar Pradesh Assembly elections, parties from all over the State came forward to support the BJP. The Janata Dal (United) is with us now. In northeastern States like Assam and Tripura, local parties have shown overwhelming support and joined us.

It's not as if Opposition parties like the Congress have not tried to stop us. It's another matter that



most of their attempts have come a cropper. For instance, the Congress fought against the communists in Kerala and joined hands with them in West Bengal. Despite this, they had to face de-

feat. During the U.P. elections, when the Congress formed an alliance with the Samajwadi Party (SP), the coalition crumbled.

Congress has no credibility

Now, again, there are talks of a ‘Mahagathbandhan’ for the 2019 general election but the question is, if this coalition ever comes into existence, what will be the Congress's

from a regional party. The only solace for these regional parties that are trying to form an anti-BJP alliance is that SP founder Mu-

layam Singh Yadav is no longer active in politics and RJD president Lalu Prasad is in jail. The issue could have become more complicated had the SP's Akhilesh Yadav or the RJD's Tejashwi Yadav also staked their claim to the top political position.

Even if these parties manage to resolve the issue of leadership, it neither solves all the issues nor paves the way for the formation of an anti-BJP alliance. There are compulsions of State-level electoral contests which come in the way of



the formation of a national anti-BJP coalition. Examples are being cited of the BSP and the SP, but one should not forget that forming an alliance before a bypoll is much easier than forming one

before a national election. To counter this argument, the Bihar example is being cited. If two arch rivals – the JD(U)'s Nitish Kumar and Mr. Prasad – could come together for the 2015 Bihar Assembly election, why can't many political parties that are opposed to each other come together? The answer is simple: we all know what happened to the JD(U)-RJD alliance barely within a year and half of forming the Bihar government. We all know how the

IT'S COMPLICATED



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Who will be the face of the alliance? The issue is not about a lack of leaders; it is of too many leaders

The answer to the question is not easy as the road to a grand alliance against the BJP is quite complicated. It is complicated on account of two factors. The first is the issue of leadership: who will lead the anti-BJP alliance? The second pertains to the nature of State-level electoral contests. The parties trying to form an anti-BJP alliance are also political opponents in their respective States.

The question of leadership

Let us examine the question of leadership. Who will be the face of this alliance is difficult to resolve as the

SINGLE FILE

## When judges legislate

Neither is the broad separation of powers of the three organs of the state maintained nor is the law clear

MARKANDEY KATJU



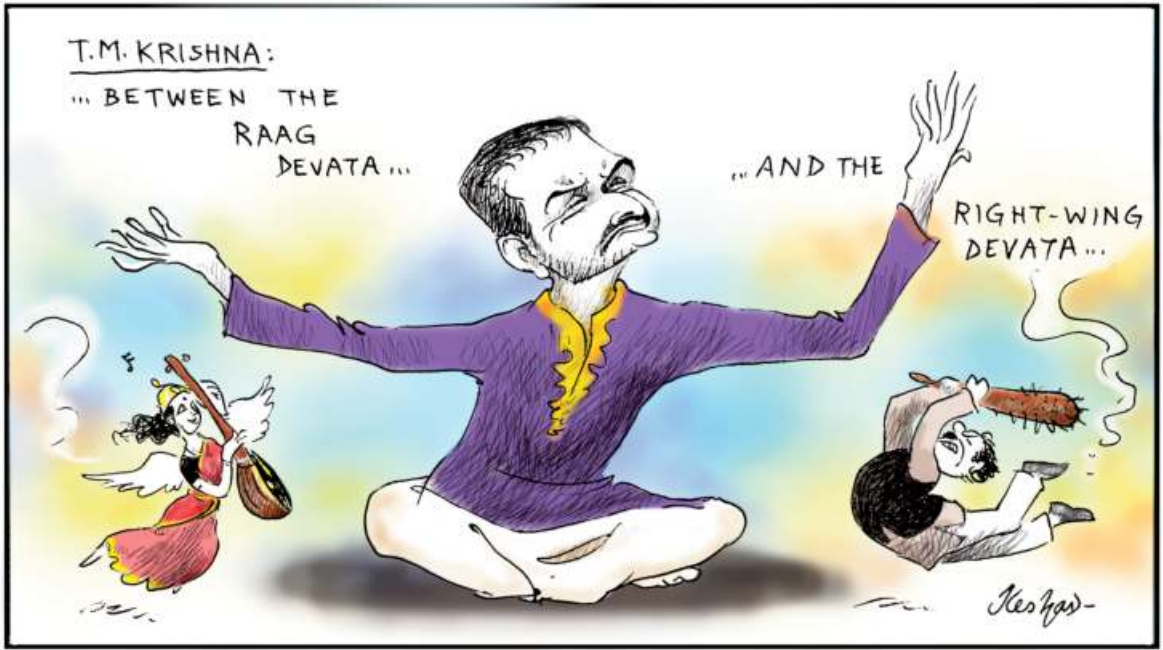
In many recent judgments, the Supreme Court has become hyper-activist in making laws. But can judges legislate?

This question has already been answered in the past by the court. In *Ram Jawaya v. The State of Punjab* (1955), the court observed: “Our Constitution does not contemplate assumption, by one organ or part of the state, of functions that essentially belong to another.” This implies that there should be a broad separation of powers in the Constitution of the three organs of the state, and that one organ should not encroach into the domain of another. If this happens, the delicate balance in the Constitution will be upset and there will be chaos.

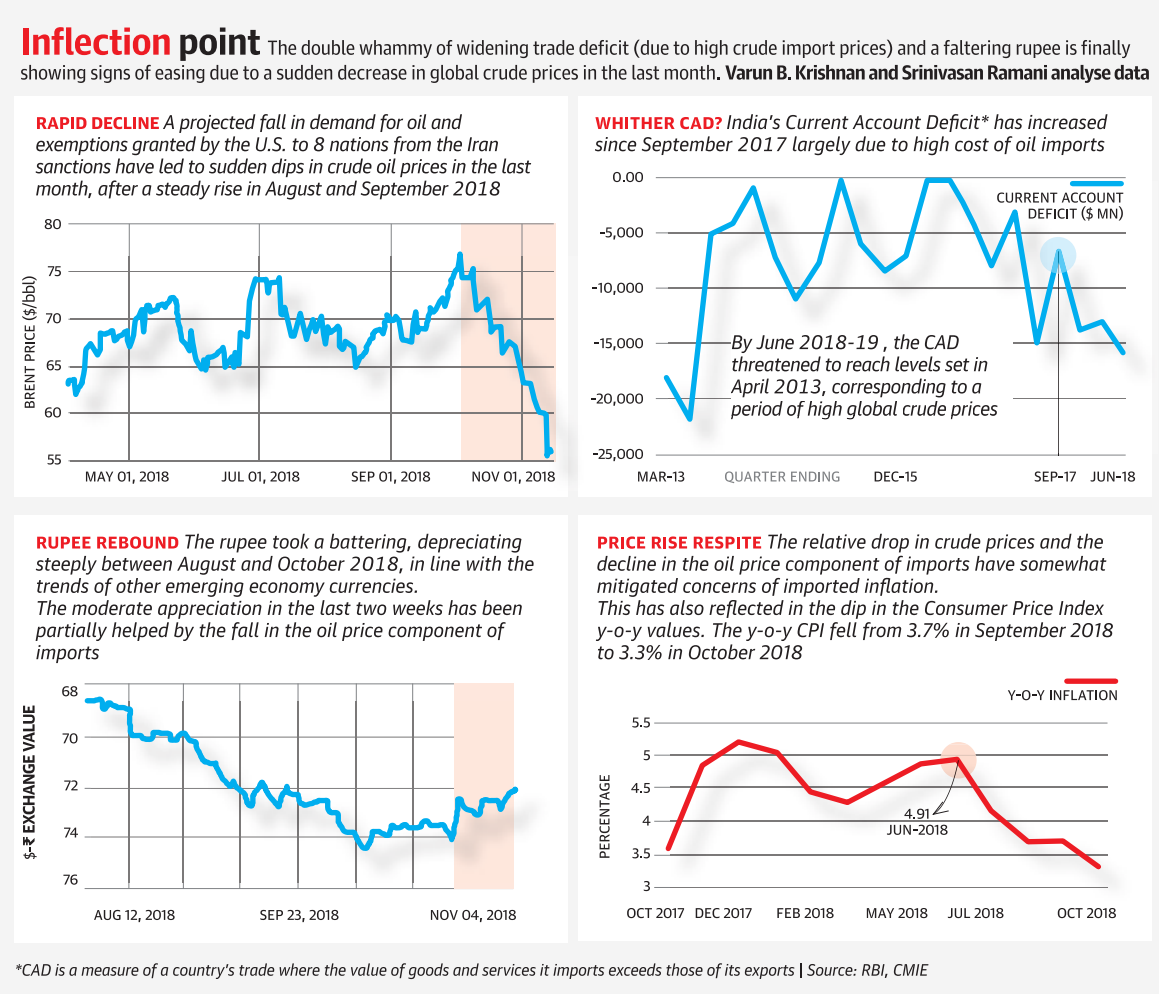
Making laws is the function of the legislature. As observed in *Union of India v. Deoki Nandan Aggarwal* (1991), “The power to legislate has not been conferred on the courts.” In *Suresh Seth v. Commissioner, Indore Municipal Corporation* (2005), the court observed: “Under our Constitutional scheme, Parliament and Legislative Assemblies exercise sovereign power to enact laws.” Is judicial discipline being observed? Let us examine some recent decisions of the court.

First, in *Arun Gopal v. Union of India* (2017), the Supreme Court fixed timings for bursting Diwali fireworks and prohibited the use of non-green fireworks, although there are no laws to that effect. Second, in *M.C. Mehta v. Union of India* (2018), the court annulled the statutory Rule 115(2) of the Central Motor Vehicle Rules, 1989, when it directed that no BS-4 vehicle should be sold after March 30, 2020, and that only BS-6 vehicles can be sold after that date. Third, in *Subhash Kashinath Mahajan v. State of Maharashtra* (2018), the court amended the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, by annulling Section 18 which said that no anticipatory bail will be granted to persons accused under the Act; by requiring a preliminary enquiry; and by prohibiting arrest under the Act except with permission in writing by the appropriate authority. Fourth, in *Rajesh Sharma v. The State of Uttar Pradesh* (2017), the court felt that Section 498A of the Indian Penal Code was being misused. So it amended that Section by requiring complaints under that provision to be sent to a Family Welfare Committee constituted by the District Legal Services Authority, although there is no such requirement in Section 498A. Finally, the National Green Tribunal (NGT) ordered that no 15-year-old petrol-driven or 10-year-old diesel-driven vehicle will ply in Delhi, and the Supreme Court has directed impounding such vehicles, though neither the NGT nor the Supreme Court are legislative bodies. If judges are free to make laws of their choices, not only would that go against the principle of separation of powers, it could also lead to uncertainty in the law and chaos as every judge will start drafting his own laws according to his whims and fancies.

The writer is a former judge of the Supreme Court



DATA POINT



FROM The Hindu. ARCHIVES

FIFTY YEARS AGO NOVEMBER 16, 1968

Stable State governments

President, Dr. Zakir Husain said here [New Delhi] to-day [November 15] that the draft Fourth Plan will be presented to the National Development Council in January next. The preparation of the Fourth Plan had involved difficult choices at every stage and a re-formulation of basic national policies. Inaugurating the conference of Governors at Rashtrapati Bhavan to-day, Dr. Husain said that the past year had been a period of continuous and intense political activity in almost every State leading to the imposition of President's rule in several States. He expressed the hope that the conference would afford an opportunity for resolving the difficulties that the Governors might be encountering in the context of these developments. As constitutional heads of States and sometimes as administrators directly responsible to the President and the Parliament they had been confronted with a variety of political and other problems calling for mature judgment and experience.

A HUNDRED YEARS AGO NOVEMBER 16, 1918.

The Ex-Kaiser and Family.

"What to do with the Kaiser?" is the question most keenly debated in Paris. The French press demands that the Kaiser shall be placed on trial by the free peoples for the murder of millions of men and for the ravaged towns. No agreeable retirement must be allowed him. [In London] various rumours as to the whereabouts of the German ex-Crown Prince have been set at rest by the definite report from Amsterdam that he crossed into Holland at Oudvroenhoven with suite and four automobiles and was brought to Government House at Maestricht. Apparently the authorities are considering the problem presented by the arrival of the un-welcome visitor. [According to a report from Amsterdam on November 15], three officers accompanied the Crown Prince who, on leaving Spa, motored by a circuitous route to avoid German troops. All four were disarmed by the Dutch Frontier Guards.

CONCEPTUAL

Dumb agent theory

ECONOMICS

This refers to the hypothesis that decisions made by groups of individuals turn out to be better than the decisions taken by isolated individuals. It is used to emphasise the wisdom of crowd knowledge. The dumb agent theory has been used in support of the efficient market hypothesis which states that the the prices of securities properly reflect their true underlying value. It has also been applied in the field of prediction markets where the wisdom of the crowd, rather than an individual, is employed to forecast the future to the best possible accuracy level. The idea was first conceptualised by American journalist James Surowiecki.

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