

ENERGY TRANSITION- THE SIGNIFICANCE OF COOPERATIVE FEDERALISM

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ABSTRACT

India's Prime Minister Narendra Modi, in the CoP 26 Summit held at Glasgow (Scotland), pledged India's net zero emissions targets to be fulfilled by 2070. Further, India also has the energy transition target of generating 50% of the total electricity consumed from non-fossil sources by the year 2030. An efficient target of de-carbonization by 2030 was also announced at the same summit. India needs a roadmap in order to fulfill its pledges at the earliest and 'Cooperative Federalism' can go a long way in the furtherance of the same. The term 'Cooperative Federalism' means a healthy relationship between the centre and states in a nation where powers are decentralized between them for the well-structured functioning of the nation. The global pledges first need to be fulfilled at the national level where states have to contribute immensely by generating green energy. States need to have a multi-scalar planning and execution strategy that goes along with the central plan of action to meet the energy transition goals. States need to have effective institutions and institutional processes to aid the centre in the advancement of its goals. According to data, only 6 states of India currently contribute efficiently to the changeover from non-renewable to renewable energy and thus, the data is not an optimistic sign for the principle of cooperative federalism in India. The short article will dwell on this aspect further, stating its significance in the goals of energy transition.

Keywords: Energy Transition, Cooperative Federalism, Competitive Federalism, Climate Change, National Action Plans, State Action Plans, Article 246.

The world is currently undergoing an alarming situation pertaining to climate change and the destruction caused by it is immense. According to United Nations, "Climate change refers to long-term shifts in temperatures and weather patterns" primarily due to human interferences with the natural ecosystem.¹ It has taken a huge toll on the lives and properties of people and other living beings. There has to be a possible transition of energy from non-renewable to renewable sources at the earliest. Thus, Climate mitigation action plans, institutional

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¹ 'What Is Climate Change?' (United Nations) <<https://www.un.org/en/climatechange/what-is-climate-change>> accessed 7 July 2023

framework and processes, and execution strategies become the need of the hour. India has undertaken various energy transition pledges at the global level which first need to be met with national goals.² Cooperative federalism can go a long way in the fulfillment of these global pledges by strengthening the center-state relationship in a vast nation like India. The term 'Cooperative Federalism' is the portmanteau of the terms Cooperation (made from two Latin words- 'co' which means 'together' and 'operari' which means 'to work') and federation (made from the Latin word 'foedus' which literally translates to 'treaty, consensus or an accord').³ The term means a healthy relationship between the centre and the states where powers are decentralized between them for the well-structured functioning of the nation. A strong nation is a territory that is an amalgamation of strong states ready to mitigate any hazards and disasters posed by contemporary global issues through appropriate roadmaps and implementation master plans.

India has taken various energy transition pledges at the global level which need to be attained and accomplished at the foremost. India's Prime Minister Sh. Narendra Modi, in the 2021 UN Climate Change Conference widely known as 'CoP 26 Summit' held in Glasgow (Scotland)⁴, pledged India's net zero emissions target to be fulfilled by 2070 to combat the climate change threat. India also has the energy transition target of generating 50% of the total energy consumed from renewable sources by the year 2030. Further, it has to reach a target of generating 500 GW of non-fossil fuel energy by the year 2030. Cutting down carbon emissions by 1 billion tonnes by 2030 is another aim to be met with. Also, the carbon emissions intensity of India's economy must deplete by 45% by 2030. The five vows listed above are collectively known as 'Panchamrit' as highlighted by the Hon'ble Prime Minister in the same summit.⁵ An efficient target of de-carbonization by 2030 was also announced.⁶ India highlighted the need for financing by the developed nations to the developing countries in order to subdue the impact of climate change. It pointed out the

²Cabinet Approves India's Updated Nationally Determined Contribution to Be Communicated to the United Nations Framework Convention on Climate Change' (*Press Information Bureau*) <<https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1847812>> accessed 7 July 2023

³'Cooperative Federalism' (*NITI Aayog*) <<https://www.niti.gov.in/index.php/cooperative-federalism>> accessed 9 July 2023

⁴COP26: Together for Our Planet' (*United Nations*) <<https://www.un.org/en/climatechange/cop26>> accessed 8 July 2023

⁵COP26: Modi Offers "panchamrita" Concoction for Climate Conundrum at Glasgow' (*Down To Earth*) <<https://www.downtoearth.org.in/news/climate-change/cop26-modi-offers-panchamrita-concoction-for-climate-conundrum-at-glasgow-80001>> accessed 10 July 2023

⁶22 RC |April and others, 'What Is Decarbonization, and How Do We Make It Happen?' (*State of the Planet*, 18 November 2022) <<https://news.climate.columbia.edu/2022/04/22/what-is-decarbonization-and-how-do-we-make-it-happen/>> accessed 10 July 2023

requirement of USD 1 trillion for the climate mitigation action plans such that the union government can provide the state governments with adequate funds for the mitigation of climate change. India's energy changeover vows at the global stage are in accordance with the United Nations Sustainable Development Goal 7 (SDG 7)⁷ which focus on ensuring access to affordable, reliable, sustainable, and modern energy for all; SDG 11 which provides for the making of cities and places of human settlements inclusive, safe, resilient and sustainable; SDG 12 which ensures sustainable consumption and production patterns; SDG 13 which highlights the need to take urgent actions to battle climate change and its impacts. India's primary objective is to become energy independent by the year 2047.⁸ In furtherance of the same, it aims to electrify its entire economy such that the electricity demands can be met with the equal generation of green energy by way of infrastructure development through green technologies⁹ as emphasized by United Nations Development Programme (UNDP).

The Indian Constitution¹⁰ talks exclusively about the federal structure of the 'Union of India'. Article 1¹¹ of the Constitution¹² says that 'Bharat' is the 'Union of States'. Article 246¹³ is often read with Schedule 7¹⁴ of the constitution which mentions the three lists namely the Union list, the State list, and the Concurrent list to stipulate the division of powers between the Centre and the states. Article 246¹⁵ of the Indian Constitution reads as,

1. "Notwithstanding anything in clauses (2) and (3), Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule (in the Constitution referred to as the "Union List").
2. Notwithstanding anything in clause (3), Parliament, and, subject to clause (1), the Legislature of any State also, have power to make laws with respect to any of the matters enumerated in List III in the Seventh Schedule (in the Constitution referred to as the "Concurrent List").

⁷ 'The 17 Goals | Sustainable Development' (United Nations) <<https://sdgs.un.org/goals>> accessed 12 July 2023

⁸ Bhatti J, 'Making India Energy-Independent by 2047: A Look at PM Modi's Blueprint' *Down to Earth* (18 August 2021) <<https://www.downtoearth.org.in/blog/energy-efficiency/why-rooftop-solar-and-storage-offers-a-viable-future-for-india-78033>> accessed 11 July 2023

⁹ 'Green Technologies and Sustainability' (*Green Technologies and Sustainability | Journal | ScienceDirect.com by Elsevier*) <<https://www.sciencedirect.com/journal/green-technologies-and-sustainability>> accessed 12 July 2023

¹⁰ The Indian Constitution, 1950

¹¹ The Indian Constitution 1950, art 1

¹² The Indian Constitution, 1950

¹³ The Indian Constitution 1950, art 246

¹⁴ The Indian Constitution 1950, sch 7

¹⁵ The Indian Constitution 1950, art 246

3. *Subject to clauses (1) and (2), the Legislature of any State has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule (in the Constitution referred to as the "State List").*
4. *Parliament has power to make laws with respect to any matter for any part of the territory of India not included in a State notwithstanding that such matter is a matter enumerated in the State List.*¹⁶

Clearly, Article 246¹⁷ along with Schedule 7¹⁸ of the Indian Constitution¹⁹ demarcates the powers between the centre and states. The centralization of powers in a nation is bound to present challenges in order to effectively mitigate the climate crisis. One reason for this challenge is the legacy of a largely top-down, centralized approach, which is made more difficult by the requirement to implement obligations under international treaties within the current division of responsibilities. According to Schedule 7²⁰ of the Indian Constitution, states have sole authority over land, water, and agriculture; however, since the 42nd Amendment; forests, wild animals, and birds have been shared as concurrent subjects. It is highly important to realize the significance of cooperative federalism in this context. The Hon'ble Supreme Court in the landmark judgement of *T.N. Godavarman Thirumulpad Vs Union of India and Others*²¹ has stressed immensely the legal aspect of 'cooperative federalism' while looking into the areas of climate change and related actions. The Centre must solicit states to generate an effective model for Indian climate management and governance. The National Action Plans on Climate Change (NAPCC) must give way to State Action Plans on Climate Change (SAPCC)²² for the multi-scalar planning, execution strategy, institutional framework and processes, coordination interlinkages and mechanisms to meet the global pledges to reverse the climate change. This further means that the state policy blueprint and roadmap must harmonize with the central blueprint for handling the contemporary climate crisis. The designing of the proposal to deal with the climate vulnerabilities is known as 'Structured Opportunism'. India's energy changeover pledges

¹⁶ *Ibid* note 15

¹⁷ *Ibid* note 15

¹⁸ The Indian Constitution 1950, sch 7

¹⁹ The Indian Constitution, 1950

²⁰ The Indian Constitution 1950, sch 7

²¹ (1997) 2 SCC 267

²² (National action plan on climate change (NAPCC) - press information bureau)

<<https://static.pib.gov.in/WriteReadData/specificdocs/documents/2021/dec/doc202112101.pdf>> accessed 13 July 2023

require participation and engagement from all states and Union Territories such that the quantum of the untapped renewable sources of energy can be explored effectively. The biggest roadblock that arises in the way of strengthening energy changeover targets of India is the financing of the states and the UTs for the implementation of policies and innovative green technology ideas. Cooperative federalism, thus, provides a solution to this problem. The 'Nationally Determined Contributions (NDCs)' must go hand in hand with the states' respective contributions for the achievement of long-term goals.²³

The government of India is committed to the idea of 'SabkaSaath, Sabka Vikas, SabkaVishvaas, SabkaPrayas' which emphasizes the aim of 'participation of all' in the nation's progress.²⁴ Thus, the participation of the states becomes absolutely important in dealing with climate change vulnerabilities. States have a critical role as laboratories for policy innovations which are fundamental to India's energy transition targets. As per the data provided by the Indian Government, out of a total of 36 states and UTs, 34 of them have made their State Action Plans on Climate Change in line with the National Action Plans.²⁵ The states and the UTs are engaged in the production of green energy through green technologies through production-linked incentives schemes and the electrification of the public transportation systems. The Indian government has the target of procuring 50,000 e-buses by 2030. In furtherance of the same, different States and UTs have already procured 5450 e-buses as of now.²⁶ Electricity is the subject of the concurrent list (Entry 38 List III of the 7th schedule²⁷ of the Indian Constitution²⁷). Therefore, under the Solar Rooftop Policy 2022²⁸, Gumla town in Jharkhand became the first town to have house-based solar panels to generate solar energy to meet the state's electricity needs.²⁹ Also, Goalpara in Assam became the first district of the state to construct a green road made of recycled plastic bottles. A recent study conducted by the Institute for Energy Economics and Financial Analysis (IEEFA) highlighted that Karnataka and Gujarat were the best-performing states in India's

²³ (Nationally determined contributions (ndcs) | UNFCCC) <<https://unfccc.int/process-and-meetings/the-paris-agreement/nationally-determined-contributions-ndcs>> accessed 13 July 2023

²⁴ Acharya M, 'Climate Action That Runs on Cooperative Federalism' (*Climate action that runs on cooperative federalism - The Hindu*, 16 September 2022) <<https://www.thehindu.com/opinion/op-ed/climate-action-that-runs-on-cooperative-federalism/article65895775.ec>> accessed 14 July 2023

²⁵ 'India Is Part of the Solution and Is Doing More than Its Fair Share to Address Climate Change' (*Press Information Bureau*) <<https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1895857>> accessed 14 July 2023

²⁶ The Indian Constitution 1950, sch 7

²⁷ The Indian Constitution, 1950

²⁸ Solar Rooftop Policy 2022

²⁹ Shinde JJ and S, 'A Green India for All: An Aspiration' (*NITI Aayog*) <<https://www.niti.gov.in/green-india-all-aspiration>> accessed 14 July 2023

shift from non-renewable to renewable energy.³⁰The factors taken into account were the advancement in power generation systems, the magnitude of de-carbonization, ecosystem readiness, and the level of dedication to policies and governance and management. But, currently, only six states of India are contributing to the majority of renewable energy generation namely Karnataka, Tamil Nadu, Gujarat, Rajasthan, Andhra Pradesh and Maharashtra.³¹Thus, it is the need of the hour that the rest of the states and the UTs must identify and realize their green energy potential and launch state initiatives to further the cause.

India is the home to 17% of the world's population and it generates 5% of the world's greenhouse gas emissions as well. It needs to realize the importance of cooperative federalism in bolstering its execution mechanisms to give strength to its action plans. The biggest obstacle that comes in the way of cooperative federalism strengthening the mitigation of the climate change crisis is that cooperative federalism takes the form of 'competitive federalism'.³² Though it is stated as the healthy competition between the centre and the states and among the states and the UTs sometimes, it hampers the very foundation of the federal structure of the country. The financing by the centre to the states for executing the energy transition action plans in their respective states becomes a major issue in the obstruction of cooperative federalism as a principal in strengthening climate change abating and energy changeover master plans. Further, there has been no coordination between the centre and the states in their plans for the energy transition. The lack of engagement, proper meetings, multitudinous planning, decision-making processes and institutional framework makes the idea of cooperative federalism a sham idea in itself. Due to the lack of influence of National Action Plans on Climate Change (NAPCC), the State Action Plans on Climate Change (SAPCC) have several shortcomings. The federal system has failed to carry the momentum of agenda keenness and fervour into the present period. Also, only six major states of India that are restricted to the west and south are currently contributing immensely to green energy generation for the shift from non-renewable to renewable energy.

³⁰Rishu Garg VM and, 'OPINION: What Is the Role of States in India's Clean Energy Transition?' *ET Energy World.com* (25 May 2023) <<https://energy.economictimes.indiatimes.com/news/renewable/opinion-what-is-the-role-of-states-in-indias-clean-energy-transition/100498552>> accessed 14 July 2023

³¹ Shinde JJ and S, 'A Green India for All: An Aspiration' (*NITI Aayog*) <<https://www.niti.gov.in/green-india-all-aspiration>> accessed 14 July 2023

³² 'Competitive Federalism' (*INSIGHTSIAS*, 10 September 2021) <<https://www.insightsonindia.com/polity/functions-and-responsibilities-of-the-union-and-the-states-issues-and-challenges-pertaining-to-the-federal-structure-devolution-of-powers-and-finances-up-to-local-levels-and-challenges-therein/issues-and-challenges-pertaining-to-the-federal-structure/competitive-federalism/>> accessed 14 July 2023

India's total generation of renewable energy has doubled in the last five years reaching the mark of 100 GW in August 2022. This is because states have started realizing their renewable energy potential. Additionally, it is necessary to maintain the political autonomy of states besides the federal structure. It can't be argued that the federal government, in addition to having the ability to set the agenda in many areas of climate policy (including those that fall under state jurisdiction, such as water and agriculture) has more financial and administrative powers than the states. However, states are uniquely in control of a number of crucial areas of climate governance. They also play a crucial role in creating the political environment necessary for the implementation of policies and, most importantly, they innovate to create policy models that the districts under them can follow. The jurisdictional, capacity and informational limitations of the other levels of government must therefore be made up for in any effective model of Indian climate governance. Thus, the State's target to meet the aims of the centre in its energy transition plans, cross-learning, updation of the state action plans, the changing roles of institutions and committees and their head-to-head progress along with the union will lead India to the fulfillment of its energy transition targets even before the global pledged time frames.

