

SIX

ISSUES IN INDIAN FEDERALISM : AN ANALYTICAL DISCUSSION OF THE AMBEDKAR APPROACH

Sandeep Shastri*

The Indian federal system, as envisaged by the Indian Constitution, has been subjected to a variety of stresses and strains during the last four decades of its operation. A survey of the current trends that appear to be shaping the course of Indian politics emphatically underscores the key role that the dynamics of Indian federalism has come to play. It would be most appropriate and pertinent to analyse - in perspectives - the views of Ambedkar on the subject of Indian federalism in particular and the concept of federalism in general.

A study of Ambedkar's approach to the issues relating to Indian federalism, the philosophy that can be discerned in his examination of federal questions, the rational and logic of his argument in this regard are of immense value in any review of the deficiencies and lacunae that the federal system presently experiences and displays.

Ambedkar's approach to issues relating to Indian federalism is not merely reflected in the provisions of the Indian Constitution relating to federalism or in the speeches that he made in the Constituent Assembly as the Chairman of the Drafting Committee, but also in the views that he expressed in various forums, both before associations with the Congress party and later after he disassociated himself with the Congress party and the government.

It is often opined that there is an element of inconsistency in the stand that Ambedkar adopted on the federal question. It needs to be emphasised that Ambedkar's statements have to be considered in the backdrop of the nature of the political framework and the wider con-

Dr. Sandeep Shastri is Lecturer in Political Science, Bangalore University, Bangalore, Karnataka, India.

text in which these views were expressed. An apparent shift in his stance, many a time, reflected a change in the conditions that governed the issue.¹ Further, for him, the welfare and well-being of the depressed classes, always remained the principal motivating force. He eloquently outlined the factors that prompted him to cooperate with the Congress, while yet retaining the values that he cherished: "...I would never lose my separate identity. If anybody asks for my cooperation, I would gladly give it for a worthy cause. I cooperated with the Congress Government for four years with all my might and with all the sincerity in the service of my motherhood. But during all these years I did not allow myself to merge into the Congress organisation. I would gladly help and cooperate with those who are sincere in their... support (to) the cause of the Scheduled Caste's people".²

While a few leaders believed that Ambedkar's associating himself with the Congress party reflected a change in his attitude³, the fact that Ambedkar stood firm on his principles is evident from the contents of a letter written by Sardar Patel to Sir C.P. Ramaswamy Aiyar, as early as 6 May 1948, wherein Patel attempts to convince Aiyar that there was no rift between the Congress leaders and Ambedkar: "Ambedkar, I can assure you we shall try to keep with us as long as possible. He may say things in order to defend his own position, but I fully realize that he is and can be of use to this country".⁴

Even in the last speech that he delivered in the Constituent Assembly, Ambedkar emphasised that he "came into the Constituent Assembly, with no greater aspiration than to safeguard the interests of the Scheduled Castes".⁵

In this article, an attempt has been made to select only a few major problems that appear to have occupied the spotlight of attention in any discussion on the recent trends in Indian federalism. Ambedkar's diagnosis of many of the finer nuances of Indian federalism, his prescription for preventing friction in federal relationships - all very relevant to the present time - offer valuable insights for the effective handling of the crises that confront our present federal system. The issues selected for in - depth scrutiny, are inter-related and the impacts of the developments in one sphere are invariably experienced in the other spheres also.

The Quest For National Unity

The multi-track dimensions of national unity, when applied to the Indian scene, needs to be analysed in the broader framework of the country's historical traditions, present conditions and the interplay of

a host of social, economic, political, religious and cultural forces. It involves achieving cohesion among varied - at times divergent - forces and factors operating in the nation on the one hand and coordinating the mental processes of the individual that form a society on the other. For national unity to become a reality, its goals needs to be the harmonising of the activities of diverse groups with each group retaining its identity, blending together varied interests without demanding their total merger, consolidating the process of development, modernisation and change, without overlooking the basic values and foundations of a society, reconciling demands without permitting it to lead to regimentation and synthesising diverse opinions without any attempt to snuff dissent.

In the pre-Independence scenario, Ambedkar frequently expressed himself in favour of the Indian people making conscious efforts to develop a common identity and feeling of oneness. While participating in a debate in the Bombay Legislature, he asserted: "I do not want that our loyalty should be in the slightest way affected by any competitive loyalty whether that loyalty arises out of our religion, out of our culture or out of our language. *I want all people to be Indians first, Indians last and nothing else but Indians*".⁶

Even while emphasising the need for protecting the interests of the minorities, Ambedkar stressed the imperative need to strive relentlessly for the realisation of a united India: "To say that this country is divided by castes and creeds and that it cannot be one united self-governing community unless adequate safeguards for protection of minorities are made as part of the Constitution, is a position to which there can be no objection; but the minorities must bear in mind that although today we are riven by and atomised by caste, our ideal is a united India. That being so, it follows that every minority in formulating the safeguards it needs must take care that they will not be incomplete with the realisation of this great ideal".⁷

Thus during British rule, Ambedkar attempted, within the broad framework of strengthening the fabric of national unity and consolidating the forces of Indian nationalism, to provide adequate safeguards for the minorities. He stressed that true national unity involved recognising the need to protect the interests of the minorities. In this context he even advocated the unitary system of government. He, however, conceded, that he was ready to accept the federal principle if "it can be shown that in it local autonomy is not inconsistent with central unity".⁸ Elaborating on this theme, he said, "As members of a minority, we look to the Central Government to act as a powerful

curb on the provincial majority to save the minorities from the misrule of the majority. *As an Indian, interested in the growth of Indian nationalism, I must make it plain that I am a strong believer in the Unitary form of government and the thought of disturbing it, I must confess, does not please me very much. This Unitary Government has been the most potent influence in the building upon of the Indian nation.* That process of unification which has been the result of a unified system of Government has not been completed and I should be loathed to withdraw this most powerful stimulus in the formative period and before it has worked out its end".⁹

Even in his maiden speech in the Constituent Assembly, Ambedkar stressed that personally he favoured "a strong united Centre.... much stronger than the Centre we had created under the Government of India Act of 1935....".¹⁰ Yet, he was willing to accept a federal framework if it ensured the unity and integrity of the country on the one hand, the protection of the depressed classes on the other.

The Drafting Committee of the Constituent Assembly, in its approach to the federal question, asserted that a fortified central authority was imperative to maintain the unity and integrity of the nation. Granville Austin eloquently outlines the practical realities that shaped the approach of the Constituent Assembly to this vital issue: "The exigencies of the present as well as the pattern of the past impelled the Constituent Assembly to create a strong central government.....".¹¹

The provisions of the Indian Constitution - especially these relating to the federal system -- Ambedkar believed, would go a long way in cementing the forces of national unity and integrity. He, however, warned that once the Constitution came into operation, a host of forces would be unleashed, which could, in the course of time, threaten this unity and integrity. He counselled the need for deep introspection when he forewarned: "On 26th January 1950, India will be an independent country.... will she maintain her independence or will she lose at again?... *This anxiety is deepened by the realisation of the fact that in addition to our old enemies in the form of castes and creeds, we are going to have many political parties with diverse opinions...* if the parties place creed above country, our independence will be put in jeopardy a second time and probably be lost for ever".¹²

The unity and integrity of the nation has remained a dominant theme in any discussion of the federal system. The Sarkaria Commission (whose terms of reference included a review of the working of the Indian federal system in the context of the framework of the Constitution designed to promote the unity and integrity of the

country) also opined: "The working of the Constitution.... has demonstrated that its *fundamental scheme and provisions have withstood reasonably well the inevitable stresses and strains of the movements of a heterogeneous society towards its developmental goals*".¹³

All the State Governments and the various political parties, in their reply to the questionnaire circulated by the Sarkaria Commission, unequivocally asserted that unity and integrity of India is of paramount importance. However, they differed in their approach to the final details of an ideal federal relationship to achieve this unity.¹⁴

The impact of unity and integrity consideration, in the drafting of the Constitutional provisions, is further apparent when the nature of the federal structure envisaged by the Constitution is examined.

The Dynamics of the Indian Federal Structure - An Overview

The Federal scheme that came to be adopted by the Constituent Assembly reflected the dominant mood of the Assembly on federal issues. As mentioned earlier, Ambedkar himself had expressed his personal preference for a strong central authority. Later, in changed political circumstances, he outlined the rationale of the proposed Indian federal structure, while introducing the provisions of the Draft Constitution in the Constituent Assembly, in the following words: "....though India was to be a federation, the federation was not the result of an agreement by the States to join in a federation, not being the result of an agreement, no state has a right to secede from it. Though the country and the people may be divided into different States for convenience of administration, *the country is one integral whole, its people a single people living under a single imperium derived from a single source*.... The Drafting Committee thought that it was better to make it clear at the outset rather than leave it to speculation....".¹⁵

The Indian federation envisaged was neither a 'League of States' nor were the States "administrative units or agencies of the Union Government".¹⁶ Even while tilting the power balance in favour of the Centre, the Constitution provided for specific areas of influence and operation for both the Centre and States. In Ambedkar's view, the basic premise of federalism was: "....that the Legislative and Executive authority.....(was) partitioned between the Centre and the States not by any law to be made by the Centre but by the Constitution itself....The States under our Constitution are in no way dependent upon the Centre for their legislative or executive authority. The Centre and the States are co-equal in this matter".¹⁷

The federal framework created, attempted, in Ambedkar's view, to

provide "flexibility to the system. "Indian federalism", he asserted, "would not suffer from the faults of rigidity and legalism. Its distinguishing feature is that it is a flexible federation".¹⁸ An attempt was made to shape the federal system in such a manner that it would be able to meet the demands of any situation. The system could be "both unitary as well as federal according to the requirements of time and circumstances".¹⁹

Unity with diversity was yet another significant theme mirrored in the federal arrangement. While framing the federal provisions, the Constituent Assembly appeared to have taken cognisance of the nations multi-dimensional diversities at the social, economic, religious, cultural and geographical levels. It was hoped that the federal arrangement would help both mirror and cater to the diversity more effectively. However, the underlying imperative for unity was never lost sight of. Uniformity with regard to basic essentials was sought to be ensured through a single judiciary, uniformity in fundamental laws and a common All India Service.²⁰

In this context, mention must also be made of the decision of the Constituent Assembly to provide for single citizenship. The American experience, where there exists dual citizenship, was cited by Ambedkar in defence of retaining single citizenship in India: "Each State (in U.S.A.) has.... certain rights in its own domain....there are a number of rights that a State can grant to its own citizens or residents that it may and does legally deny to non-residents or grant to non-residents on more difficult terms....There is only one citizenship for the whole of India. It is Indian citizenship...Every Indian has the same rights of citizenship no matter in what State he resides".²¹

The preservation of unity with diversity was sought to be further strengthened in the Constitutional arrangements by ensuring that the State Governments work under the subordination of the Union Government.²² Ambedkar sought to justify the overriding powers of the Centre with the following argument: ".... these overriding provisions do not form the normal feature of the Constitution. Their use and operation are expressly confined to emergencies only...the residual loyalty of the citizen in an emergency must be to the Centre and not to the Constituent States, for it is only the Centre which can work for a common end for the general interests of the country as a whole".²³

Thus the Constituent Assembly, keeping in mind the ground realities of India's political history and the need to preserve and cement the forces of political unity, ensured the existence of a strong centre even while providing specifically for a measure of State autonomy. It was the fervent hope of leaders like Ambedkar that the

balance that they had so assiduously arranged would strengthen the forces of national integration and pave the way for constructive and harmonious cooperation between the Centre and the State.

Independent India's federal tradition has largely been shaped by the working of the Indian political system, the attitudes of the political leaders, the stark realities of Indian politics and the crosscurrents that operated therein. An increased degree of centralisation in the working of the federal structure has been the inevitable consequence. The manner in which the centralisation of powers has been effected runs counter to the framework that was envisaged by Ambedkar.

The advocates of a strong Centre are emphatic in their belief that any step in the direction of weakening the Centre would only open the flood-gates to eventual 'balkanisation'. A strong Centre is the only panacea to stem the institutionalisation of sub-national loyalties, they assert. The imperatives of the past and the conditions of the present could push the system towards disintegration in the event of centralisation not being effectively encouraged. The bonds of nationalism, it is emphasised, need to be sufficiently strengthened and consolidated before permitting the sentiments of regionalism from gaining ground.

The Sarkaria Commission also commented on the rise of sub-national forces and viewed this phenomenon as being detrimental to the interests of the nation: "Very often the sub-nationalist sentiment which is initially based on linguistic, religious or ethnic groupings gains strength with a blend of economic issues such as those relating to....economic backwardness. One of the most significant developments has been the rise of linguistic chauvinism, re-arrangement of the boundaries of the States on linguistic basis....resulting in fissiparous tendencies".²⁴

The Indian National Congress, which has over the years argued in favour of the pre-eminence of the central authority, has categorically stated that the nation was able to effectively counter the forces of disunity only because of the strong central authority. It has asserted: "....the strength of the Centre cannot and should not be diluted in any manner whatsoever at any time in the foreseeable future. The 'strength' of the Centre, however, is not a static concept. What is considered adequate 'strength' at a given time may well fall short of the needs thrown up at another time. 'Strength', therefore, should be taken as a function of effectiveness".²⁵

However, over the years, the demand for a greater and more meaningful devolution of power has been assertively and more

stridently articulated. The supporters of this view-point argue that the preservation of national unity and the process of consolidating the forces of national integration presuppose the acceptance of the manifold diversities present in the nation. Any attempt to tackle these diversities from a central point of control would only serve to heighten the tension in the system. Further, the devolution of power would create the necessary congenial conditions for the efficient functioning of the administration. The pronounced centralisation that has characterised the working of Indian federalism, it is asserted, has cut at the very roots of our federal foundations. Those in power at the Centre, "have been obliged to use diverse strategies and tactics, which were not always sound from long-term interest".²⁶ Commenting on the ills of over-centralisation, the Sarkaria Commission averred: "*Centralisation leads to blood pressure at the Centre and anaemia at the periphery. The inevitable result is morbidity and inefficiency. Indeed, centralisation does not solve but aggravates the problems of the people*".²⁷

It is evident from the above discussion that while the Constituent Assembly laboured to delicately balance the federal equation by reconciling the creation of a strong Centre with State autonomy, the manner in which the federal system has been operated has resulted in a grave imbalance in federal relations on the one hand and severe dilution of the philosophy underlying the federal arrangements on the other. The political colour that Centre-State relations has assumed is obvious from the reactions of State Governments and some political parties to the questionnaire circulated by the Sarkaria Commission. A tabular representation of their views on select issues has been undertaken.

Ambedkar had, time and again, stressed that the provisions of the Constitution, which had been drafted under certain historical circumstances, were meant to harmonize the relations between the Centre and the State. It was hoped that these provisions would be scrupulously adhered to both in letter and in spirit. These hopes, unfortunately, have not been translated into reality.

A classic example which bears testimony to the open abuse of Constitutional provisions and a blatant disregard for its underlying philosophy is with respect to the Centres' frequent use of Article 356. In the Constituent Assembly, Ambedkar had asserted that this Article would remain a 'dead letter'. Discounting the possibility of its political abuse, he felt that the President would ascertain the facts, issue warnings and if necessary order elections before resorting to this Article. He stated: "...We ought to expect...such articles will never be called into

operation and that they would remain a dead letter. If at all they are brought into operations, I hope the President *who is endowed with these powers, will take proper precautions before actually suspending the administration of the provinces*. I hope the first thing he will do would be *to issue a mere warning...If that warning fails, the second thing for him to do will be to order an election, allowing the people...to settle matters...It is only when these two remedies fail that he would resort to this article*.²⁸ Unfortunately, Ambedkar's hopes have been belied by those who are entrusted with the responsibility of running the political system today.

The federal relations have also been vitiated by the wide disparity in the size,²⁹ population,³⁰ representation,³¹ resources and level of economic development among the various States. In the pre-Independence era, Ambedkar had opposed the creation of linguistic States on certain principles. When the demand for the creation of a separate Karnatak province was made, Ambedkar opposed it on the ground that the strength of the province lay in a polyglot administration. The rise of linguistic consciousness would adversely affect the feeling of oneness that had to be nurtured in the Indian people.³² While the creation of a new province may help a few politicians realise their political ambitions, he feared that the dismemberment of the province would result in the dismemberment of the minorities: "I cannot forget the fact that in the Karnatak we have only two seats. I am sure that those members of the Scheduled Classes who come from the Karnatak must be feeling that their strength lies in the fact that there are 13 members from other parts of the presidency (Bombay) to look after them".³³

After independence, when the demand for reorganisation of the States on the principle of language was increasingly articulated, Ambedkar expressed his support to the demand. In a memorandum submitted to the Commission on Linguistic provinces (Dar Commission), he stated: "A linguistic province produces what democracy needs, namely, the social homogeneity...there is no danger in creating Linguistic provinces. Danger lies in creating linguistic provinces with the *language of each province as its official language*".³⁴ Ambedkar was of the firm conviction that if the provincial language became the official language, it would lead to the rise of 'provincial nationalities' and this would threaten the very integrity of the nation.³⁵

Further, Ambedkar also believed that language alone should not be the criterion for the creation of the province. The use of this yardstick

alone would result in the creation of a few big States and several small States. This would permit the domination of a few States in national politics.³⁶ The apprehension that Ambedkar expressed with regard to the domination of the larger State has to-day become a reality.

The misuse of Constitutional provisions for political benefit has in a large measure been responsible for the escalation of tensions in federal relations. Ambedkar had emphatically declared in the Constituent Assembly that if anything were to go wrong under the Constitution, it would not be because the Constitution was bad, but because man was vile.³⁷

The clarity with which Ambedkar interpreted the provisions of the Constitution, the insights that he offered on ways and means to handle sensitive federal questions, and the advice he gave to the future political leaders of India continue to be relevant. In the light of this experience, political leaders, endowed with sincerity, sensitivity, competence and commitment would be in a position to tackle the problems that confront our federal system today. Ambedkar quoted a Greek historian, Grote, to throw light on the concept of constitutional morality. The words of Grote are still relevant.³⁸ "Constitutional morality means a paramount reverence for the forms of the Constitution, enforcing obedience to authority...action subject only to definite legal control and unrestrained censure of those very authorities as to all their public acts.....a perfect confidence in the bosom of every citizen amidst the bitterness of party contest that forms part of the Constitution will not be less sacred in the eyes of his opponent than his own".

References

1. Ambedkar's approach to Linguistic States is a case in point.
2. Bhagwan Das (ed.), Thus Spoke Ambedkar, op.cit., p.34.
3. Sardar Patel in a letter addressed to G.V. Mavalankar dated 1st July 1947 states that "All people here feel that his (Ambedkar) attitude has changed and he has been a useful member".
4. *Ibid.*, p.241.
5. C.A.D. Vol. II, p.973.
6. B.R. Ambedkar, Writings And Speeches, Vol.II, p.195.(emphasis added).
7. As quoted in K.R. Narayanan, "Remembering Ambedkar", Mainstream, Republic Day Special Issue, 1984, p.14.
8. B.R. Ambedkar, Writings And Speeches, Vol.II, p.508.
9. *Ibid.*, p.507 and p.508 (emphasis added).
10. C.A.D. Vol. p.102.
11. G. Austin, The Indian Constitution: Cornerstone Of A Nation, op., cit.,
12. C.A.D. Vol.II, p.977 and p.978. Emphasis added.
13. Report Of The Commission On Centre-State Relations, (New Delhi, 1988, Part I, p.544. Emphasis added.

14. A detailed discussion on this issue is contained in Sandeep Shastri, "Indian Federalism And National Integration -- A Critique", The Indian Journal Of Political Science, Vol.7, p.43, Emphasis added.
15. C.A.D. Vol. 7, p.43, Emphasis added.
16. *Ibid.*, p.33.
17. C.A.D. Vol.II, p.976.
18. C.A.D. Vol.II, p.36.
19. *Ibid.*, p.34.
20. *Ibid.*, p.34.
21. *Ibid.*, p.37.
22. C.A.D. Vol. 8 p.502.
23. C.A.D. Vol.II, p.977. Emphasis added.
24. Report Of The Commission On Centre-State Relations, pp.15 and 16. Also see Table 1 at the end of the article.
25. Memorandum submitted by the Indian National Congress to the Commission on Centre-State Relations. Reports Of The Commission on Centre-State Relations, part 2, p.663. Emphasis is added.
26. *Ibid.*, p. 15.
27. *Ibid.*, p. 542. Emphasis added.
28. C.A.D. Vol.9, p.177. Emphasis added.
29. Five states account for more than 50% of the total area of the country. Madhya Pradesh (13.49 %), Rajasthan (10.41 %), Maharashtra (8.37 %). Source : Censuses Of India, 1981, Series I; part II, A (i), p. 573-81.
30. Five States account for more than half of the population of the country. Uttar Pradesh (16.18 %), Bihar (10.20 %), Maharashtra (9.16 %), West Bengal (7.97 %) and Andhra Pradesh (7.81 %). Source: Census Of India, 1981, series I, Part II, A (i), pp.14-19.
31. Five States account for more than half the membership of the Lok Sabha. Uttar Pradesh (85), Bihar (54), Maharashtra (48), West Bengal and Andhra Pradesh (42 each).
32. B.R. Ambedkar, Writings And Speeches, p.316.
33. *Ibid.*, p.316.
34. B.R. Ambedkar, Thoughts On Linguistic States, (Bombay, Thacker and Co., Ltd., 1954), p.30. Emphasis added.
35. *Ibid.*, p.12.
36. *Ibid.*, p.30.
37. C.A.D. Vol. 7, p.44.
38. *Ibid.*, p.38.