

PB MEHTA WRITES: FEDERALISM IS SUCH A VANISHING ACT IN INDIA

Relevant for: Indian Polity | Topic: Issues and Challenges Pertaining to the Federal Structure, Dispute Redressal Mechanisms, and the Centre-State Relations

Federalism in India reminds one of the grinning Cheshire cat in Alice in Wonderland. At one point the cat disappears and all that remains is the grin, an enigmatic trace of doubtful significance. Federalism is such a vanishing act. The truth, however, is that there never has been a serious principled constituency for federalism in India.

Let us examine the sources of federalism scepticism. The Indian Constitution was designed to be opportunistic about federalism. As BR Ambedkar had put it, “India’s Draft Constitution can be both unitary as well as federal according to the requirements of time and circumstances.” As he went on to say, “Such a power of converting itself into a unitary state, no federation possesses.” The ideological underpinnings of this flexible federalism are still the default common sense of Indian politics. The imperatives of security, state building, and economic development are always allowed to trump federal pieties.

Four things sustain federalism. But, in retrospect, they turned out to be very contingent political foundations for federalism. The first was a genuine concern about whether a centralised state could accommodate India’s linguistic and cultural diversity. The States Reorganisation Act and the compromises on the issue of languages was a victory for federalism. It allowed India to use federalism to accommodate linguistic diversity. But ironically, it is precisely because this issue got defused through intelligent compromise that it is no longer a potent force in Indian politics. All governments that have wanted to undermine federalism, including the [BJP](#), are often careful about not undermining this compromise. Since only an identity-based politics in a state can be a genuine threat to the Centre, taking that off the political agenda actually gives the Centre a freer hand on other aspects of federalism. So long as regional linguistic identities are not threatened there is no natural source of resistance to centralisation.

The second underpinning of federalism is actual distribution of political power. The rise of coalition governments, economic liberalisation, regional parties, seemed to provide propitious ground for political federalism. But one must not overestimate the commitment to federalism in that period of fragmentation. Political federalism is quite compatible with financial, and administrative centralisation. But what fragmentation of power effectively meant was that each state could bargain for certain things; or very strong leaders could veto central proposals. It is striking that the period of fragmented power, strong chief ministers, did nothing to strengthen the institutions of federalism, for example, by making the council of chief ministers a more robust forum. “Federalism for me but not for thee” — this can be evidenced in the bifurcation of erstwhile Andhra, which was done against the resolution of the state legislature, and in Kashmir which was stripped of statehood. No chivalrous federalism warriors reached for their swords to defend the principle that a state can’t be extinguished without its own consent. Regional parties do not necessarily imply a coalition for federalism.

In the current farmers’ agitation, these contradictions are on full display. The federalism argument against the farm bills is the strongest legal argument. But you cannot both ask for a Central MSP guarantee and defend federalism at the same time. For its part, the central government itself allowed provisions that enable states to suspend labour laws if necessary, but is unwilling to do that in the case of agriculture.

The third thing that sustains federalism is the political and institutional culture. But alas, the culture of both the BJP and the Congress was, to put it mildly, committed to the most extreme interpretation of flexible federalism, including procedural impropriety to oust opponents. The only thing that might have changed significantly in the political culture is what Neelanjan Sircar and Yamini Aiyar call attribution effects in politics. Because of the increasing presidentialisation of national politics, a single-party dominance with powerful messaging power, and change in forms of communication, the attribution of policy successes or failures might change, diminishing the stature of chief ministers considerably. The other source of institutional culture might be the Supreme Court. But there is little in the Court's conduct that allows us to predict where it might come down on federalism issues. To be fair, there was mostly a bi-partisan consensus on honouring the technical recommendations of institutions like the Finance Commission, and we will have to see if this last bastion of formal impartiality is eroded.

The fourth thing that sustained federalism was what Louise Tillin has brilliantly analysed as "asymmetrical federalism" — special exemptions given to various states. But asymmetrical federalism has always been subject to three pressures. For Kashmir, asymmetrical federalism came to be seen as the source, not the resolution, of the security threat. Even in the North-east, local conflicts within the scheme of asymmetrical federalism and a discourse of security allowed the Centre to step in. And increasingly, there will be pressure on the question: Which laws under asymmetrical federalism are compatible with Article 14 of the Indian Constitution?

Other ironies abound. The most far-reaching change in the Indian Constitution on federalism was GST. It does increase centralisation in the system. But no matter what one thinks of GST, warts and all, it is a product of the cooperation of the states, who still have a significant role in shaping it. The states did push back against the possibility of the Centre reneging on its commitment on payments. But except in the case of financial meltdown at the Centre which seriously affects all states, there will not be much pushback.

So states will also use their autonomy selectively. Most states are reluctant to honour more decentralisation within, to rural and urban bodies. Again, ironically, BJP-ruled states like Haryana and Madhya Pradesh are jumping on the bandwagon for local domicile-based reservation in the private labour market. These are against the party's own obsession of "one nation, one everything," but also in contravention of basic constitutional principles. It is true that the Centre disproportionately controls resources in India; but very few states have shown a zeal to increase their own financial headroom by utilising whatever powers they might have on taxation.

So flexible federalism will be bent in all kinds of ways. But it is important to remember that this mess is not a product of Centre versus states. It has been co-produced by a political culture in both Centre and the states. Few are losing sleep over federalism, perhaps because there is only the mysterious grin, but no cat to bell.

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