



THEIR VIEW

MINT CURATOR

Fiscal federalism needs a look-in by the 16th Finance Commission

It'll have to deal with some tricky matters such as domain overlaps, externalities and the delegation of funds to lower levels



SUDIPTO MUNDLE
is chairman, Centre for Development Studies.

The Sixteenth Finance Commission (16th FC) is likely to be appointed soon. It is a good time to reflect on some challenging issues of fiscal federalism that the 16th FC may have to face.

First, there is the intersecting domain of the Finance Commission and Goods and Services Tax (GST) Council. The latter's decisions impact the own tax revenue flows of states and, more importantly, the size of the central tax revenue pool which is to be shared among the central and state governments as per the recommendations of Finance Commissions. Clearly, Finance Commission projections of state and central tax revenues, and recommendations based on them will be impacted by decisions taken by the GST Council. This was a major concern during the 15th FC deliberations when GST revenues were highly volatile, the GST administration was yet to stabilize and the GST Network IT platform was still problematic, especially for the preparation of e-way bills. This greatly exacerbated the challenges the 15th FC was facing in making revenue projections because of the unprecedented contraction of the economy in 2020-21 in the wake of the covid pandemic. Fortunately, most of these problems have been sorted out and GST has now emerged as a large and buoyant source of revenue for both the Centre and states.

Recent demands for greater centralization of expenditure assignment is another issue. India has a quasi-federal system. For purposes of legislation, regulation and administration, Schedule 7 of the Constitution assigns 97 subjects to the Union List, including all key subjects dealing with national security, external relations, Union finance, banking, foreign trade and major infrastructure. Another 66 subjects are assigned to the State List and 47 to the Concurrent List. But for concurrent-list subjects, in the event of differences between any state or states and the Union, the latter's view will be decisive. Similarly, if there is any conflict between Union and State legislation, Union laws will prevail. Finally, even for State subjects, the Union government can and does intervene through centrally sponsored schemes in which it incentivizes states to take up the Centre's chosen schemes by financing a part of the cost of these programmes.

The case for further centralization of this quasi-federal system mainly rests on economic considerations. The analytical literature has long established that private benefits are maximized when the jurisdictional assignment of a subject closely corresponds with the spatial benefit spread of public interventions under the subject. However, private benefit maximization has to be set off against possible cost savings from scale economies and lower transaction costs with greater central-



ization. Further, there is the issue of externalities. If social benefits or losses can spill over across boundaries of a lower-level jurisdiction, it requires assignment of the subject to a higher-level jurisdiction with wider spatial coverage. Finally, equity considerations may require greater centralization to enable the provision of comparable levels of public or merit services for all citizens in a country.

These economic arguments for greater centralization have to be seen in the context of larger political considerations and the distribution of political power across different levels of government. This question became important when non-Congress parties came to power in several states in the late 1960s, demanding greater de-centralization. It is again a major political issue today, with non-Bharatiya Janata Party governments in power in several states. A change in the assignment of subjects under schedule 7, whether towards greater centralization or greater decentralization, will entail constitutional amendments. How this plays out will depend a great deal on the political profile of the country after the 2024 general elections.

Another issue is the third tier of government. Though the Constitution referred to the importance of local governments and Panchayati Raj institutions, it left it to the states to decide what functions from the state list in the 7th schedule should be further delegated and assigned to local governments. Subsequently, the 73rd and 74th constitutional amendments spelt out detailed lists

of subjects that should be assigned, respectively, to Panchayati Raj institutions (PRIs) and urban local bodies (ULBs). But once again, it was left to the state legislatures to decide which functions, funds and functionaries should be assigned to PRIs and ULBs. Not surprisingly, there has been little progress in such assignment in most states, since it would empower elected PRI and ULB representatives at the cost of state legislators. State governments also correctly point out that it is difficult to transfer functions to PRIs and ULBs, which typically have very low capacity.

QUICK READ

The soon-to-be-appointed 16th Finance Commission will have to tackle problems in Centre-state relations and solve issues of centralization or otherwise on power and resource sharing.

An important challenge will be empowering India's third tier of governance that comprises panchayati raj institutions and local bodies, as this has only been paid lip service so far.

However, the capacity of these institutions cannot be strengthened unless they are provided the resources to build such capacity. It is a 'chicken and egg' problem. To help break this conundrum, the 13th, 14th and 15th FCs have all attempted in different ways to ensure substantial fund flows to PRIs and ULBs. Vijay Kelkar, chairman of the 13th FC, suggested that consolidated funds should be created for PRIs and ULBs, funded by earmarking a share of the central GST and state GST for them.

So far, except in one or two states, there have been no serious reforms to empower the third tier of government. However, if the electoral success of legislators at the state level comes to depend on empowering the elected representatives in PRIs and ULBs, that could set in motion a whole different political dynamic. Bottom-up dependence could gradually replace the prevailing system of top-down political patronage. *These are the author's personal views.*

Abortion law in America's like a rude joke on US democracy

Turning it over to 'the people' has resulted in deprivation of rights



FRANCIS WILKINSON
is a Bloomberg Opinion columnist covering U.S. politics and policy.

It is time to heed the Constitution, and return the issue of abortion to the people's elected representatives," Justice Samuel Alito wrote in his ruling last June overturning *Roe vs Wade*. Such democratic sentiment was a staple of the US abortion debate long before the American court's Republican majority overthrew *Roe* with its ruling in *Dobbs vs Jackson Women's Health Organization*. After all, who were these unelected judges making decisions for Americans? Contentious, complicated issues belonged in state legislatures, where elected representatives, close to people, subject to their influence and vote veto, would render a more judicious outcome.

In a concurring opinion in *Dobbs*, Justice Brett Kavanaugh declared that the court would no longer meddle in the debate. "Instead, those difficult moral and policy questions will be decided, as the Constitution dictates, by the people and their elected representatives through the constitutional processes of democratic self-government."

So, a bit more than a year later, how is "democratic self-government" going? In Wisconsin, the reversal of *Roe* left the state subject to an 1849 law banning abortion outright (when its population was about 305,000). The state legislature, dominated by Republicans as a result of gerrymander magic, has not overturned the 1849 law and has rejected calls to legalize abortion. In March, some Republican Assembly members proposed modifying the 1849 ban to make exceptions, but only for rape and incest and to "clarify" when doctors could perform an abortion to save the life of a mother. Both the Democratic governor and Republican Senate majority leader declared it a non-starter.

The legislature's proposal not a response to the will of the people. In a decade of polls taken prior to the *Dobbs* ruling by Marquette University Law School, roughly 60% of Wisconsin voters regularly said abortion should be legal in all or most cases. In a poll of likely voters taken in Wisconsin last September, only 37% supported a ban with exceptions for rape, incest and the life of the mother. Only 5% said they wanted a total ban.

The irony is not only that the Republican legislature, "the people's elected representatives," don't care what people want. It's that these legislators are insulated from electoral consequences for their failure to represent the whole public. The state's legislative maps are expressly designed to deliver Republicans almost two-thirds of legislative seats with about half of the over-



Politics has hijacked the popular will on abortion rights in the US

all state vote. This outlandish gerrymander that makes it possible to disenfranchise so many voters was blessed by none other than Alito and four other Republican appointees to the US Supreme Court.

But how are "the people's elected representatives" faring in delivering popular sovereignty on abortion elsewhere?

Republicans in Ohio approved a ballot measure, scheduled for August when turnout is expected to be low, to raise the threshold for passing statewide ballot measures from a simple majority to a super majority of 60%. As AP reported, the August measure "is aimed at thwarting an effort to enshrine abortion rights in the state's constitution this fall." The move to seize power from people is backed by the gun lobby, another minority faction that relies on Republicans for unpopular laws. Elsewhere, Missouri Republicans are eager to counter the popular will in similar fashion, as are Republicans in North Dakota. In Arkansas, they succeeded in making the ballot initiative process more cumbersome for the state's people.

Roe vs Wade always struck me as a pretty sketchy act of constitutional legerdemain. But as a political compromise, it was both brilliant and more credible than the US Supreme Court's return of power to "the people's representatives." *Roe* acknowledged the nation's overall ambivalence on abortion while giving women the power to decide on an individual case-by-case basis.

Roe was also popular. It clearly still is. In a Pew Research Center national poll last fall, 62% said abortion should be legal in all or most cases; 57% disapproved of the Supreme Court overturning *Roe*, with 43% strongly disapproving.

Alito's co-partisans in state legislatures do not appear terribly interested in what individuals, let alone "the people," think about abortion rights or much of anything else. Time and again, the Republican party has shown it is committed to imposing factional rule, replacing "the people," the polyglot of America, with the chosen group looking to 'Make America Great Again.'

Government of the people, by the people, for the people? One year after the momentous overturning of *Roe*, returning the issue of abortion to the people's representatives has proved to be just another joke on democracy. ©BLOOMBERG

THEIR VIEW

Geopolitical realities may yet push India closer to Nato

HARSH V. PANT



is professor of international relations, King's College London, and vice president for studies at Observer Research Foundation, New Delhi

Foreign policy is a strange terrain where even the best laid plans of nations have to be moulded and remoulded, constructed and deconstructed, depending on the plans of other actors. Much as nations would like to think that they have it all planned out, their friends and adversaries often end up surprising and challenging their long-held assumptions. Most of foreign policy, as a result, ends up not what nations plan for themselves, but what others end up doing to them. Policymakers may feel that they are in the driving seat, but more often than not, it is external factors that shape the trajectory of nations. Structural realities transcend personal predilections and ideological preferences.

India's strategic community is emotional about Russia and there are good reasons for that. When the West shunned and ostracized India, then Soviet Union stood by India through thick and thin, providing strategic cover to New Delhi's foreign policy aspirations. Bilateral ties between the two nations

have withstood the test of time. Even after the demise of the Soviet Union, all Indian leaders since the end of the Cold War tried to maintain strong ties with Russia, hoping against hope that the Cold War romance could be rekindled. From Narasimha Rao to Narendra Modi, all invested in the relationship to ensure that the two nations could continue to work on areas of mutual interest.

Yet, the relationship has been on a downward spiral despite the best efforts of New Delhi. And it is primarily because of the choices that Russia has been making. Russia's inability to emerge from its economic stasis, Tsarist ambitions on its periphery, cosy up to China, and more recently its aggression vis-à-vis Ukraine have all been exposing Russian strategic weaknesses and making a robust Russia-India partnership all the less likely. Many in the Indian strategic community wax eloquent about Russia's strategic importance for India, but the relationship just refuses to take off for all the efforts being put in by Indian policymakers.

The India-US relationship, on the other hand, presents a striking contrast. Indian policymakers often talk about standing up to the US. It is a barometer of Indian strategic autonomy. Resisting American pressure, real or fictitious, is a badge of honour.

Despite growing convergence with Washington ever since the fall of the Berlin Wall, the Indian leadership has been wary of being seen as closely allied with the US. It took the threat of a prime ministerial resignation for Manmohan Singh's party to rally behind him in support of the civil nuclear deal.

Prime Minister Narendra Modi did declare in 2016 that "the hesitations of history" were over when it came to India-US ties, and he has indeed managed to carve out a strong partnership with Washington. But even with this remarkable convergence, a

structural changes, however, have their own ways of manifesting themselves. Even as many in India would have preferred a more hands-off engagement with the US, the changing global and regional balance of power has produced a strategic reality that New Delhi

has not been able to ignore. China's rise and its aggression has made a strong India-US partnership a veritable necessity. The re-emergence of the Quadrilateral Security Dialogue (Quad) and its sustained momentum is a testament to the strategic imperative for regional players in the Indo-Pacific to create mechanisms and instruments for managing power shifts in the region.

It is in this context that one must view the debate on India's engagement with Nato. Recently, the US Senate's India Caucus Co-Chairs, Mark Warner and John Cornyn, declared that they would introduce legislation to give India 'Nato plus five' defence status. This came after the House Select Committee on the Strategic Competition between the United States and the Chinese Communist Party (CCP) recommended that the inclusion of India in Nato plus five would strengthen global security and deter Chinese aggression.

This saw a swift response from New

Delhi, which declared that the "Nato template doesn't apply to India."

It is certainly true that at the moment any discussion on India's engagement of any kind with Nato would be a non-starter. New Delhi doesn't do military alliances goes the popular theology. And perhaps India will never enter one. But just as the US is recognizing the need to work with a partner like India which doesn't fit the mould of a traditional treaty ally that Washington is used to dealing with, India should also recognize that in international relations, structural realities trump everything else. If China continues with its assertive and aggressive foreign policy agenda vis-à-vis India, New Delhi's options will have to evolve accordingly. Ideological rigidity has not served India well in the past and it is unlikely to help India in the future.

Modi's visit to the US last week was an acknowledgement that for all the Indian strategic community's desire to keep away from Washington, the pulls and pressures of foreign policy have ended up making the India-US partnership the most consequential one for India. And if this trend continues, many other shibboleths of the past will end up biting the dust. India's 'no' to Nato may also be one of them.