

# Pandemic and federalism

*Response to Covid- 19 shows carving out roles through  
consensus can address challenges to federal goveramance*



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**INDIA'S RESPONSE TO the COVID-19** pandemic- still a moving target having infected more than 5 million people in the country and claimed in excess of 80,000 lives- reflects the power, problems and potential of federalism in the country's polity. In spite of the rather unilateral response in terms of imposing a nationwide lockdown, the Centre eventually choose to work carefully with the states. And the most cynical of the chief ministers professed working with the Centre and other states to deal with a variety of challenges posed by the pandemic. In the past few months, the country has witnessed and interesting and remarkably coordinated effort by the Centre and states in addressing a collective challenge. This exigency response will help us a great deal in understanding Centre-state relations as well as in improving mechanisms of federal governance.

The experience offers an opportunity to revisit the recent debate around the federal organization of powers under the Constitution's Seventh Schedule. It has been argued that such organization of powers is not cast in stone and the arrangement requires a review. Such an exercise is indeed necessary, but what should be its broad contours? The review should allow the carving out of the roles of the Centre and states to address hitherto disregarded and emerging concerns- a viral pandemic or climate change, for instance.

In one of his columns in this newspaper, Bibek Debroy argued for the need to re-examine the distribution of powers under the Seventh Schedule so as to rationalize the Centrally Sponsored Schemes (CSSs) under which the Centre extends support in sectors pertaining to the State List (Spending issuer,' IE September 12, 2019). Why should the Centre spend, Debroy asked, on a state subject like health and why couldn't states contribute to a Union subject like defense? His argument sparked a debate. Also, in this newspaper (Leaning on the states,' IE September 24, 2019) M. Govinda Rao argued that defense is a 'national public good" and has to be a Union subject." The constitutional assignments between the Centre and sub national governments in federations," Rao pointed out," are done broadly on the basis of their respective comparative advantage". That is why " the provision of national public goods is in the federal domain and those with the state-level service span are assigned to the state". The debate seems to have settled on at least three counts.

One, the federal organization of powers can be revisited and reframed. Two, the CSSs must continue but they should be restructured. In addition to the scheme's rationale of reducing the horizontal and vertical imbalance among states, the Centre is also obligated to address the externalities of the states' developmental efforts under the subjects allocated to them. Three there is a need for an appropriate forum to discuss the complex and contentious issue of reviewing federal organization of powers and restructuring of central transfers.

Should such a review chop and change the subjects in the Union, State and Concurrent Lists? A perusal of the country's response to the COVID-19 indicates that the exercise be guided by a more nuanced perspective.

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Consider the manner and the content of reconciliation and repositioning between the Centre and states in the course of the response to the pandemic. The Centre's efforts are now primarily focused on achieving economies of scale in vaccine procurement, knowledge production for setting standards and guidelines for the states, and mitigating inter-state externalities. States continue to play the dominant role in the execution of the actual response to the health crisis. In other words, the fundamental principles of comparative advantage prevailed, but they were organized on the basis of certain functional roles and responses.

So, here is the key take away. In spite of health being a state subject, the response to collective threats linked to the subject required some kind of organization of federal responsibilities on a functional basis.

How can such coordination be sustained on a long-term basis? A typical response is to recommend shifting subjects to the Concurrent List to enable an active role for the Centre. This is how the High-Level Group, constituted by the 15th Finance Commission, recommended shifting health from the State to the Concurrent List. A similar recommendation was made earlier by the Ashok Chawla Committee for water.

But is such shifting of subjects from the State to Concurrent List really feasible in these times of acute sub-nationalism, deep territorialisation and competitive federalism? Will the aspired cooperative federalism get the states to agree to ceding powers and conceding space, particularly in their traditionally exclusive domains? That seems unlikely. Yet, the most collective threats and the challenges of coping with emerging risks of sustainability are linked to either the State List subjects or the ones that rely on action by states-water, agriculture, biodiversity, pollution, climate change. Some of these also require ensuring sustainability of common pool resources- water, for example.

This extended role of ensuring security against threats to sustainability of resources forms a new layer of considerations. This should define the contours of a coordinated response between the Centre and states- as it happened during the pandemic. In fact, such threats and challenges require the states to play a dominant role. At the same time,

the Centre must expand its role beyond the mitigation of inter-state externalities and address the challenges of security and sustainability.

The GST reforms is the most recent instance of such reworking of the Centre-state roles for a greater and collective goal. It involved a tortuous, but a new consensus building approach to implement the reforms. Former Finance Minister Arun Jaitley, who spearheaded its implementation, suggested a similar consensus building for sectors like health, rural development and agriculture. The country's response to the pandemic has shown that carving out role through consensus can address new challenges to federal governance.

What should be an appropriate forum for this purpose? The experience of the GST Council may help here as well. The ongoing friction between the Centre and the states over GST reforms tells us that consensus-building is not a one-time exercise. It has to allow sustained dialogue and deliberation. Is there an institutional space that offers the necessary resilience and credibility? Perhaps it is time to revisit the proposal for an empowered Inter-State Council.

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