

# Foundations and Development of Indian Federalism: Lessons Learnt and Unlearnt

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**I**NDIA'S FEDERAL democracy has undergone many changes over the past six decades. Here we seek to capture the defining features of this experience, the hesitations, mistakes and failures as well as the innovations, excesses and successes. It has reached a new plateau over the last two decades: the era of federal coalitions.

When the experience began, many dictates of conventional wisdom had to be set aside, much to the dismay of constitutional purists. Unlearning the legacy of a unitary colonial state was as much a part of the learning process as the inspired search for solutions to problems never before encountered in quite the same way.

Also during this period, the system has sought to explore and to innovate, trying to discover how much diversity it was possible to accommodate, without sacrificing the unity essential for its existence. It has loosened controls in some, while tightening them in others. It would be an oversimplification to equate the neo-liberal phase of globalised economic growth with a retreat of the State.

Indian democracy, being the largest in the world, is constantly seeking to improve itself by securing more meaningful rights for its citizens. It has survived and flourished because it was designed federal.

We attempt below to highlight a few major features which have marked the development of Indian federalism and to see if there are any lessons to be learnt, or unlearnt.

## **Federal Framework: The Challenge**

Disorderly decolonisation imposed an urgent need for consolidation of the young independent State. The wisdom of the founding fathers in the Constituent Assembly lay in not mistaking the quelling of existing turmoil as their main mission. They transcended the immediate context to lay the foundations of a durable democracy, forsaking neither their principles, nor their vision of what the Indian Republic was intended to represent.

The unitarian temptation was strong and so was the urge to situate India ideologically as a reaction to the immediate context and the tragic

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turn of events. After intense debate, the Constituent Assembly opted for a secular Republic with safeguards for the rights of minorities.

Traumatized by the unprecedented horrors and dislocation of Partition, the Constituent Assembly was naturally focussed on the need for ensuring the unity and integrity of the new nation. The fear of excessive federalism was cogently articulated, the risks of centrifugal and fissiparous forces overwhelming the young Republic were passionately evoked.

The framework finally adopted departed significantly from all existing models of federalism. The Constituent Assembly devised a system which seemed most suited to the needs of the time and the requirements of a federal society. Political processes generated by the logic of a federal democracy completed this work in course of time.

In the absence of any track record or reliable radar to assess departures from the existing template of norms and yardsticks, which were derived from the then dominant models, jurists found it difficult to certify that the system was indeed federal. It was therefore declared 'Quasi-Federal'. This description is no longer valid today because the federal principle has taken root and developed in Indian soil. India's political institutions are now widely recognised as a vigorous albeit hybrid variant of the federal species. Self rule and shared rule have been combined in unorthodox ways which have enabled the Indian Union to not only survive, but also flourish in all its diversity. It is a valuable legacy which has to be protected for India to survive as a democracy.

### **States' Reorganisation Process: Parameters and Politics**

The recognition of linguistic identities as the basis for territorial organisation surfaced as a major issue in the Constituent Assembly. It had its roots in a promise first made during the national movement, and then deferred

through a misreading of priorities and popular sentiment.

Variable geometry and flexible states reorganisation process was incorporated in the Constitution, raising many eyebrows. How has it worked in practice? We need to reassess the political and constitutional processes through which this enabling provision has worked in reality. The tortuous and violent process of the birth of Telangana bears ample testimony to the difficulties of operating this process.

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The Constituent Assembly created an 'Indestructible Union of Destructible States' Secession was banned explicitly in the early years, but constitutional flexibility enabled other forms of search for solutions. Overall, the shift from reluctant to robust federalism was spurred on by the democratic political process, which made it difficult to ignore the reality of Indian federalism.

### **Resilience of the Strong Centre Framework**

The Strong Centre framework has proved remarkably resilient, even to the neo-liberal call to roll

back State intervention in the economy. Deregulation has not meant unregulated growth. New independent regulatory mechanisms have replaced old state agencies. It is another matter that these new autonomous institutions have not been made democratically accountable.

The Centre retains control over all the macro-economic levers of command. While deregulation in some areas has given more scope for state initiatives, the need for central regulation has not diminished and continues to emerge in new areas.

Given the nature and extent of social diversities and cleavages, the judicious intervention of a Strong Central State is often considered indispensable for maintaining social harmony. The first phase of India's federal development was marked by the stunted growth of institutional devices designed to cope with the needs of cooperation and coordination. Single party dominance obscured the challenges that lay ahead. The strong centre framework is not really challenged or sought to be replaced even by the most ardent proponents of state autonomy. What they want is strong states and more state autonomy within the same framework.

It is important to recall that the original design vested substantial legislative powers and responsibilities in state governments for key developmental activities. A literal reading of the Indian Constitution can however be misleading. Multiple overlaps have occurred, not merely in the concurrent spheres of jurisdiction but also in spheres explicitly assigned to the states.

Financial constraints of the states have led to the proliferation of central schemes and national missions. The all encompassing ambit of entry 20 in List III, social and economic planning, provided the constitutional basis for the planned development model of the first phase.



New elements of the division of powers and responsibilities have begun to assume importance, overshadowing to a certain extent, the issues which dominated the reform agenda of the earlier period. While the issue of distribution of responsibilities and powers in federal political systems is generally contentious, a gross mismatch between the two can lead to serious tensions.

The federal dialogue with the states is often pre-empted by central administrative and policy decisions. The Centre often decides on a particular course of action and only thereafter seeks inputs from the states. Consensus building is after the decision, not before. This mode of decision-making is contested. In the emerging context of assertive states' rights, mere consultation may not suffice. What is needed is a more proactively inclusive decisional process.

Unequal States give rise to the need for the constitutional recognition of inequality, to be built into the federal polity in ways which protect diversity without sacrificing unity or imposing uniformity.

#### **Asymmetrical Federalism**

Related to the quest for a more responsive and participatory federal democracy is the notion of asymmetric federalism. As political and economic asymmetries get accentuated, demands are bound to grow for statutory asymmetric arrangements. In India, the inequality of states, and of regions within states, has commonly generated tensions and dissatisfactions. Asymmetrical federalism and special status provisions, including special fiscal regimes and incentives, have helped address these problems to some extent.

Special Status provisions have been used to resolve issues arising from history, geography and culture. Articles 370 and 371 provide examples of such accommodative constitutional engineering. Special status and unique relationships to meet specific needs

and requirements were very much a part of the original constitutional design from the outset.

Sub-State autonomy structures and autonomous district councils have had a mixed record. Some have been mere transit points towards statehood, others have proved more durable. Combining self rule and shared rule can assume many forms: fragmentation and non-viable units have to be weighed against the advantages of integration and size. The creation of north-eastern states raised this issue in a particularly acute form.

#### **Fiscal Federalism: The New Mantra**

Have liberalisation and deregulation strengthened or weakened the Centre? Has this new changed paradigm outstripped the evolution of the polity and political thinking? Has there been a new discourse of 'states' rights' which has moved from political autonomy to economic assertion? The answers to these questions are still in a state of flux.

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In the creation of the Indian Union, the development sequence adopted was to aim for political integration first, and the building of a common market was considered a relatively easier task, given the existence of a common currency, a central bank, and central government control over other macroeconomic parameters.

Growing imbalances in fiscal federalism have however created new obstacles in the path of this delayed integration. States have developed as centres of power and complex

negotiations had to be conducted to persuade them to forego sources of revenue resulting from interstate tariff barriers.

A new phase in India's political and economic development began in the early 1990s with liberalisation and an increased role for market forces. This shift has given rise to new contradictions and cleavages between market driven economics and politics based on universal suffrage. Earlier, it was the State that had the primary role in mediating these tensions. It sought to reconcile those excluded by markets by including them through the policies and processes of political democracy.

In addition to wide income disparities, the Indian Union is characterised by vast regional inequalities too. Here again, the State was earlier assigned a primary role in mitigating the consequences of geographically uneven development.

Thus, the situation today is largely the outcome of the conjunction of two factors: the economic liberalisation reform programme and the federalisation of the party system. The problem of growing inequalities is equally complex. How social and economic inequalities are viewed is a core issue in the debate on the new role of the State.

Greater reliance on market allocation of capital investments has given rise to competition among states that are unequally equipped and endowed for it. This has given rise to a competitive federalism in which a level playing field has still to be created.

The impact of competition for attracting investments to the states is to be understood at two levels. On the one hand, states are under pressure to provide good governance and to manage their finances with prudence. On the other hand, they are acutely aware of the negative impact of many of these reform measures on their electoral popularity.

The growth of Executive Federalism is one of the noteworthy features of India's



federal development. Bureaucracy has grown with developmental schemes, to be designed, targeted and delivered. Focus is on implementation of schemes rather than empowerment and inclusive governance. Institutions have developed and adjusted accordingly.

### **Accommodating Local Aspirations: A New Imperative**

The 1990s can be viewed as a defining period of transition for India's polity; they paved the way for a political system which was potentially more federal. New modes of participation and decision-making emerged through the mechanism of federal coalitions, to which, the parliamentary system and the Constitution have yet to adapt in a formal sense.

Through federal coalitions, the power and influence of state-based parties is felt on the making of national policy as well as the course of Centre-State relations. More importantly, single-state and multi-state parties have engineered, through the political process, an enhanced degree of participation in national policy-making that they could not achieve through formal institutions of co-operative federalism. In effect, federal coalitions have given them participatory opportunities that were earlier denied to them.

Two main factors can be flagged as the driving force behind this transition.

First, the globalisation has added a new dimension to the polity, with economic reforms assigning new roles and responsibilities to the States.

Second, the federalisation of the party system, which has brought in its wake a new dynamic, with its own mix of 'competing logics' is a crucial development.

The interplay of local aspirations articulated by state-based parties with the imperatives of national cohesion derived from a different discourse is at the core of this debate. The complex power sharing that results from this

multilevel relationship is a significant factor in holding the system together.

Let us look at the other big idea which emerged during this period viz devolution of powers to local self government institutions. This idea took legislative shape with the 73rd Constitutional Amendment, which effectively gives constitutional recognition to a third tier of the federal structure (1992-95).

However, this does not mean that multilevel federalism is already a generalised ground reality, or that it is likely to be so in the near future. It is important to note that there are powerful interests in the states, both within the political class and the bureaucracy, which resist this decentralisation.

**Has there been, as a recent study suggests, "a shift of power and influence from the Centre to the state capitals and further down to the level of sub-regions, districts and panchayats?" The evidence put forward in support of this assertion is "the remarkable rise of regional and caste-based parties" and "the clamour for separate states in many parts of the country". Let us assess this claim in the light of contemporary trends**

The gradual growth of the panchayat system, working in tandem with civil society institutions of the voluntary sector, is a defining development of the federal system. The pressures that are being generated at this level hold the promise of developing into powerhouses for bringing about further changes in the institutional design.

### **Challenges in the New Millennium**

Having reviewed the functioning of Indian federalism so far, we now turn to the challenges it faces in the new millennium. Has there been, as a recent study suggests, "a shift of power and influence from the Centre to the state capitals and further down

to the level of sub-regions, districts and panchayats?" The evidence put forward in support of this assertion is "the remarkable rise of regional and caste-based parties" and "the clamour for separate states in many parts of the country". Let us assess this claim in the light of contemporary trends:

The rise of cultural intolerance poses a threat to the delicate fabric of pluricultural federal democracy. Two broad set of issues remain unresolved, if one sets aside the ones resolved by the judiciary (president's rule) and the political process. The issue of governor's powers to withhold assent to state legislation remains a contentious issue but norms are being slowly evolved.

### **First, Identity related issues:**

They are reflected in the demands for a second SRC and the recasting of internal boundaries of the federal system to respond to self-rule aspirations. Telangana has already been created, but Vidarbha and the restructuring of Uttar Pradesh remain live issues, among several others.

### **Second, resource related tensions:**

Water resources, long standing inter-state river water disputes (Cauvery, Narmada) and compensation through equalisation formula for unequally endowed states. Linked to this are demands for greater autonomy and self-rule in control over resources.

While these remain live issues, the major issues that are likely to dominate the federal reform agenda in the new millennium relate to the reallocation of financial resources and an overhaul of the fiscal system. The rapid growth in the tax revenues of the Centre as compared to those of the states has focussed attention on the mechanisms of both vertical and horizontal allocation.

The growth in power and influence of state-based parties shapes the course of Centre-state relations primarily through the mechanism of coalition governments at the Centre. More importantly, some parties have engineered, through the political



process, an enhanced participation in national policy-making that they could not achieve through formal institutions of co-operative federalism. In effect, federal coalitions have given them participatory opportunities that were earlier denied to the states in institutions such as the now defunct Planning Commission and the National Development Council, or even the stunted Inter-State Council. The issue is no longer merely consultation but also concurrence in areas where "the legitimate interests" of the states are involved.

The challenge is simultaneously to invent new ways of facilitating the participation of states in the formulation of national policies and motivating them for effective implementation in key infrastructural areas such as power, roads, and basic civic amenities. In the context of a multi-party system and

the need to forge federal coalitions for national governance, this becomes all the more necessary. The political process is able to achieve this to some extent, but is no substitute for effective institutionalised arrangements.

The logic of democratic development in a federal democracy allows several experiments in governance to take place simultaneously, provided they respect the basic values and features of the Constitution. This experimentation has been partially successful at the limited level of administrative methods and techniques, and best practices have effectively emerged from the states, e.g. mid-day meals in schools and urban land valuation systems.

But the capacity of the system to generate alternative paths of development through experimentation by the states has been limited by

the constraining framework of a centralised federal system. What is more disconcerting is that the political culture and practices of 'national' or polity-wide parties have been replicated by regional parties in the states. They have developed stakes in centralised federalism and have become smaller versions of the parties they have dislodged successfully. In sum, they have no alternatives to offer in real terms.

While cooperative and competitive federalism have become the new buzz words in the political discourse of the day, it is important to remember that Indian federalism lives in the states and the districts. Unless real changes can be initiated at these levels, the consolidation of India's federal democracy will remain an unfinished task. □

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