
MAPPING THE CONTOURS OF STATE-MAKING AND NATION-BUILDING BEYOND THE HINDU KUSH

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“The constitutional lawyer, however, must always, if he is to comprehend his subject and treat it fruitfully, be a historian as well as a lawyer”

– James Bryce

I. BRYCE, SMITH, CONTRADICTIONS AND CONNECTIONS

The idea of ‘India’ that we are familiar with today did not exist when the calls for the dominance of a nation-state were first heard in Europe. Once we begin reading the history of the Indian Subcontinent, we find that it is rid with different civilisations crossing the Hindu Kush mountains for varied reasons. When these civilisations interacted with the locals over hundreds of years, the cultural bandwidth of population continued getting more diverse. Before, the Mughals more or less assimilated most of “India” into one state/empire a quick history lesson would make clear the existence of a host of independent kingdoms through time. It is no secret that all of these kingdoms had unique identities of their own. In this context, the usage of the word India is in a territorial sense. Here, by India we mean the territory of the Indian Subcontinent which was assimilated into the erstwhile state of British India. We exclude the Mauryan Empire as assimilation because it pre-dates several other incursions in the early and later medieval age.

There is a decent argument to be made that today’s Indian State is not just incredibly diverse but inside the borders lay more than just one nation. The flip side argues that India has always been a single nation. I am inclined to agree with the former and further argue that India has been slowly assimilated the diverse ethno-cultural identities under the banner of the *Tiranga*. This process of nation-building has not been without its hiccups, but it is sufficient to say that the project has been a success. The consistent attempts to undo this work in the last few years is a separate matter altogether. In this paper, we are concerned with the decades long nation-building process of the Republic of India after 1947 which turned out to be a success against all odds.

In this paper I will attempt to showcase that on the brink of independence, British India was faced with a whole host of political problems which indicated a humungous task of nation building and state building ahead. We will examine the templates of nation building in the newly formed third world states suggested by Anthony D. Smith. In doing this we will also examine and apply various *centripetal* and *centrifugal* forces at play in the process of nation-building as suggested by James Bryce.

Smith differentiates the post-colonial states from the classical western states and critiques the nationalist theories of nation formation. In essence he argues that the nationalist theory is one dimensional and only explains the convenient nation-state symbiosis attributable to the West. He makes four classifications for historical nation-state formation, which is more inclusive of the patterns of nation formation in other parts of the globe.¹ For him, India is a unique example of nation building among the third world which falls under the category of colonial nation-state formation. In this category, a *modern, rationale state*² is imposed upon a diverse population which bands together to achieve statehood through state-wide nationalist movements and then they use this nationalism to create a unified nation out of the diverse *ethnie*.

According to him at the heart of this success was a dominant religious core, i.e., the Hindi speaking Hindu population in northern and central India. They engaged in knitting the diverse “communities together into a territorial nation by means of an overarching ethnic Hindu mythology and a series of interlocking institutions and cross cutting allegiances.”³

I stand in disagreement with some of Smith’s arguments including his assessment of India’s nation building. I believe many other factors were at centre of the process of nation-building over the past seventy odd years in the Indian State. The chief among them was the constitutional project set forth by the founding fathers. The consequent portion of this essay will attempt to lay down the challenges (*centrifugal forces*) which the newly born Indian State faced. Later, we will provide an alternative thesis to Smith’s claims by providing evidence from the successes of the Indian Constitution which are essential to the centripetal forces that Bryce talks about. Finally, we will also augment this essay by providing some additional arguments

¹ Anthony D. Smith, “State-Making and Nation-Building” 15, *States in History*, 228, 241-242, (1986).

² *Comments*: It is hard to agree with Smith here. The label of modern and rationale state seems very deliberate in the context of eulogising the colonial project and justifying the ‘white man’s burden arguments. The violent nature of the colonial states is most prominent if we resort to putting labels.

³ Smith, *supra* note 2. 254-255.

outside of these two theories.

II. THE POST-COLONIAL CHALLENGES

(a) The Paradox of Imperial Elites

The most important part of Smith's theory is his assessment of the post-colonial state making juxtaposed with the process of nation-building. This assessment is with respect to the numerous states born out of independence struggles. According to Smith, most of these colonial states were consisted of polyethnic societies (or nations) in close geographic proximity. These nations had been colonised collectively by one European power and administered like a state entity. In doing so, they ranked different groups and gave them different hierarchical positions so as to foster divisiveness in the territory they held.⁴ He argues that these diverse groups of people were able to put aside their rivalries during their independence struggle. But, in the process of capturing the state apparatus, these rivalries intensified resulting in internal struggles for power or coups or civil wars.⁵ In this regard, Smith's observations seem contradictory. The hierarchical categorisation by the colonisers in the Indian context was in favour of the Hindi speaking upper caste Hindus. This categorisation was supposed to act as a divisive force before independence. But after independence this group of elites acted as the unifying force knitting the Indian nation together.

(b) The Colonial Debacle

We can start by pointing out that the colonial states were merely a congregation of different indigenous populations which were ruled by one of the European powers. The only institutional progress made by the West was in regard to creating efficient administrative states. The aim of these states was to serve the interests of the elite capitalist class in Europe and derive profits

⁴ "Having first juxtaposed, and even divided, various ethnies within often artificially bounded colonies, the imperial powers then sought to rank members of different ethnies, not merely in terms of individual attainments or class position, but even more of ethnic origin. Indeed, whole communities were assigned to functional positions in the colonial hierarchy, as the concept of 'martial races' demonstrates. As a result, from the outset indigenous territorial elites found it difficult to overcome their own and others' sense of ethnic identity, to forge a common front based on a territorial nationalism against the common colonial enemy."

Smith, *supra* note 2. 252-253.

⁵ "For a time, ethnies managed to put aside their rivalries to concentrate on the task of ridding the territory of alien whites and alien rule; but even during the process of opening up and capturing the apparatus of state, rivalries between aspirant members of different ethnies intensified and soon exploded in communal violence or military coups."

Smith, *supra* note 2. 252-253.

through systemic exploitation of the colonies. There was no scope or effort for nation-building in these territories. In addition to the dissemination of the indigenous economy the colonisers followed the policy of divide and rule. It would seem contradictory to the colonial project to encourage a sense of oneness in the population they ruled with the *fear of the sword*. This is also why; strategic policy moves were made by the British to fuel the ever popularising two-nation theory. Not only was India divided up on a religious level but soon at an administrative level too. The demand for Pakistan and the eventual partition meant India was communally divided from within. The religious divisiveness is evidenced by the multiple incidents of outbreak of violence in different parts of India and Pakistan, both before and after the Partition. According to Bryce a common religion can be used as a strong centripetal force in nation-building, but at the same time both can work as a strong centrifugal force too.⁶ The political elites, i.e., the colonisers ensured that the pull away effect was more prominent.

The partition of 1947 itself was such a messy affair that, both India and Pakistan were left to do damage control once the British jumped ship. In the long term, Pakistan was left to deal with religious minorities in a theocratic state. India on the other hand posed as a secular state but was plagued with the communal tensions coupled with administrative aftermath of the *border-drawings* by the British in having to carry out the assimilation of landlocked provinces and princely states.

(c) The Marathon of Hurdles

Bryce makes two broad classifications for long term nation-building, i.e., Interest and Sympathy. The former refers to factors in the matters of economy, property, industry, trade, commerce and so on.⁷ The latter includes factors like religion, sense of community, ethnicity, and historical connections.⁸ It would be prudent to point out that, these factors act themselves

⁶ "Still less necessary is it to dwell upon the influence of Religion, which, as it touches the deepest chords of man's nature, is capable of educing the maximum of harmony or discord. No force has been more efficient in knitting factions and States together, or in breaking them up and setting the parts of a State in fierce antagonism to one another."

James Bryce, "The Action of Centripetal and Centrifugal Forces on Political Constitutions", in *Studies in History and Jurisprudence*, 225-226, (1901).

⁷ "Under the head of Interest there fall all those influences which belong to the sphere of Property, including of course Industry and Commerce as means of acquiring property. These influences usually make for consolidation and assimilation."

Ibid. 222-223

⁸ "We must refer all the influences which flow not from calculation and the desire of gain, but from emotion or sentiment. The sense of community, whether of belief, or of intellectual conviction, or of taste, or of feeling (be it affection or aversion towards given persons or things), engenders sympathy, and draws men together."

Ibid. 224

out in the long term over time in a state.

The demands and aspirations of different ethnic, linguistic, religious groups was only one obstacle faced by to-be post-colonial states. India too was faced this challenge with the sheer enormity of the British-India Empire comprised of a whole host of diverse communities capable of self-determination and building a nation-state of their own. Jammu Kashmir and Hyderabad are a case in point. The Indian State was faced with the administrative challenge of connecting and holding down this enormous and diverse territory (by force if necessary).⁹

According to Fukuyama, the idea of creating a “*Soviet Man*”¹⁰ never really fostered and eventually led to the collapse of USSR. There was an attempt to forge a collective national identity amongst the varied nations that once formed part of the glorious motherland. There were several long-term challenges that the founding fathers were faced with at the time of independence, including forging a national identity among a highly diverse population.

The *Interest* component of nation-building involved the challenge of boosting an ailing economy. The drain of wealth by the British, the destruction of local industries, and the overall impact of the imperial project meant the new Indian State had to virtually start from scratch in building an economy. The process of economic progress needed to be consistent throughout the territory of India, to lay the foundation of nation-building. Furthermore, it was important to create a political climate coupled with a constitutional framework which could prevent any secessionist sentiment to brew out of economic inequalities between different regions, which Smith points out as cause for resentment. There was the need for a sound institutional mechanism which would help suppress any insurgencies that showed their heads to the union.

III. THE CORNERSTONE THAT IS THE CONSTITUTION

The key to nation building was a strong constitutional base on which to build the nation-building process as promulgated by Bryce. The central themes of the constitution like a quasi-federal structure were at the heart of providing this strong base. The sheer diversity of the

⁹ “The third object is to hold the State together, not only to prevent its disruption by the revolt or secession of a part of the nation, but to strengthen the cohesiveness of the country by creating good machinery for connecting the outlying parts with the centre, and by appealing to every motive of interest and sentiment that can lead all sections of the inhabitants to desire to remain united under one government.”

Ibid. 230

¹⁰ Alvin Powell, “How to Build a Nation”, The Harvard Gazette, Dec. 10, 2012. <https://news.harvard.edu/gazette/story/2012/12/how-to-build-a-nation/>

territory that the British were handing over meant that a fine balance between a Unitary and Federal model needed to be struck. There was a need for a strong *centre*¹¹ around which the project of assimilating different nations into one identity could be taken forward.

(a) The Federal Necessities

Bryce refers to the importance of local autonomy of regional communities in order to repel any growth of centrifugal forces or anti-union sentiment.¹² Schedule VII is the strongest repository of the federal nature of the Indian State. As Bryce says, a deep sense of security can be given to locals by excluding the union from some matters of policy.¹³ The State List in Schedule VII performs this function. Bryce gives the example of the state of Quebec in Canada, which is the acknowledgement of areas that have special needs and thus dealt with in a manner that may not be consistent with other local/state level units. In the Indian context Quebec's example can be juxtaposed with the erstwhile special status of Jammu Kashmir in India. We can also refer to the provisions of Schedule V & VI of the Constitution. The basic idea remains that certain cultural asymmetries in a specific territory of a state should be dealt with by allowing autonomy of affairs especially in matter of governance. Furthermore, the matters like trade, industry, local markets are under the State, which provide more economic freedom to the States. This too, according to Bryce can function as a key unifying factor for the larger territory.¹⁴

(b) Caveats in Federalism

While it was important to maintain a federal structure, the unitary bias was necessary to keep hold of a large territory both physically and emotionally. This is why some crucial elements of state governance were retained by the union under Schedule VII. This included matters like foreign relations, military, coinage which had to be dealt uniformly throughout the entire territory. Bryce too argues in favour of such centralisation for proper functioning of a

¹¹ *Comments*: Double usage of the word centre. One referring to the Centre/Union Government. Second, referring to the centre/foundation around which a structure is built around.

¹² "... for nothing contributes more to the smooth working of a central government and to the satisfaction of the people under it, than the habit of leaving to comparatively small local communities the settlement of as many questions as possible. The practice of local self-government and the love for it are not a centrifugal force, but rather tend to ease off any friction that may exist by giving harmless scope for independent action, and thus producing local contentment."

Bryce, *supra* note 7, 244.

¹³ "It may exclude certain matters altogether from the competence of the central government, and thereby keep them out of the range of controversy."

Bryce, *supra* note 7, 244.

¹⁴ Bryce, *supra* note 7, 221-224

federation.¹⁵ Moreover, the doctrine of repugnancy and residuary powers residing with the union meant that the unitary bias would have the higher ground. For the entire, appeasement of state entities was achieved while maintaining greater control over policy matters.

(c) A Regime of Civil Rights

When it comes to the protection of civil rights, the general scholarly agreement is in favour of a federal scheme. Having achieved a sound federal structure, it had to be complimented with a constitutional regime centred around the civil rights of individuals. Part III of the Constitution achieved that with help from the judiciary. So, when Rohit De¹⁶ argues that the Constitution's greatest success was that it was the people's constitution¹⁷, there is a case to be made that the constitutional endeavour helped in knitting people of the Indian State together under one banner, i.e., the Indian Constitution. Bryce too makes the insurance of individual rights an important element as a centripetal force in the constitution.¹⁸

The secular nature of the Indian state, in that there was separation of state from religious matters, gave a breathing room to the communal tensions bred by the British and various interest groups. Over the years, violence reminiscent of the colonial era, has reared its ugly head. But the broader picture shows that there is more harmony than tension between different religious groups.

(d) Republicanism and the Westminster Model

Bryce's assertions also point out that the powers of the political class had to be kept in check so as to provide citizens with the surety that another tyrannical regime won't take shape before them. Republicanism is consistently spread out through the constitutional model, and at its heart is the Parliamentary form of government to maintain a regime of checks and balances.

IV. KNITTING A NATION

(a) Sentiments of Nationalism

¹⁵ Bryce, *supra* note 7, 221-224

¹⁶ Rohit De, "People's Constitution: The Everyday Life of Law in the Indian Republic" 1-25 (2020).

¹⁷ *Comments*: Rohit De talks about the regime of fundamental rights acting as a tool for the ordinary people. The judiciary acted as the guardian of their rights with both coming together under Art 32 and 226 of the Constitution.

¹⁸ "Another is to provide due security for the rights of the individual citizen as respects person, property, and opinion, so that he shall have nothing to fear from the executive or from the tyranny of an excited majority." Bryce, *supra* note 7, 230

Smith claims that national movement against a common enemy, i.e., the colonisers worked in bringing together different communities. But this togetherness is not always sustainable after independence is achieved. Bryce argues that the nostalgia and history of a group of diverse men going through a struggle together acts as a strong centripetal force.¹⁹ Smith is correct in making the long-term assessment here. The push from nationalism helped India in two manners. It gave India a class of strong leaders and statesmen who envisioned a path forward in nation building. The hegemony of Nehru and the Congress party gave India a necessary political stability. They both owed this hegemony to the freedom struggle. This stability ensured consistency in policy decisions, some of which we will discuss further. This helped maintaining the satisfaction of the larger public. But as we know this hegemony was eventually broken up and that's when we state relied on other factors of nation-building like the Constitutional Schemes and other policy matters.

(b) Industrialisation and Welfare

The Indian State started off with the socialist economic model coupled with the aim for rapid industrialisation. A strong central government and the planning commission was at the heart of this project.

Economic progress of a population as a single unit is one of the key links between building a state into a single nation as pointed by Bryce while talking about the *Interest* factor. It is important to emphasise here that the dissatisfaction of the masses from economic difficulties has been one of the core causes of states breaking up. The USSR presents a typical example in this case. It would be worth pointing out that there was little to no ideological challenges to the socialist model at a pan India level which could have shaken up the state machinery like it did in USSR. India being geographically placed away from Europe also helped, as the ideological warfare of the Cold War did not affect India to a great extent.

There was an intent to make India self-sufficient and alleviate poverty levels and the general standard of living. Initiatives were made to increase literacy levels and to improve the health sector using the centralisation of these sectors. There were improvements in both sectors, albeit

¹⁹ "Somewhat greater value belongs to identity of traditions and historical recollections, and to the possession of the materials for a common pride in past achievements. Most men find a personal satisfaction and take a personal pride in recalling the feats and struggles of the nation, or the tribe, or the party, or the sect, to which they belong, so the recollection of exploits or sufferings becomes an effective rallying point for a group." Bryce, *supra* note 7, 225.

mediocre. Most importantly, these government led models in various sectors of the daily lives of the people were uniformly implemented throughout India and substantially contributed to a collective growth of the state and its population.

(c) Universal Suffrage and International Image

Within the scheme of civil rights as a centripetal force, this was a bold but positive move by Nehru. There was a need for a participative democracy which helped citizens feel part of a national political entity. Another argument in favour of Universal suffrage was to display India as a leader in the global south, with a strong political democratic base, no different than the so-called modern states of the West. The non-aligned movement and India's increased stature in world affairs was used as a point of unification of the Indian diaspora as a single community under the banner of the *tiranga*.

(d) Territorial Conflict Resolution

The British conveniently left behind an administrative mess, one of which was accession of princely states to either India or Pakistan. India had a geographical edge in this matter as most princely states, irrespective of their religious. Additionally, the presence of a statesman like Patel is always a bonus while going through a period of turmoil, like India was on the brink of independence. Most princely states signed instruments of accession without much trouble, barring Kashmir, Junagarh, and Hyderabad. The subsequent assimilation of Junagarh and Hyderabad was efficient considering the delicate time India was going through.

Another challenge posed right after independence was the demands for reorganisation of states based on linguistics. Even though the protests were intense, the outcome served as a unifying force in the grand scheme of nation-building. The demands of states in matters of drawing state borders have mostly been accepted by the union. Even though, in theory according to Part I of the Constitution, the Union has exclusive powers in these matters, de facto, the process is pushed from the bottom up.

(e) Carrying forward Patel's Legacy

The efficient manner of resolving territorial conflicts continued into India's long history of state-centre conflicts, some plagued with demands of secession. Most insurgencies were quelled through a combination of peaceful talks and slight use of force. The demands for

statehood in Mizoram and Nagaland had similar outcomes. Furthermore, the key to ending the Assamese Students movement was peaceful talks. The Khalistan movement too ended with the Rajiv-Longowal Accords and the subsequent elimination of any radical and violent elements using the state police. All these movements were especially threatening as they involved a border state. According to Bhutt, these states are most vulnerable to secession movements, as they may often involve a third party's support.²⁰ The resolution of conflicts through India's history, within its territory, is textbook Bryce²¹ and perfectly in line with the foundational strength given to the political class by provisions of the Constitution which favour the union in such conflicts. The best example here would be the emergency provisions.

V. CONCLUSION

This paper expresses a theory which is the symbiosis of Smith and Bryce's take on nation-building. The former attributes it to the cohesion of an elite religious and political class. The latter more accurately puts it down to a constitutional process. But, as Smith points out, nations cannot just spring out of a state/constitution. They only provide a base from where to build upon. This paper examined the challenges faced in building that base and the hurdles faced in the subsequent years. We conclude that a strong constitutional vision along with sound policy decisions and conflict resolution were the key elements which have knit India into the glorious nation it is considered today.

²⁰ "This is especially true when it comes to the involvement of third parties, who upon deciding to intervene in a secessionist conflict, irrevocably change the dynamics of such wars. Under such circumstances, the civil war becomes "nested" under an unstable regional or systemic conflict, making it more intractable. 52 Civil wars that feature third parties are longer, more intense, and less prone to negotiated settlements."

Ahsan I. Butt, *"Secession and Security: Explaining State Strategy against Separatists"* 8-10 (2017).

²¹ "A good constitution relieves the government from the necessity of frequently resorting to military force by securing that those who govern shall be persons approved by the bulk of the citizens, as well as by providing for the purposes of coercion machinery so promptly and effectively applicable, that the elements of disturbance either do not break forth or are quickly suppressed."

Bryce, *supra* note 7, 231