

## Federalism and fairness

Federalism is once again the focus of political discourse in India. Karnataka Chief Minister Siddaramaiah set the cat among the pigeons when he highlighted Kannada pride by unveiling an official state flag last month. Then in a Facebook post on “Regional Identity & Federalism”, he advocated the need for States to have both financial and cultural autonomy.

### Karnataka flag unveiled

Since quitting the National Democratic Alliance, Andhra Pradesh Chief Minister Chandrababu Naidu has also been vocal in criticising the Central government for taxing the southern States to spend on the northern States.

And also in March, the Dravida Munnetra Kazhagam’s working president M.K. Stalin wrote to Prime Minister Narendra Modi and the Chief Ministers of 10 non-Bharatiya Janata Party-ruled States expressing concern over the terms of reference for the 15th Finance Commission. The Centre’s direction to use the 2011 Census instead of the 1971 Census for population data has riled the south. As the population in these States has stabilised, the concern is that their share of tax allocation would reduce.

While “federalism” has become the catch-all term for these concerns, there are principally three distinct yet inter-related strands to the debate — a constitutional claim for autonomy; a demand for fairer distribution of taxes; and an assertion of linguistic and cultural rights.

### Constitutional context

In his Facebook post, Mr. Siddaramaiah asserted that while India became a “union of states with a strong center” in 1947, now “from a union of states, we are evolving into a federation of states”. This is indeed a strong claim to make as Article 1 of the Constitution declares India as a “Union of States”. Such phrasing was deliberate. On November 4, 1948, while moving the Draft Constitution in the Constituent Assembly, B.R. Ambedkar responded to the question as to why India is a “Union” and not a “Federation of States”: “The Drafting Committee wanted to make it clear that 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.” Hence, political scientist Alfred Stepan classified India as a “holding together” as opposed to a “coming together” federation. Unlike the federal form of government in the United States, which is described as an indestructible union composed of indestructible States, India is an indestructible union of destructible States. The units of Indian federation have undergone multiple transformations since 1947. This is because Article 3 of the Constitution empowers Parliament to create new States. While such a provision can be seen as giving the Union too much power, it has arguably been central to holding India together since it allows the federation to evolve and respond to sub-national aspirations.

### Birth pangs of a new federal polity

While its constituent units have changed, the relationship between the Union and the States has remained the same. Hence, from a constitutional perspective, it would not be accurate to say that India is moving from a union to a federation of States. However, after successfully “holding together” as a federation for over 70 years, the larger question is whether there is a need to reconsider the distribution of powers between the Union and the States. While the flexible nature of federalism under the Constitution has served India well, the continued existence of provisions

such as Article 356 (President's rule) goes against the grain of federalism. Any serious political movement around federalism should question the necessity of retaining such constitutional provisions which are vestiges of colonial rule.

#### A viable federation

Over the last couple of decades there has been a shift in political and economic power from the Centre to the States. While some have felt that this trend would reverse after the formation of a Central government with a simple majority for the first time in 25 years, Prime Minister Narendra Modi has sought to assuage such concerns by invoking the idea of "cooperative federalism". The 14th Finance Commission, in 2015, recommended raising the share of States in the divisible pool of Central taxes from 32% to 42%. However, beyond this measure, the Centre has not inspired much confidence regarding its commitment to federalism.

#### Southern States to discuss 'bias' in fund devolution

States such as Karnataka have asserted their linguistic and cultural rights in the wake of the Centre's interventions such as a promotion of Hindi. Now, the skewed terms of reference for the 15th Finance Commission have brought the south together in making a strong case for fiscal federalism. The Commission has been using the 1971 Census for population data to ensure that States that have been successful in family planning are not penalised. This came in the wake of the 42nd Amendment to the Constitution which froze the distribution of Lok Sabha seats among States for 25 years, which was extended for another 25 years, in 2001. This prudent political compromise is now being tested.

Federalism is ultimately based on trust between its various constituent units. If a set of States perceive that their progress is being penalised, the viability of such a federation comes into question. While the southern States contribute to the nation economically, they don't occupy a central space politically and are further marginalised culturally. Finally, unless the concerns regarding fairness are addressed from constitutional, financial and cultural fronts, the fault lines developing in our federation could deepen further.

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The India-Japan economic relationship remains underwhelming in relation to strategic ties

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