Twelve years later

The Madras High Court has prevented a miscarriage of justice in the 'Dinakaran' case

It is not often that political hooliganism is punished in a court of law. In cases that result in loss of life, investigation and prosecution tend to become inescapable – but the trials are often derailed because of the nexus between party heavyweights and police officers who lean on witnesses to turn hostile. It is therefore gratifying that the Madras High Court has broken the mould to set aside the perverse acquittal of all those involved in the attack on the Madurai office of *Dinakaran*, a Tamil daily, in 2007 and sentenced nine of them to life. Three persons were killed due to suffocation after parts of the office were set on fire by a mob owing allegiance to M.K. Alagiri, elder son of M. Karunanidhi and then a powerful Dravida Munnetra Kazhagam leader in the temple city. They were angry over an opinion poll carried in the daily, which is part of the Sun Group of Kalanithi Maran, grandnephew of M. Karunanidhi and brother of former Union Minister Dayanidhi Maran. The poll had claimed that Mr. Alagiri was less popular than his brother M.K. Stalin, who now leads the DMK after Karunanidhi's death in 2018. While the initial reaction from the media group and the press fraternity was one of anger and outrage, the cause for justice substantially failed after a patch-up between the feuding sections of the family. Even while the investigation was transferred to the CBI, the political system was working to save the party's hirelings. Most witnesses turned hostile, the trial judge rejected even photographic and videographic evidence on technical grounds, and the CBI failed to bring home the guilt of the assailants.

The High Court has noted that among the eye-witnesses who shied away from deposing in favour of the prosecution were *Dinakaran*'s own reporters and photographers, other journalists who covered the event and many police officers who were at the spot while the protest was turning violent and dozens of party cadre were gathering there with lethal intent. It has made a dark but possibly apposite comparison with the Best Bakery case, in which a key witness turned hostile and it was later revealed she had lied out of fear for her life. The Bench has pulled up the trial judge for "manifest perversity" in his treatment of evidence, especially in rejecting on flimsy grounds the testimony of forensic experts that there was no sign of manipulation or tampering in the photographs and footage presented in court. It was well known to the public that Mr. Alagiri wielded enormous clout at that time and that his supporters were involved in the incident. It is indicative of the atmosphere of intimidation that prevailed that even journalists who covered the incident denied their presence. While the court has prevented a miscarriage of justice in this case, it is a sordid truth that the state of affairs may continue in future too, unless amoral political leaders and pliant police officers mend themselves.

A different league

In its 12th iteration, the IPL fields concerns about its place in the cricket calendar

The Indian Premier League, since its launch in 2008, has become a sporting indulgence every summer. Cricketing purists may sneer at Twenty20s and their lack of historical resonance, but there is no denying the IPL's popularity and resilience. The 12th edition, which started in Chennai on Saturday with an easy victory for the holders Chennai Super Kings, will span diverse venues for the 60 matches. Despite the elections being held through seven phases during April-May, the Board of Control for Cricket in India has ensured that every franchise gets its rightful share of home and away matches. But besides the immediacy of sixes, dot-balls and ecstatic fans, the current IPL has to deal with the elephant in the room. It is expected to conclude on May 12, and immediately the biggest tournament in the International Cricket Council calendar awaits the players. The World Cup starts on May 30, with host England taking on South Africa at the Oval. India will open its campaign with the game against South Africa at Southampton on June 5. But there isn't enough time for the Indian team to recuperate.

Virat Kohli's men have been playing without a break over the last few months, with tours of Australia and New Zealand followed by the limited overs series against visiting Australians. They then plunged into the IPL, and now with the World Cup looming large, that old debate of club vs country has bubbled up again, and rightly so. There are fears about Indian and overseas cricketers picking up injuries in the league, which might scupper their World Cup plans. The national selectors, who are keeping an eye out for some surprise talent emerging in the league, are hoping that the core group of established stars will remain fit for cricket's showpiece event. There is speculation about the BCCI and the Indian team management having had a word with team-owners over workload management so that key players don't suffer a burnout. Yet, there is no clarity about this plan, and the fear of fatigue derailing the cricketers is a genuine one. Amidst this confusion, the IPL still presents an opportunity for a few Indian players to press their claims to be on the flight to London. The Australian duo of Steve Smith and David Warner, who are coming back after a one-year ban following the ball-tampering crisis at Cape Town in South Africa last March, are also keen to excel for Rajasthan Royals and Sunrisers Hyderabad, respectively, and claim their Baggy Green caps. Strangely, the domestic tournament with an international flavour, as Rahul Dravid described the IPL, continues to have no space for Pakistan cricketers, raising questions about its organising principles. Politics and commerce have reinforced each other to make an even deeper impact on the IPL.

Another look at fiscal transfers

The time has come to amend the Constitution to fix the proportion of shareable taxes for the States

C. RANGARAJAN

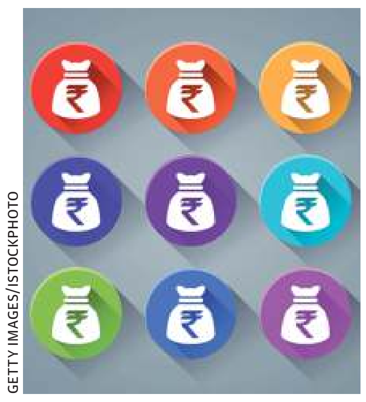
Federalism is an old concept. Its origin is mainly political. It is well known that the efficiency of a government depends on, among other factors, its structure. In large countries, it has been felt that only a federal structure can efficiently meet the requirements of people from different regions. Underlying this proposition is the premise that preferences vary across regions.

In our country during the independence struggle, provincial autonomy was regarded as an integral part of the freedom movement. However, after Independence, several compulsions, which included defence and internal security, led to a scheme of federalism in which the Centre assumed greater importance. Also in the immediate period following Independence, when the Centre and all States were ruled by the same party and when many of the powerful provincial leaders migrated to the Centre, the process of centralisation gathered further momentum. Economic planning at a nation-wide level helped this centralising process.

Fiscal federalism

Fiscal federalism is the economic counterpart to political federalism. Fiscal federalism is concerned with the assignment on the one hand of functions to different levels of government, and with appropriate fiscal instruments for carrying out these functions on the other. It is generally believed that the Central government must provide national public goods that render services to the entire population. A typical example cited is defence. Sub-national governments are expected to provide goods and services whose consumption is limited to their own jurisdictions. An equally important question in fiscal federalism is the determination of the specific fiscal instruments that would enable the different levels of government to carry out their functions. This is the 'tax-assignment problem' which is much discussed in the literature on the subject. In determining the taxes that are best suited for use at different levels of government, one basic consideration is in relation to the mobility of economic agents, goods and resources. It is generally argued that the de-centralised levels of government should avoid non-benefit taxes and taxes on mobile units.

This implies that the Central government should have the responsibility to levy non-benefit taxes and taxes on mobile units or resources. Building these principles into an actual scheme of assignment of taxes to different levels of government in a Constitution is indeed very difficult. Different Constitutions interpret differently what is mobile and what is purely a benefit tax. For example, in the United States and Canada, both Federal and State governments have concurrent powers to levy income tax. On the contrary, in India, income tax is levied only by the Central government though shared with the States. Recognising the possibility of imbalance between resources and responsibilities, many countries have a system of inter-governmental transfers.



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The Indian Constitution lays down the functions as well as taxing powers of the Centre and States. It is against this background that the issues relating to the correction of vertical and horizontal imbalances have been addressed by every Finance Commission, taking into account the prevailing set of circumstances. However, Central transfers to States are not confined to the recommendations of the Finance Commissions. There are other channels such as those through the Planning Commission until recently as well as the discretionary grants of the Central government.

In 2010-11, in the combined revenue receipts of the Centre and States, the share of the Centre was 64.68%. After transfer, the share came down to 40.20%. In the case of the States, their share before transfers was 35.32%. After the receipts of transfers the share of States went up to 59.80%. Thus the shares got reversed. In 2016-17, the share of the Centre after transfers was 33.37% and that of the States was 66.63%. In the case of total expenditures, the share of the Centre in 2014-15 was 41.14% and that of the States was 58.86%. The ultimate position appears reasonable. The question may be on the mode of transfers.

New developments

The Fourteenth Finance Commission has broken new ground in terms of allocation of resources. One of its major recommendations has been to increase the share of tax devolution to 42% of the divisible pool. This is a substantial increase by almost 10 percentage points. The commission has argued that this does not necessarily affect the overall transfers but only enhances the share of unconditional transfers. It is true that Centrally sponsored schemes, which have ballooned in recent years, may have 'encroached' on the territory of States. Over years, the performance of the Central government is judged not only on the basis of actions taken which fall strictly in its jurisdiction but also on initiatives undertaken in the areas which fall in the Concurrent and even State lists. Centralised planning has something to do with it. Today, the Central government is held responsible for everything that happens, including, for example, agrarian distress. In viewing the responsibilities of the Centre and States we must take a broader view than what is stipulated in the Constitution.

On the allocation of unconditional transfers, two questions arise. The first is to determine the total transfers that need to be made, while the second is whether all transfers must be done by the Finance Commission alone. Finance Commissions prior to the Fourteenth recognised that some transfers were being made by the Planning Commission; this was kept in mind while deciding on tax devolution. By the time the Fourteenth Finance Commission was required to submit its report, a fundamental change in the institutional framework had occurred.

The Planning Commission was replaced by the NITI Aayog, which was simply a think-tank with no powers of resource allocation. In this context perhaps what the Fourteenth Finance Commission did was justifiable. Of course, the Fourteenth Finance Commission did what it did because the terms of reference had not made any distinction between Plan and non-Plan revenue expenditures. The moot question is about what happens if any future government revives the Planning Commission with financial powers. This will put the Central government in a fix.

Some suggestions

Perhaps the time has come for the Constitution to be amended and the proportion of shareable taxes that should go to the States fixed at the desired level. The shareable tax pool must also include cesses and surcharges as these have sharply increased in recent years. Fixing the ratio at 42% of shareable taxes, including cesses and surcharges, seems appropriate. Another possible route is to follow the practice in the U.S. and Canada: of allowing the States to levy tax on personal income, with some limitations. Since one of the concerns is that resources do not match functions, this may be a way out. But, as in the U.S., the scheme should be simple and ride on federal income tax, that is, just a levy on the income assessed by federal authorities. The freedom given to the States must be limited. It is important to note that the levy by the Centre and States together should be reasonable.

Also once this power is given to the States, the transfers from the Centre need adjustment. As far as India is concerned, this is an area which needs a fuller study. Adoption of any one of these alternatives will avoid friction between the Centre and the States. Perhaps the first alternative of constitutionally fixing the ratio is the easiest.

There are issues relating to horizontal distribution. Equity considerations have dominated the allocations. This is as it should be. However, the ability of bringing about equalisation across States in India has limitations. Even the relatively richer States have their own problems and they feel 'cheated' because of the overuse of the equity criterion. An appropriate balancing of criteria is needed particularly in the context of the rise in unconditional transfers. Of course, appropriate balancing is what all Finance Commissions are concerned about.

C. Rangarajan is former Chairman of the Economic Advisory Council to the Prime Minister and former Governor, Reserve Bank of India

Parallel tracks on trade ties

Economic diplomacy can still prevent the removal of the U.S.'s trade benefits to Indian exports

PUJA MEHRA

Could it be that the strained trade relations between India and the U.S. are an outcome not of the U.S.'s domestic politics but of India's? The timeline of U.S. President Donald Trump's decision to rescind the benefits Indian exports enjoy under the Generalised System of Preferences (GSP) programme is revealing.

E-commerce rules

It begins with the change in foreign direct investment (FDI) rules in India. The tightened norms that came into effect on February 1 place several restrictions on e-commerce companies, including Walmart-owned Flipkart and Amazon.

The unexpected changes came after Walmart, the world's largest retailer, paid over $16 billion to acquire Flipkart last May. To raise the resources needed, Walmart put one of its biggest international operations, Asda, on the block for $10 billion.

The calculations behind the $500 billion retail giant's investment in India have gone awry after the change in the FDI rules. The Walmart family are close friends of Mr. Trump. On February 20, Walmart CEO Doug McMillon said the company was disappointed that New Delhi had changed the FDI rules without consultation and hoped for a more collaborative process going forward. Days later, on March 4, Mr. Trump notified Congress of his intention to slap punitive action on India by ending preferential treatment for the country's exports.

Walmart has a reputation for killing small retail businesses with ultra-low prices, a concern that influenced New Delhi's decision to tighten the FDI rules. While the FDI policy might be irreversible, economic diplomacy can still defuse the situation and prevent the removal of the GSP benefits that will not take effect for until at least 60 days after the notifications to Congress and the Indian government.

The simmering tensions go back to April 2018 when the United States Trade Representative (USTR) launched a review of New Delhi's eligibility for the GSP programme. Tensions escalated in June, as New Delhi, in response to Washington's 25% tariff hikes on steel and 10% levies on aluminium, immediately accused it of unfair trade practices, and, seeking to signal a muscular approach, threatened retaliatory tariffs on $235 million of U.S. imports.

Bilateral talks since then have failed to ease tensions and India now stares at losing the GSP benefits. Foreign Secretary V.K. Gokhale returned empty-handed from Washington recently.

GETTY IMAGES

India's GSP status came under review after the U.S. medical and dairy industries complained that New Delhi is not providing them "equitable and reasonable access to its market". India's data localisation policies deepened the rift.

New Delhi's use of price control measures against imported drugs and medical devices has grown noticeably. Cardiac stents were put under price controls in February 2016 and knee implants attracted similar action in August 2017, after which trade margins for many medical devices are sought to be capped.

U.S. manufacturers complain that in doing so, New Delhi has meted out differential treatment to them *vis-à-vis* domestic players.

For domestic companies, the price to distributors is considered while in the case of global manufacturers the base proposed is the landed costs of imports. The U.S. medical device industry wants price controls on cardiac stents and knee implants withdrawn and would like products to be treated on parity with domestic medical devices through a trade margin rationalisation regime.

New Delhi has preferred to act against unreasonable price markups through price controls when exactly the same outcomes can be achieved through other types of policy alternatives. The USTR is right in pointing out that price capping counts as a trade barrier. New Delhi can easily address the concerns by replacing price controls with trade margin rationalisation measures, applying them equally to domestic and foreign manufacturers.

India is the largest beneficiary of the GSP, the largest and oldest U.S. trade preference programme. The GSP is aimed at promoting economic development by allowing duty-free entry of products from designated beneficiary countries. Nearly 4,800 different goods from 129 designated countries enjoy duty-free access under the programme.

The immediate loss for India is preferential access at zero or minimal tariffs to the U.S. in case of about 1,900 products, or about half of all Indian products.

New Delhi has downplayed the impact of the proposed withdrawal of benefits, saying exports worth $190 million only are likely to be affected and that the tariff advantage was 4% or more on only 2,165 of a total of 18,770 tariff lines.

Estimating losses

This is an underestimation. The loss to the economy would be much larger than what the Department of Commerce is projecting. While it is true that the actual tariff advantage from the programme works out to a meagre $190 million, which is just 0.4% of the total Indian exports to the U.S., the actual loss will not be limited to the immediate tariff advantage.

Indian exporters are competing for market share in the U.S. with other low-income countries in industries where margins are wafer thin. Even minor price hikes can drive significant drops in export volumes. In which case, losing GSP access will be costlier than the projections.

Among price-sensitive products eligible for higher GSP benefits that risk losing out to competition from other countries are processed food, leather products, plastic products, building materials, tiles, hand tools, engineering goods, cycles and made-ups such as pillow/cushion sleeves and woven women's apparel.

Many of these are the very industries the new e-commerce FDI rules seek to protect.

Puja Mehra is a Delhi-based journalist

LETTERS TO THE EDITOR

Letters emailed to letters@thehindu.co.in must carry the full postal address and the full name or the name with initials.

Strong, swift, sensitive

A woman leader has quietly drawn attention to herself with her quick, firm and pathbreaking actions, breaking stereotypes of what a leader is ('World' page - standalone picture, "Peace ambassador", March 24). Jacinda Ardern, New Zealand's Prime Minister, has exhibited wisdom and immense strength after the Christchurch attacks. There is another subtle message: those leaders whose intent it is to take advantage of religious conflicts should learn from her.

FARZANA,
New Delhi

At what cost?

Whatever may be the compulsions for the Indian National Congress, its indication that Congress president Rahul Gandhi is likely to enter the fray from a Lok Sabha constituency in the south – possibly Wayanad in Kerala – sends out confusing and wrong signals ("Rahul likely to contest from south too", March 24). There is nothing to prove as the socio-political character of Wayanad has always made the seat a safe bet for the UDF. Here, the influence of the BJP and other forces that subscribe to the 'Moditva' ideology is minimal. Such a move would also reveal the skewed priority of the Congress in the national perspectives *vis-à-vis* the 'fight against the common threat'. If he does stand from here, Mr. Gandhi's win is a foregone conclusion; it would be a pyrrhic victory of sorts.

AYYASSERI RAVEENDRANATH,
Aranmula, Kerala

■ It would give the impression that the Congress has admitted defeat even before the first vote is cast. The BJP can easily portray Mr. Gandhi as a general in full retreat from the Hindi heartland to the south, where the BJP's electoral prospects are quite dim. If the Congress is destined to form a non-BJP coalition government, the Left is supposed to support it. So, the Congress's State leadership wants its president to inflict damage on its putative supporter. Even if the Congress sweeps Kerala because of the supposedly electrifying presence of Mr. Gandhi, it will be a pyrrhic victory.

ABDUL ASSIS P.A.,
Kandassankadavu, Thrissur, Kerala

Captivating and classic

The magical vision of the elusive, striped cat has always floated before my eyes ever since I became a Jim Corbett fan. I had the opportunity to serve in the Kumaon region of Uttarakhand (1997-2000) and was always on the lookout for the magnificent tiger while travelling through Ramnagar, Mohan, Molekhal, Manila, Bhikiasen, Masi, Ranikhet and Almora. One day, at Manila, the local canine hero which used to visit our bank branch suddenly disappeared. I heard people discussing it the next day, that the 'baagh' had come the previous night. Whenever stories of man-animal conflicts crop up, one thinks of Jim Corbett ('Magazine', "The legends of Carpet Sahib", March 24).

M.V. RADHAKRISHNAN,
Ayyanthole, Thrissur, Kerala

Three empty stands

The standalone picture ('Sport' page, "Full and empty!" March 24) said it all – three deserted stands at Chepauk and the equivalent of 12,000 seats. I am not sure what the "legal reasons" are but I am sure that there is a way out. The stands also look to be structurally sound. I say this as a senior citizen, 82, having captained the 2nd division TNCA league in the 1960s. Why are the sport-loving masses of Chennai not protesting?

SHANKER MANGADU,
Chennai

MORE LETTERS ONLINE:
www.thehindu.com/opinion/letters/

CORRECTIONS & CLARIFICATIONS:

"Congress, AINRC and MNM candidates file papers" (March 23, 2019, some editions) incorrectly referred to M.A.S. Subramanian as an *Amma Makkal Munnetra Kazhagam* (AMMK) candidate. Actually, he is contesting on behalf of the *MNM* (*Makkal Needhi Maiam*).

"In the footsteps of NTR, Chiranjeevi and Jayalalithaa" (March 21, 2019, some editions) erroneously said that Chiranjeevi won the Assembly elections in *1999*. It should have been *2009*.

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