

## **Federalism And the Political System in India\***

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India has a constitutional and political system which has some federal features. The Constitution provides the Central government with overarching powers and concentrates administrative and financial powers in its hands. At the same time, there is sharing of powers and resources between the Central government and the states in a limited fashion. The experience of partition at the time of independence conditioned the Constitution makers to build in various features in the Constitution which worked against the federal principle.

The Centre has the power to reorganise the states through Parliament; Governors appointed by the Centre can withhold assent to legislation passed by the state legislature; Parliament can override legislation passed by the states in the national interests; the Governor can play a role in the formation of state governments and the Centre is vested with the power to dismiss the state governments under Article 356; residuary powers are vested with the Centre and the major taxation powers lie with the Central authority. Alongside these unitary features, there is a division of subjects between the Centre and states and a concurrent list. Judicial review of Centre-state relations exist as in a federal system. On the balance, the Indian political system has federal features which are circumscribed with a built-in unitary core.

### **I**

The history of federalism and Centre-state relations in India is marked by political mobilisation and intermittent struggle to fashion a more federal set-up. Even though such efforts have not yet resulted in any major constitutional changes towards a more federal orientation, the struggle has not been entirely fruitless. It will be useful to trace the tortuous course of the movement for federalism. In the first phase lasting till the late sixties, the task of nation building and development was the main concern of India's rulers. There were separatist problems in Jammu & Kashmir and Nagaland in the North-East but these were seen more as challenges to national unity and issues of national security. The drive towards centralisation which began in this period also coincided with the period of Congress dominance both the Centre and in the states.

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But this period was not solely dominated by the trend of centralisation. One of the major democratic movements in the post-independence period -- the movement for the formation of the linguistic states -- took place in the fifties which resulted in the formation of the linguistic states in 1956. The ruling Congress and the Central government resisted this demand and gave in, in the face of strong popular movements. This laid the basis for the later assertion by the states for greater powers. The second phase began with the 1967 general elections. The Congress party, for the first time lost in nine states and non-Congress state governments came into being, including the Left-oriented United Front governments in West Bengal and Kerala. The demand for restructuring of Centre-state relations picked up momentum. The political response of the ruling party at the Centre under Mrs. Gandhi's leadership was to manoeuvre to regain the lost political ground and pursue policies designed to centralise more powers at the Centre both political and economic.

The seventies and eighties, therefore, saw a tussle between the Congress on the one hand and the regional and Left parties on the other for greater powers to the states. Beginning with the Rajmanner Committee set-up by the DMK government in 1969 to the memorandum on Centre-state relations by the Left Front government of West Bengal in 1977 to the opposition conclave on Centre-state relations in Srinagar in 1983 - the framework for the restructuring of Centre-state relations and a more federal political system was prepared. The Central government responded by appointing the Sarkaria Commission on Centre-state relations in 1983.

The drive for centralisation sought to undo the prospects of democratic decentralisation effected by the formation of the linguistic states in 1956. Resistance to decentralisation and more powers to states had its class dimension. The Indian big bourgeoisie was hostile to any dilution of the unitary character of the state. Their quest for a homogenous market led them to condemn the demand for linguistic states as heralding the "balkanisation" of India.

The political onslaught on federalism found expression in the repeated use of Article 356 by the Central government to dismiss state governments, most of whom were run by parties who were in the opposition. The Governor, in the garb of the Constitutional post, became an agent for the Centre. Progressive legislation passed by the states such as those concerning land reforms by the West Bengal assembly were not given assent for years on end. The division of financial resources between the Centre and the states, instead of a Constitutional right, became a method to keep the states in a

supplicant and subordinate position. The Centre sought to transfer subjects from the states list into the concurrent list whenever an opportunity presented itself. Some of these actions reached their zenith during the internal emergency when the 42<sup>nd</sup> Constitutional amendment was enacted.

The rigidity of the Constitutional political system with the Centre playing a dominant and monopolistic role met with resistance. The rise of regional parties, the DMK and the Akali Dal, were the earliest formations and the subsequent proliferation of other regional parties had both an economic class content and a cultural expression. The major linguistic-nationality groups in India - of which the most developed were the non-Hindi groups - were the first to throw up the regional parties. These regional parties expressed the class interests of the rising bourgeois-landlord classes of that linguistic group and they also tapped into the linguistic-cultural aspirations. In the eighties, the rise of the Telugu Desam Party in Andhra Pradesh symbolised this development.

The political contestation between the forces of centralisation and federalism did not result in a clear-cut victory for either side. While there has not been substantial changes in the unitary features of the Constitution and the financial system, the political parties system has evolved on federal lines. The end of Congress one-party dominance by the late eighties created an atmosphere to check rampant centralisation.

For the first time, in 1989, a National Front coalition government headed by V.P. Singh, which had major regional parties like the TDP, DMK and AGP, took office at the Centre. Though short-lived, this government took certain steps to strengthen the federal principle. The Inter-state Council was constituted in 1990. The provision in the Constitution to set-up such a council was not exercised by the Centre earlier. The entry of the regional parties in coalition governments at the Centre became a regular feature in 1996 with the formation of the United Front government and in all subsequent ones -- the 1998 and 1999 coalitions headed by the BJP and the current United Progressive Alliance headed by the Congress coalition. Both the National Front government of 1989 and the United Front governments of 1996-1998 were supported by the Left parties who are strong supporters of the federal principle.

The participation of the regional parties in the Central coalition governments has led to checks on the centralisation trend initiated by the Central government. The political give and take within a coalition precludes the possibility of a roughshod approach to states. Even the

BJP which has no sympathy for federal values proved adept at responding to the concerns of the regional parties.

One of the obnoxious anti-federal features was the use of Article 356 by the ruling party at the Centre. Halting the arbitrary use of this clause by demanding its removal or modification has been the priority for all the forces advocating a more equitable Centre-state relations. The Supreme Court, by the Bommai judgement of 1994, made a significant contribution towards restraining the Central government from misusing these powers. The Court decreed that the exercise of the powers have been arbitrary and militates against the federal principle. It provided for safeguards by stipulating that a decision to dissolve the State legislature cannot be implemented till both the Houses of Parliament approved the presidential proclamation. Till then the dissolution should be kept in suspended animation. The judgement also requires the President to set out the reasons and the material on which basis the proclamation of President's rule is made. The Court made this subject to judicial review. The judgement was informed by the Constitutional perspective that federalism and democracy are interconnected and one cannot be violated without harming the other.

## II

The political developments associated with the end of one-party dominance, the rise of regional parties and the assertion of the Left for a more federal system were favourable for the shaping of a federal structure. But this has not happened. This is mainly due to two countervailing factors.

The first is the outlook of the two big political parties - the Congress and the BJP. Both share the approach of the pan Indian ruling classes dominated by the big bourgeoisie with its emphasis on a strong Centre. Congress views democratic decentralisation as only concerning the devolution of powers to the panchayati raj system. It ignores the rights of states and sees it as a diversion from the nation building project. The BJP is philosophically committed to an *Akhand Bharat* (greater India). It is hostile to strong states or regional forces who do not buy into its "great power nationalism". That is why the BJP is negative towards the idea of consolidating the linguistic states and advocates instead, the creation of small states, on an administrative basis. Such small states will be enfeebled and dependent on the Centre.

A third alternative in the form of a combination of Left, democratic and regional parties is yet to cohere into a stable formation. They are the strongest votaries of the restructuring of Centre-state relations and for

a federal structure. It is when these forces have gained ascendancy at the Centre that positive steps were taken in this direction.

The second countervailing factor is the process of liberalisation which has been unfolding in the past one and a half decades. It has been the endeavour of the liberalisers and their sponsors in the multilateral agencies to foster a type of “market federalism”. In a deregulated economy, with the Centre retreating from certain vital economic functions, the states are expected to compete for attracting capital and foreign direct investment. Such “inter-jurisdictional competition” is harmful to the federal spirit. It leads to competition in providing tax incentives and tax cuts which weaken the states’ fiscal position. The Centre, in turn, seeks to impose neo-liberal policies in Centre-state relations. These policies entail passing off of the fiscal problems of the Centre to the states; hiking up the interest rates on loans to state governments and using the debt-trap the states land into, to thrust more neo-liberal policies on the states.

All this has led to, paradoxically, the weakening of the state’s bargaining powers and a deterioration of its financial position at a time when powerful political parties representing these states have emerged as players of the Centre. The liberalisation drive has adverse implications for federalism. The National Development Council, the Inter-State Council and the Planning Commission – all institutions which deal with Centre-state and inter-governmental relations have been weakened. The Finance Commission has become an instrument to push neo-liberal policies. The right of states get translated to mean the right to compete with other states for investments and capital finances.

The nineties have seen widening regional disparities – both inter-state and intra-state. The policies of liberalisation have benefited a clutch of states like Maharashtra, Gujarat, Tamilnadu, Karnataka and Andhra Pradesh which have received the bulk of foreign direct investment and bank credit.

Five states accounted for 51 per cent of the FDI proposals approved from August 1991 to December 1998. All the Hindi-speaking states put together got an amount which equaled the proposals for Tamilnadu alone. Maharashtra accounted for one-fifth of the country’s bank deposits in 2002, but its share in gross credit was one-third. Major states like Uttar Pradesh and Bihar are falling behind in the socio-economic indicators.

It is not only the gap between the states that are widening. The regional disparities within states are also growing. This is fuelling the

demand for the formation of separate states by carving out the backward regions. The demand for a separate Telengana state created out of Andhra Pradesh and Vidharba out of Maharashtra is based on the backwardness argument. The demand for the break-up of the linguistic states formed in the sixties is not gong to strengthen the federal structure. It will weaken the existing strong linguistic states which are to better placed to negotiate with the centre.

### III

#### **Flexible Federalism**

Despite the centralizing drive, parliamentary democracy and popular movements have compelled the Centre and the political system to accommodate political, social and cultural diversities. Apart from the pressure of the regional and Left parties, the Central government in the nineteen seventies responded to the ethnic and linguistic-nationality aspirations in the North Eastern region by the setting up of seven states. The Constitution provides for regional autonomy for certain tribal areas through the 5<sup>th</sup> and 6<sup>th</sup> schedules. Article 370 of the Constitution grants special status to Jammu & Kashmir. Article 371 deals with special provisions such as providing safeguards to customary laws of Nagaland and Mizoram and the setting up of development boards for backward areas in certain states.

For a multilingual country, the recognition and status of languages is an important aspect of federal policy. The 8<sup>th</sup> schedule of the Constitution recognises 22 languages as national languages. The recent additions have been Bodo, Dogri, Maithili and Santhali. The UPA government has agreed to consider the demand to declare Tamil a classical language.

It is the political and democratic assertion of the people which have given shape or expression to some of these constitutional arrangements, though many of these provisions are limited in scope and require expansion.

The elements of federalism in the State structure have been vital for conflict resolution. The secessionist movement in Nagaland and Mizoram were met by the creation of separate states and other safeguards. The grievances of tribal groups suffering from socio-cultural and economic oppression erupted often into demands for a separate identity. In the case of the Bodo people in Assam, it has been met with an agreement to set up an autonomous Bodo council. For the hill people of Darjeeling in West Bengal a Gorkha Autonomous District Council was formed.

It is by the grudging adoption of a limited but flexible federalism – creation of states, setting up of autonomous councils, according special status to certain areas – that the Indian political system has sought to resolve ethnic, regional and linguistic problems.

Liberalisation is taking place in an internal setting where there are sustained onslaughts on national sovereignty. The twin processes of capitalist globalisation and imperialist hegemony seeking has led to a new doctrine that national sovereignty is dispensable in the face of demands for access to markets and protecting the rights of ethnic minorities. Big multinational states which do not accept this diktat can face disintegrative pulls and break-ups. Imperialism seeks to utilise ethnic and religious nationalism to buttress the rule of capital. In recent times big federal states like Yugoslavia were undermined by ethnic nationalism which received the backing of imperialism and finance capital. International finance capital finds it comparatively easier to deal with fragmented sections of society divided on ethnic and religious lines. Both big multinational states and small states with ethnic and linguistic minorities face this problem.

To make the point that functioning a federal system in the spirit of democratic decentralisation is threatened by the process of imperialist globalisation is one thing. To argue that this system is therefore irrelevant is another thing and wrong. In India the struggles to arrest the liberalisation offensive and the effects of imperialist globalisation have shaped up in the states where linguistic nationality consciousness is higher and local democratic structures are better shaped. Andhra Pradesh was the crucible for World Bank dictated structural adjustment policies where strong resistance developed and political punishment meted out to the icon of the liberalisers, Chief Minister Chandrababu Naidu during the elections. The scope of alternative policies, however limited, can be explored in the states where parties which do not share the ruling class consensus come to power.

### **Left Viewpoint**

The Left has since the experience of the linguistic states movements in which the Communist Party was a leading force, set out a comprehensive plan for a federal set-up suitable to Indian conditions.

The country requires a strong and effective Centre given its vastness, complexity and diversity. There are 28 states and 7 Union territories. It is not enough to have a Centre which has a minimalist function of looking after defence, external affairs and a common currency. The Centre has an important role in economic coordination, ensuring

balanced allocation of resources and meeting the special needs of minorities and border regions. It has to protect national sovereignty and unity and under its jurisdiction come federal institutions which arbitrate and resolve inter-state matters.

The federal system should therefore assign sufficient powers and resources to the Centre in clearly defined areas.

What needs correction are the provisions in the Constitution which enable the Centre to encroach on the spheres of the states; negate democracy by intervention in the state government and assembly. The states' rights with regard to formation and running of elected governments must be immune to central interference. There has to be a more equitable sharing of taxes and resources between the Centre and the states.

The devolution of powers from the Centre to the states, administrative and financial has to be accompanied by the next step of decentralizing the administration and devolution of resources to the district, local bodies and panchayats. The Left sees this as not dismantling or rolling back of the state, but making the state at all levels more accountable to the people.

It is the Left which has, while running state governments in West Bengal, Kerala and Tripura undertaken democratic devolution to the panchayats - much faster and in a better way than other states. The Left led governments have innovated in making the panchayats accountable and responsive to the people. In Kerala, between 1996-2001, the LDF government undertook a people's plan campaign to decentralize the plan process down to the village level.

The federal structure must also have a system of regional autonomy for tribal areas and for specified ethnic minorities. The existing 6<sup>th</sup> schedule provisions for autonomous councils have to be strengthened giving them more legislative and financial powers.

The requirements of democracy will be better served by a federal and decentralized democratic system - from Parliament to state legislatures to the district councils and village councils. The tendency to narrow democracy and to make popular participation in decision-making irrelevant under the pressure of international finance capital can be countered by expanding democracy and popular participation in the chain of federal institutions.

## **South Asia: Federal Variants**

All the countries of South Asia have multi-cultural and multi-ethnic societies. The challenge is to build or modify the State structures which will help promote national sovereignty, national unity, ethnic and religious harmony and a democratic system which promote development with social justice. Federalism is a system with innumerable variants. No one model may be applicable to all countries. India the biggest with 18 national languages, 28 states and innumerable religious and caste groups is still struggling to work a democratic, secular, federal system which will bind and unify the country and provide the framework for social and economic progress. Democracy is rule by majority with crucial safeguards for the rights of minorities. Both “big” and “little” chauvinisms plague India and other South Asian countries. They need to be rejected.

Sri Lanka has a long history of debate between the unitary structure vs. federalism. In the late 1990s progress was made in working out a federal form of State structure which safeguards Sri Lankan unity and sovereignty and provides for devolution of powers and protecting the rights of minorities. The 1997 draft Constitution and the 2000 August Draft are proposals for Constitution reform which can be a good starting point to find an amicable solution to the ethnic conflict. A compact can be found in a federal variant which grants autonomy on a territorial and linguistic-cultural basis within a State framework equipped to meet the challenges of a predatory international environment. The federal principle can work in a small state as well as in big states.

The countries of South Asia as independent sovereign states with provision for federal and democratic devolution can cooperate in a regional framework to meet the aspirations of a vast mass of humanity who constitute some of the poorest and most deprived in the world.