REFERENCES

Challenges to India's Centralized Parliamentary Federalism

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Indian federalism has become less centralized as a result of popular pressures, the breakdown of Congress dominance, and the fragmentation of political parties. Economic challenges to cooperative federalism emerge from market reforms, the search for investments, and the World Bank structural adjustment plans adopted in selected states. Devolution of economic decision-making to the states aggravates fiscal crises by facilitating populist political strategies and accentuating uneven development. Political challenges arise from issues such as central vs. state control of police and security forces; movements for the creation of new states; and the implementation of constitutional provisions for village-level governance. Change in India's federalism has come about less through the adaptation of formal institutions than through the proliferation of state-based political parties, aggregating varied interests based on region, language, caste, class, or views on secularism. After the elections of 1999, more than 20 parties managed to provide a stable national coalition government, transforming the political process. A national multi-party coalition again formed the government following the elections of 2004.

A CENTRALIZED FEDERATION

The Indian Constitution of 1950 included a distribution of powers between Parliament and the states' legislative assemblies. Unlike the leaders of the Soviet Union and communist China, the other two great Asian states, India's leaders were educated in the tradition of liberal democracy. Some, notably Jawaharlal Nehru, were at the same time committed to democratic socialism, agrarian redistribution, and a planned economy. For these policies to be successful, they believed that there had to be centralized direction.

However, the very size of India and its heterogeneous character precluded the establishment of a unitary state like the United Kingdom. Important powers, among them industry, agriculture, land revenue, public order, police, health, education, and welfare (66 items in all) were distributed to the states, whose chief ministers were largely conservative. They governed a predominantly rural and hierarchically ordered society. In a number of states, opposition to the traditional society took the form of rebellious groups

promoting revolutionary socialism and the overthrow of the regime. From the beginning, therefore, India's centralized federalism, with its liberal principles, coexisted uneasily with both a vast conservative rural society and a variety of socialist movements.

The Constitution recognized centralization in several ways. Residual power lay with Parliament, which was able under certain circumstances to invade the legislative and executive domain of the states. It could create new states, alter state boundaries, and even abolish states. It could amend the Constitution. It also could institute "president's rule" in a state, replacing its elected legislature and government.

Moreover, in accordance with the British tradition of parliamentary government, the prime minister and cabinet were responsible to the lower house of Parliament, the House of the People (Lok Sabha) alone. The upper house, the House of the States (Rajya Sabha), was more like the British House of Lords than the U.S. Senate. The Supreme Court did not enjoy the wide powers of its American counterpart.

Centralization meant that the government of India directed the economy. It exercised this function through a Finance Commission that was set up every five years to produce a formula for the distribution of revenues to the states, and by a Planning Commission that implemented five-year plans of economic development. The states were therefore heavily dependent on Delhi. Centralized management accompanied this economic direction. Members of the Indian Administrative Service were in charge of much of the public sector, and even though policing was a state subject, the Indian government controlled the Indian Police Service.

It is arguable that India was not really federal at all. The Constitution made no reference to federalism, but instead referred to the "Union" government. The popular term for the Government of India was (and still is) "the Center."[1] Until the 1990s, the party system was famous for the "one-party dominance" of the Indian National Congress. The leadership of the party was known as "the high command." Congress was so centralized that the decision as to which state leader was to become Congress chief minister was made (and often still is made) by the Congress high command in Delhi.

Several governmental commissions of inquiry have examined the federal structure, sometimes under the rubric of "intergovernmental relations." Few of their proposals have been implemented. Until recently, civil servants handled these inquiries; for example, the Sarkaria Commission on Centre-State Relations, which reported in 1988.[2] However, the National Commission to Review the Working of the Constitution (the Venkatachaliah

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[1]In Indian usage this is spelled as "the Centre"; spelling and usage throughout this special issue have been adapted to American style norms.

[2]Sarkaria Commission on Centre-State Relations, *Report of the Commission on Centre-State Relations*, Two Volumes (Nasik: Government of India, 1987-1988).

Commission), which reported in 2002, was different.[3] It appointed a number of scholars and research institutions to produce ideas in what it called "consultation papers"–which it then made public online.

The terms "federalism" and "federation" are still often avoided in official Indian inquiries. The Sarkaria Commission referred to "Centre-State Relations" and the Venkatachaliah Commission (more correctly) to "Union-State Relations." This is due in part to the wording of the Constitution, which proclaims in Article 1: "India, that is Bharat, shall be a Union of States." Although the chairman of the Constituent Assembly's Drafting Committee, B. R. Ambedkar, did compare India's federal scheme with other federations, notably Canada, he pointed out that the Indian Constitution could be easily amended, and that in a time of crisis, India could be converted into a unitary state.[4] In his closing address to the Constituent Assembly, its president, Rajendra Prasad, used a phrase that has often been quoted: "I do not attach any importance to the label, whether you call it a federal Constitution or a unitary Constitution or by any other name."[5] Federalism in India has therefore meant centralized federation. Central direction made much sense in the 1950s, when independent India faced an enormous task of national integration. It had to incorporate not only the provinces of British India, but also 562 princely states. (The original upper house, as proposed in 1935, was to have been a House of the Princes).[6] Nehru and his colleagues wanted even more than national integration. One of their aims was rapid industrialization, such as had occurred in the USSR and was beginning to take place in China. Another was the elimination of the poverty that still entrapped a majority of the population, especially in rural areas. Centralized planning appealed to those leaders like Nehru who were committed to democratic socialism. They wanted the redistribution of land and other resources to occur through peaceful means. It was to achieve these aims that India resorted to five-year plans, in which land reforms and public-sector undertakings (PSUs) played an important role.

In the early years, democratic socialism and economic planning produced results. Only the Government of India, supported by international financial institutions, appeared to have the financial resources to undertake the transformation of the economy. Foreign private capital was discouraged,

[3]National Commission to Review the Working of the Constitution, M.N. Venkatachaliah, Chair, *Report of the National Commission to Review the Working of the Constitution*, Two Volumes (Delhi: Controller of Publications, 2002).
[4]*Constituent Assembly Debates* (New Delhi: Lok Sabha Secretariat, 1999, 3rd reprint), Book No. 2, Vol. VII, pp. 33-34.
[5]*Constituent Assembly Debates*, Book V, Vols. X-XII, p. 987.
[6]Throughout its history India experienced a *longue duree* of competing regional kingdoms and subcontinental states, rather than a single centralized authority. Until the British Raj (rule), India had never been a single country. The Raj lasted only ninety years (1858-1947) and governed a subcontinent divided into the provinces of "British India" and the numerous Princely States. Even under the Raj there were new provinces; Bengal was divided into Assam, Bihar, and Orissa. The first attempt to establish a modern federation was the British Parliament's Government of India Act of 1935. With the end of the Raj, the subcontinent was split by Partition and the creation of Pakistan, and Pakistan was further divided by the creation of Bangladesh after civil war in 1971.

partly because of painful memories of the East India Company (through which, before the Raj, the British had once ruled much of India), and partly because capitalism was associated with uneven development that favored the few over the many. Socialists had a concept of the public interest that was above and separate from the clash of private interests.

It may well have been because the federation was centralized that the Constitution turned out to be more successful than those of many other countries. After 1945, the British attempted to create federations for several of their former colonies, for example in the West Indies, Central Africa, Nigeria, and Malaysia; nearly all of them failed.
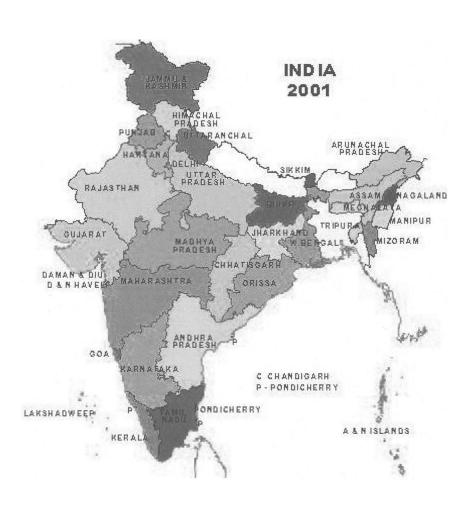
Over time, as the articles in this issue demonstrate, centralized federalism proved to have some weaknesses. The commitment to the implementation of socialist policies did not penetrate down to the rank and file of the Congress party or to the leadership in the states. In practice, socialism therefore consisted of a control of the "commanding heights" of the industrial sector through PSUs directed by members of the Indian Administrative Service. The "permit, license, quota Raj," introduced to prevent the expansion of the big-business houses and to limit private monopolies, proved to be no match for a market economy and competition. Without the profit motive, the public sector became lethargic.

In due course, the states became recalcitrant and began to elect opposition parties to office. The Center increasingly resorted to president's rule by state governors under Article 356, a provision of the Constitution that was often misused.[7] Centralized federalism aroused the hostility of the states, which pressured the government for reform.

INDIA'S FLEXIBLE CONSTITUTION AND THE DEMAND FOR DECENTRALIZATION

Because India's Constitution was flexible, Parliament was able on an ad hoc basis to adapt the political system to meet demands for a less centralized federation. This is clear in Part XXI of the Constitution entitled "Temporary, Transitional and Special Provisions," which makes reference to many of the states. Therein, Article 370 makes provisions, controversial to some, for the state of Jammu and Kashmir. Article 371, initially referring to special provisions for Maharashtra and Gujarat, was frequently amended, with new paragraphs added regarding particular states, sometimes (as in the case of Sikkim) serving as a mini-constitution. For example, Article 371G, passed before Mizoram became a state in 1987, protected the religious and social practices of the Mizos. In sum, the Constitution proved capable of meeting some of the states' demands for autonomy. As a result, there emerged what may be called "asymmetrical federalism."[8]

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[7]See, for example, Amal Ray and John Kincaid, "Politics, Economic Development, and Second-Generation Strain in India's Federal System," *Publius: The Journal of Federalism* 18 (Spring 1988): 147-167.

[8]By 2003, Article 371 extended from 371-A to 371-I, and covered ten pages. Jammu and Kashmir, India's only state with a Muslim majority, is covered by its own article, Article 370. This is a controversial provision because of its potential to encourage confederacy. It gives Jammu and Kashmir a unique status, and so is a bone of contention between India, Pakistan, and those favoring a more independent Kashmir.

Map courtesy of the Office of the Registrar General, Government of India.

Some demands for autonomy, notably the creation by Parliament of states on a linguistic basis in 1956, led to the division of some states and the establishment of new ones. Where Parliament failed to meet demands for decentralization, the Supreme Court occasionally stepped in. However, the Constitution remained highly centralized until 1989.[9] Since then, pressures for a less centralized system have grown considerably. Three states, Chhattisgarh, Jharkhand, and Uttaranchal, were created as recently as 2000[10] (see Figure 1). Nonetheless, subnationalisms, calls for the creation of new states, and struggles for greater regional autonomy continue to this day, as discussed in this issue by Akhtar Majeed. The Constitution also proved adaptable to demands for greater autonomy and representation at local levels, though as the article by Peter de Souza shows, the successful functioning of democratic local bodies throughout urban and rural India has yet to be assured.

FOUR PIVOTAL EVENTS, 1989-1992

The pressure for decentralization came about as a result of changes in society and the economy. The federal structure was affected by a series of events in the four tumultuous years from 1989 to 1992. The main international news of 1989 was the collapse of the Soviet Union and the fall of the Berlin Wall. This also had an impact on India because the Soviet Union had provided it with considerable assistance as it struggled to maintain its centrally directed economy. The demise of the USSR meant not only the end of this assistance, but also the revelation that socialism was unable to provide a viable alternative to capitalism. Many public enterprises were unable to thrive in a market economy. For two generations, the superiority of Marxist socialism had been taken for granted. Now it was under attack because of its inadequacies.

This did not lead to the collapse of the various indigenous communist parties. Surprisingly, they managed to maintain much of their public support.[11] However, with the fall of the Soviet Union, neither the communist parties nor the Government of India could look to Russia for material help. The socialist argument for centralized federalism evaporated.

The second event was the coalition government's decision in 1990 to implement the controversial 1980 report of the Mandal Commission, which had been shelved by Indira Gandhi.[12] This report had recommended that

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[9]It is interesting to compare the parlous state of federalism during Mrs. Gandhi's rule in the early 1980s with the situation today, when the union government can no longer dismiss state governments and dissolve state legislative assemblies at will. See the section on federalism in the early 1980s in Lloyd I. Rudolph and Susanne Hoeber Rudolph, *In Pursuit of Lakshmi* (Chicago: University of Chicago Press, 1987), pp. 98-102.

[10]Haryana was separated from Punjab in 1966. Himachal Pradesh was created in 1971. Assam was subdivided into seven northeastern states in the 1970s. Three new states were created out of Uttar Pradesh (Uttaranchal), Bihar (Chhattisgarh), and Madhya Pradesh (Jharkhand) in 2000.

[11]The Communist Party of India-Marxist (CPM) has continued to govern the state of West Bengal. In 2003 it once again won power in the small northeastern state of Tripura, and remains a significant force in the southern state of Kerala.

[12]*Reservations for Backward Classes: Mandal Commission Report of the Backward Classes Commission, Alongwith Introduction* [sic], (Delhi: Akalkank Publications, n.d.).

affirmative action be extended beyond the traditional beneficiaries, the Scheduled Castes and Scheduled Tribes noted in schedules of the Constitution, to peasant castes known in official parlance as the "Other Backward Classes" (OBCs). Responding to the extension of affirmative action, increasing numbers from the upper castes, who saw themselves and their families deprived of entry into universities and of appointment to government positions on the basis of merit, were outraged. Because of their dominance of the public service, the upper castes had benefited from centralized federalism. At the same time, in a change worrisome to some, an increasing number of young upper-caste graduates studied abroad and then opted for the private sector. They chose to enter large corporations rather than the Indian Administrative Service after a spell at Oxford or Cambridge or the Wharton School of Business. They saw that their future lay with capitalism, not socialism.

The third event was the rise of Hindu nationalism. This was stimulated by the destruction of a sixteenth-century mosque, the Babri Masjid, at the Hindu sacred site of Ayodhya in late 1992, followed by demands, still continuing, that a Hindu temple (*mandir*) be constructed on the site. The emergence of Hindu nationalism can be attributed to many factors, not least of which was the National Front government's acceptance of the Mandal Commission Report. It gave to not only conservatives and the Bharatiya Janata Party (BJP) but also to upper caste Indians generally an ideological alternative to the caste and class politics of other parties. This was the ideology of *Hindutva* (Hindu-ness or Hindu nationalism).[13] The BJP argued that the Mandal Report encouraged class and caste conflict, and thus weakened the solidarity of all Hindus as members of one culture (*Bharatiya sanskriti*). Because the slogan of *Hindutva* was identified not only with religion but also with the Indian way of life, it had much appeal, especially in the Hindi heartland of northern India. It was here that the Mandal/ *mandir* controversy was most divisive. States such as Uttar Pradesh, Bihar, and Gujarat became battlegrounds between the BJP and other parties. Centralized federalism proved inadequate in the attempt to preserve law and order, in part because the Union government had so misused its emergency powers, for example in Bihar and Gujarat. The maintenance of civil order has also been affected by the position of the police in Center-state dynamics, as is explained in R. K. Raghavan's article on the Indian Police Service.

Pressures on the Indian polity were exacerbated by a fourth event, the balance of payments crisis of 1991, following the collapse of the National Front. A new (minority) Congress government took office. It had no choice but to change course, embarking on what was called "liberalization." While progress was slow, the psychological impact of the switch from a socialist to

[13]For a seminal explication of this ideology, originally published in 1923, see V.D. Savarkar, *Hindutva* (New Delhi: Hindi Sahitya Sadan, 2003).

a market economy was profound. The bankruptcy of many of the PSUs became apparent. Slowly there emerged a consensus on the need for the gradual privatization of much of India's vast public sector, the main exceptions being those undertakings in areas of national security.

All of these events had unanticipated consequences for Indian federalism. First, the demise of the Soviet Union and the belief in the superiority of central planning weakened the national government in its control over the economy. Second, the extension of affirmative action, through the reservation of places in government service and universities for the Other Backward Classes, was accompanied by the emergence of state parties led by people of the lower castes. During the era of the national parties, which lasted until 1989, party leaders (even of the communist parties) had usually been upper caste, and often Brahmins, with a pan-Indian perspective. The new caste-based state parties, which were located in particular (but populous) northern states, had leaders drawn from the lower castes.[14] Their formation added to the proliferation of state-based parties. From 1996 onwards, no national party was able to win a majority of seats in the Lok Sabha. (For a list of political parties and acronyms referred to in this volume, see Table 1). Coalition government proved incompatible with centralized federalism.

Third, the Mandal/*mandir* controversy brought religion to the forefront of Indian politics and challenged the very notion that Indians favored a secular state maintained by a powerful Center. The Congress government's inability to prevent the 1992 destruction of the mosque at Ayodhya was the first indication of the havoc religious controversy could wreak. Initially, the incident helped the secular forces, and the BJP, which had supported the building of a Hindu temple at Ayodhya, was defeated in subsequent state elections. The Gujarat violence in February 2002 proved more difficult to contain. Opponents of the BJP hoped that this would also create a backlash against the BJP state government in Gujarat's December 2002 elections. This was not to be. The BJP won a resounding victory. It remained to be seen whether India's federal structure would act as a barrier to prevent the forces unleashed in Gujarat from extending their hold elsewhere. In five state legislative assembly elections held in 2002-2003, the BJP did not fare well. It lost control of government to Congress in the state of Himachal Pradesh. Its partner in Jammu and Kashmir lost to a new coalition pledging wide-ranging consultations and the restoration of peace with honor.[15] However, in the four assembly elections held on 1 December 2003, with a platform promising good governance and not *Hindutva*, it did remarkably well, replacing the Congress in three states.

Fourth, the decision to liberalize the economy not only encouraged the private sector but also empowered state governments, thus decentralizing

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[14]The lower castes first emerged as a political force as part of the Janata Party in 1977. At that time, when success in the national elections was not expected, politicians from the Other Backward Castes managed to win power at the state level, where they formed OBC-led governments.

[15]*Asian News Digest* 3, 11-17 November 2002, p. 2388.

Table 1
India's Major Political Parties and Coalitions

Parties and Coalitions	Acronym
Akali Dal, see Shiromani Akali Dal	
All India Anna Dravida Munnetra Kazhagam	AIADMK
All India Forward Block	FBL
All India Trinamool Congress	AITC
Asom Gana Parishad	AGP
Bahujan Samaj Party	BSP
Bharatiya Janata Party	BJP
Biju Janata Dal	BJD
Communist Party of India	CPI
Communist Party of India - Marxist	CPM
Communist Party of India - Marxist-Leninist	CPI-ML
Congress, see Indian National Congress	
Dravida Kazhagam	DK
Dravida Munnetra Kazhagam	DMK
Indian National Congress	INC
Jammu & Kashmir National Conference	JKNC
Janata Dal	JD
Janata Dal (S)	JDS
Janata Dal (U)	JDU
Jharkhand Mukhti Morcha	JMM
Lok Jan Shakti Party	LJSP
M.G.R. Anna Dravida Munnetra Kazhagam	MADMK
Marumalarchi Dravida Munnetra Kazhagam	MDMK
Muslim League	MUL
National Democratic Alliance (coalition)	NDA
National Conference	NC
National Front (coalition)	NF
Nationalist Congress Party	NCP
Pattali Makkal Katchi	PMK
Rashtriya Janata Dal	RJD
Rashtriya Lok Dal	RLD
Revolutionary Socialist Party	RSP
Samajwadi Party	SP
Samata Party	SAP
Shiromani Akali Dal	SAD
Shiv Sena	SS
Tamil Maanila Congress	TMC
Telangana Rashtra Samiti	TRS
Telugu Desam Party	TDP
Trinamul Congress	TC
United Front (coalition)	UF
United Progressive Alliance (coalition)	UPA

decision-making in the federation. In most of their economic policies, the states were now free from direction by the Center. The states' responses to these changing circumstances have been uneven, and liberalization has contributed to regional disparities. The implications of these changes for power relations between the states and the Center are explored in this issue by Amaresh Bagchi. The article by M. Govinda Rao then argues for policy changes that will be required for the successful working of these new

economic relations, while the article by Rob Jenkins explicates the limitations within which state economic decision-makers function.

Certain market-oriented state governments, notably those in the southern states of Andhra Pradesh and Karnataka, promoted the Information Technology-Enabled Services (ITES) revolution, which in the 1990s filled newspaper headlines, and the pockets of numerous entrepreneurs, at home and abroad.[16] The Telugu Desam Party of Andhra Pradesh, led by a chief minister who promoted ITES, decided that its interests lay in supporting the BJP-led National Democratic Alliance in Delhi (but from outside).[17] The Indian National Congress governed the adjoining state of Karnataka. This was a party that wielded some clout in the upper house of Parliament, the Rajya Sabha. With coalition government now the norm, the Rajya Sabha became more important.

The turbulence resulting from all these events has therefore had implications for India as a federation. Without the support of socialist theory, the case for national planning through centralized federalism was weakened.[18] At the same time, encouraged by the implementation of the report of the Mandal Commission, the poor in Uttar Pradesh and Bihar developed state-based parties in the Hindi belt that formed governments that were accused by some in the media of destroying the efficiency of the All-India Services. Proponents of *Hindutva* were also able to take advantage of the federal system, because this permitted a party to offer different appeals and to make electoral alliances with local parties in different states.

INDIA'S COMMITMENT TO (AND TRANSFORMATION OF) PARLIAMENTARY FEDERALISM

India's federalism was established not only as centralized but also as parliamentary, and there have also been challenges to parliamentary federalism itself. For a time in the 1970s, there were proposals to replace the parliamentary system with presidentialism. The presidential regime that many of its proponents had in mind was not the American (which combined presidentialism and federalism) but the French, which was unitary. At that time, attention was rarely given to the difficulty of combining either the British or the French form of government with federalism, nor was much thought given to making the upper house a more powerful body, representing the states.

In the 1990s, senior Congress politicians reiterated their commitment to the Westminster-style parliamentary system, in which the government is

[16]India's proliferation of "back offices" for multinational corporations should not be confused with the information technology revolution in Silicon Valley, California. See the articles on information technology-enabled services in *India Today*, November 21, 2002, pp. 10-21.

[17]Andhra Pradesh Chief Minister N. Chandrababu Naidu was not as successful at raising investment abroad as he sometimes claimed. See the figures in "Flight of Fancy," *India Today*, March 10, 2003, pp. 30-31.

[18]However, in 2003, responding to a protest by the employees, the Calcutta High Court stayed a decision of the (communist) Government of West Bengal to privatize one of its public sector undertakings.

responsible to the Lok Sabha, but not to the Rajya Sabha.[19] The BJP-led National Democratic Alliance (NDA) government was equally committed. When the government set up the National Commission to Review the Working of the Constitution (NCRWC) in 2000, the terms of reference stated, "The Commission shall examine . . . smooth and effective governance . . . within the framework of parliamentary democracy, and recommend changes . . . without interfering with its basic structure."[20] The references to "parliamentary democracy" and "basic structure" were taken to mean that no alternative to parliamentary government (such as presidentialism) was to be considered. Leaders in Delhi appeared to have come to terms with the fact that India was committed to being a parliamentary federation.[21] That is to say, it was a federation in which the lower house of Parliament, the Lok Sabha, was the dominant legislature, and to which alone the cabinet was responsible. In the eighth chapter of the Final Report, entitled "Union-State Relations," the Commission's only reference to federalism was to "cooperative federalism" in Recommendation Number 158. There seems to have been little thought given to the inherent conflict between Westminster-style parliamentary government, with the supremacy of the lower house and majority rule, and a federation designed to protect territorial minorities.

The absence of references to federalism in the report of the NCRWC report may have been due to fears that discussion of the federal system could encourage demands for state autonomy, thus threatening national unity. These fears went back to Partition and the creation of Pakistan, when there had been doubts whether a country as vast and disparate as India could remain in one piece. With the emphasis on regionalism and the demand for states based on language in the 1950s, there had been fears in Delhi once again that the creation of new linguistic states would weaken the union. However, when Indians united against the Chinese invasion of 1962, those who had advocated a more confederate India were silenced.

India is unique in its Westminster form of parliamentary federalism. Whereas Canada and Australia retain the monarchy, India alone is a republic. As it becomes more of a federation, there may have to be changes in the role of its elected president. So far, the president has been treated not so much as the head of a federation as a parliamentary head of state analogous to the Queen. The prime minister and the cabinet are in charge of

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[19]Compare Douglas V. Verney, "A More Federal India?" *Seminar* 459 (1997): 31-35 with his "Resisting Federalism," *Seminar* 357 (1989): 39-46.

[20]*Report of the National Commission to Review the Working of the Constitution*, Volume 1, Section 1.3.1, p. 4.

[21]The 1990s also saw the recognition by scholars of the importance of federalism. See, for example, Nirmal Mukarji and Balveer Arora, eds., *Federalism in India* (New Delhi: Vikas, 1992); Rasheeduddin Khan, *Federal India* (New Delhi: Vikas, 1992); Balveer Arora and Douglas V. Verney, eds., *Multiple Identities in a Single State: Indian Federalism in Comparative Perspective* (New Delhi: Konark, 1995); and Mahendra Prasad Singh, "From Hegemony to Multi-Level Federalism? India's Parliamentary-Federal System," *Indian Journal of Social Science*, 5 (July-September 1992): 263-288.

government, though they act in the president's name.[22] However, it is the
president who appoints the prime minister, and this has become a significant
choice in the era of coalition government.

State governors are in a particularly difficult situation. Formally
appointed by the president, but nominated by the Union cabinet, they are
expected by the public to play an impartial role as heads of state in the
states and to be more than the representatives of the Union government.
In the last analysis, however, the powers of the governors, like those of the
president, are circumscribed by the Constitution, with its stress on
parliament and cabinet government. How presidents and governors will
adopt a federal role that is compatible with the Westminster political system
remains to be seen.[23]

Coalitions appear to have given more elbowroom to the judiciary and to
a variety of governmental institutions, such as the comptroller and auditor-
general, the Election Commission, the Finance Commission, and the Public
Service Commission. The Rajya Sabha has also been affected. The upper
house of Parliament remains under the influence of the Congress party. In
this changing milieu, presidents too are becoming aware that they represent
the best interests of a vast federation.

An interesting development that may have federal implications has been
the creation of a number of agencies to regulate the public service and the
burgeoning market economy. Among these agencies are the Securities and
Exchange Board of India, the Competition Commission of India, the
Telecom Regulatory Authority of India, the Insurance Regulatory and
Development Authority of India, the Central Electricity Regulatory
Commission, and the various state Electricity Regulatory Commissions. Thus
far, the formal appointments to these bodies have been made by the
president, advised by the Union cabinet, without any "advice and consent"
on the part of the legislative branch of government.

However, there are certain agencies where appointments are handled
differently. Appointments to one of the new regulatory agencies, the
sensitive Central Vigilance Commission, are not the prerogative of the Union
government. For this commission, which is intended to root out corruption
in public service, there is an appointing committee chaired by the prime
minister that includes the speaker of the Lok Sabha, the chair of the Rajya
Sabha, and the leader of the opposition. A similar committee appoints
another important commission, the Election Commission of India.

One feature that distinguishes India from other federations is the
reluctance to allow important demographic changes to be reflected in the

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[22]In practice it is the prime minister and home minister who appoint state governors. To the suggestion
that a broader committee (perhaps including chief ministers) should be responsible, the Venkatachaliah
Commission blandly replied that while a chief minister might be consulted, "the powers of the President
in the matter and selection and appointment of Governors should not be diluted." *Report of the National
Commission to Review the Working of the Constitution*, Recommendation Number 160.

[23]Douglas V. Verney, "Responsible Government and Responsible Federalism: A New Role for the Rajya
Sabha, the President and the Governors," *The Indian Constitution*, M.P. Singh and S.K. Chaube, eds. (New
Delhi: Har-Anand, 1997), pp. 35-56.

composition of Parliament itself. It is projected that the populous (and generally less developed) northern states will gradually increase from under 40 percent of the total population to over 50 percent. The percentage in the total Indian population of the more prosperous southern states will correspondingly decrease. To pacify the South, and in order not to reward states that have been less successful in population-control programs, the 91st Amendment (2001) has frozen states' number of seats in the Lok Sabha, thus making it unrepresentative in terms of each state's percentage of total population.[24]

Formally, then, India remains committed to the Westminster parliamentary system whereby a strong cabinet is responsible to the lower house of Parliament, not to the Rajya Sabha. In any case, with its partisan character the upper chamber hardly represents the states. However, as we shall see later, the various regions have devised their own ways of dealing with the central government in Delhi. Instead of the "legislative federalism" of the United States, in which the states have an important voice in the Senate (where senators can filibuster), there is in parliamentary federations an "executive federalism" in which it is governments that interact. In Canada, intergovernmental relations have been formalized through First Ministers' Conferences.

The Indian form of executive federalism is different from the Canadian. This is because of an unforeseen development in the past couple of decades: the proliferation of political parties. Some of the parties have their own ministers in the cabinet, while others (notably the Telugu Desam) have expected the prime minister to negotiate with the state's chief minister on certain issues. It is the proliferation of parties more than anything else that has enabled the states to challenge centralized federalism and to modify the Westminster form of parliamentary federalism, for the Westminster tradition is not associated with a multiparty system.

The emergence of new parties in the states, and the need for coalition government at the Center, has changed the way in which government works. Eswaran Sridharan's article demonstrates that although the states have failed to change the formal institutions of government directly, they have transformed the operation of the federal system through the political process. Government at the national level has become dependent on state parties in the formulation of policy. As Douglas V. Verney explains in the concluding article of this volume, as the proliferation of parties in India continues, adjustments to the electoral process may be required as well.

We have noted that the transformation of the party system has been the result of a social revolution that has brought more castes and classes into the political arena, some with their own political party. The implications of this development are still being explored. Even after the 1991 election, the leading handbook on elections provided separate columns and details for

[24]While reapportionment *between* the states is on hold, reapportionment of constituencies *within* each state by a new Delimitation Commission (in American parlance, redistricting) will continue.

all the national parties (as designated by the Election Commission), however small.[25] At the same time, it confined the state parties to two columns. These were headed "Major State Parties" and "Others." Only in the mid-1990s did it become apparent that state parties were seriously challenging the hegemony of the national parties, and so transforming the nature of India's federation.[26] By early 2001, the prime minister reaffirmed his commitment to federalism, saying that "regional parties should have a say in the management of national affairs," and that his coalition government had produced a new-found harmony between the Center and the states.[27] It will be interesting to see how harmonious this will be under the Congress-led United Progressive Alliance (UPA) elected in May 2004.

THE IMPACT OF THE PROLIFERATION OF POLITICAL PARTIES ON THE FEDERAL SYSTEM

The pre-1989 regime of single-party majority government was one in which the national parties (usually Congress) prevailed. In the first eight elections, from 1952 to 1984, majority rule was taken for granted. In the seven of these elections that it won, the Congress party obtained more than 300 of the 540+ Lok Sabha seats. The one exception among these seven was the disastrous showing of 1967, when it won 283. Ten years later in 1977, when Congress lost its first election, the victorious Janata Party won 298 seats. After both the 1967 and 1977 elections, therefore, there was still majority rule. The national parties supported a strong centralized federation. Majority government began to unravel in 1989 with the election of the minority National Front, with its commitment to a less centralized federation. The Congress government elected in 1991, once it had cobbled together a majority of members of Parliament, temporarily stemmed the movement away from majority government. But this was followed by elections of coalition governments in 1996, 1998, and 1999, by which time the state parties had come into their own. After May 2004, the BJP had only 138 seats, and the Congress party had 145. By contrast, the state parties had over 160.

It is tempting to blame the end of majority government on the decline of Congress, but this is not the whole story. All the national parties must share the blame. There has been a continuous decline in the percentage of votes cast for them as a whole since 1991 to under 63 percent in 2004. There has also been a reduction in the number of seats they have contested. In addition, whereas the smaller national parties won seats from 22 states in 1996, they

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[25]David Butler, Ashok Lahiri and Prannoy Roy, *India Decides: Elections 1952-1995*, 3rd ed. (New Delhi: Books and Things, 1995), pp. 104-105. Officially, there are three classes of parties (capitalized in Indian usage): National Parties, State Parties, and Registered Parties.

[26]For details see M.P. Singh, "India's National Front and United Front Coalition Governments: A Phase in Federalized Governance," *Asian Survey* 41 (March/April 2001): 328-350; and "Towards a More Federalized Parliamentary System in India: Explaining Functional Change," *Pacific Affairs* 74 (Winter 2001-2002): 553-568.

[27]"Govt. is Committed to Federalism, says PM," *The Hindu*, February 17, 2001, p.1; http://www.hinduonnet.com/thehindu/2001/02/17/stories/01170001.htm.

were successful in only nine in 1999. By contrast, there has been an expansion in the number of state parties and Lok Sabha seats they have won. In 1999, all of the BJP's allies in the NDA were single-state parties.

A single-state party is a party that wins seats in only one state. There has been a tendency to refer to the Telugu Desam (TDP) as the typical state party. Certainly with its 29 seats in Parliament, it was a formidable force, representing the Telugu-speaking people of Andhra Pradesh. Moreover, it refused to be part of the NDA government, preferring to offer support from outside. Yet how typical of state parties is the TDP? There are few other examples of a cohesive party governing a state over a period of years. One is the hold of the Communist Party of India-Marxist (CPM), with its hold on West Bengal, but it must be remembered that the CPM is officially registered as a national party. State-based parties elsewhere have fared less well. The Sikh party in Punjab, the Akali Dal, has fragmented. The hold of the National Conference on Jammu and Kashmir has been broken. In Assam, the Asom Gana Parishad has struggled to remain united.

It may well be that the parties in Tamil Nadu are more typical of what is happening as a result of proliferation. With a much older state party tradition, Tamil Nadu presents a very different picture from Andhra Pradesh. Having moved from having one state party, the Dravida Kazhagam (DK), to two (the DMK and the AIAMDK), it now has its seats divided among no fewer than four Tamil parties. Who is to say whether Andhra Pradesh or Tamil Nadu will be typical of India's federation in the future?

The potential for fragmentation of the Indian polity has to be taken seriously, despite the remarkable success of the NDA in holding together after 1999. Its coalition predecessors, the National Front of 1989 and the United Front of 1996, disintegrated quickly. The core national party in these fronts, the Janata Dal (which some observers hoped would provide a "third force"), has fragmented into several state-based parties.

Not all state-based parties have been parochial in their concerns, but those that have tried to extend their influence to other states have had little success. In the 1998 election, not one of the 30 state parties was able to win even 5 percent of the votes in any other state. What is happening in India is comparable to nearly every American state having its own party, with members personally loyal to the leader. In 2004, even the most ambitious lower-caste parties, the Samajwadi Party (SP) and the Bahujan Samaj Party (BSP), were unable to obtain seats outside of Uttar Pradesh.

The complex federal coalitions that have emerged as a result of the proliferation of India's political parties, together with timely judicial intervention, have certainly transformed India's centralized federation as nothing else has done. Whereas the chief national parties, notably the Congress party, have always taken it for granted that the national party organization, especially the national leader, determines who will be the

party's chief minister after winning a state election, no such interference
from Delhi is possible in a state party's affairs.

FEDERALISM AND THE CONTAINMENT OF VIOLENCE

India is distinctive not only because of its centralized federalism, gradual
decentralization, and a fragmented party system. It has also managed to
indigenize its political institutions in a variety of ways, not least through
mass protests against governments, dating from Mohandas Gandhi's use of
non-violence as a technique of dealing with the country's colonial masters.
What is interesting has been the continuation of this strategy in a country
that proudly claims to be democratic, arguably because the federal system
is slow to respond to popular demands. While there is always the possibility
that these protests will get out of hand, usually they stop short of violence,
and because of India's federal system, both peaceful and violent protests
have rarely spilled over from one state to another.

Most of the peaceful protests against the institutions of government are
known by their Indian names even in the English-speaking media.[28] India
appears to have combined the Westminster tradition of parliamentary
sovereignty for formal state institutions with Gandhi's version of popular
sovereignty via protest at the informal level.[29]

India also has a tradition of violent protest, protests that get out of hand.
There is a curious reluctance of governments to deal with Hindu violence
in time of crisis. Following Indira Gandhi's assassination in Delhi in 1984,
there were Hindu-Sikh riots in Delhi that killed many innocent Sikhs. The
authorities allowed the riots to play themselves out for three days before
the army was called upon to bring the violence to an end. There were no
riots elsewhere.

The media were strongly critical of government inaction. But why was
there inaction? Was it callousness on the part of the authorities, or was the
violence regarded as a form of catharsis for what the Indian media delicately
referred to as "the majority community?" Might the absence of official
action be a peculiarly Indian response to disaster, with a form of *hartal* (i.e.,
a temporary cessation of all public activity) being observed by the officials
supposed to act? On this occasion, the national government, under the
Congress party, established an inquiry. However this long, drawn-out judicial
proceeding let the politicians involved off the hook.

Even so, until recently federation has acted as a means of containing
protest in the world's most heterogeneous democracy. A peaceful protest

[28]These forms of protest (with loose English equivalents) include satyagraha (literally, truth
maintenance or insistence on truth; sometimes translated as civil disobedience or passive resistance),
hartal (a strike), *ahimsa* (nonviolence or nonviolent resistance), *bandh* (shutdown of shops, businesses,
etc.), *dharna* (sit-in), *gherao* (encircling, as through a demonstration), *jail bharo* (mass courting of arrest;
literally, jail-filling), *rasta roko* (road closing) and *morcha* (literally, battlefront; an entrenchment or
barricade).

[29]In formulating his concept of *satyagraha*, Gandhi borrowed from Hinduism, Jainism and the Christian
social gospel.

may take place in a particular state, but it has not usually spread to the rest of the country. This has also been true of violent protests. The religious unrest that has occurred in Delhi, Punjab, and Kashmir has been confined to those states.[30] Federation has helped in conflict resolution and in the accommodation of diversity.

The government's handling of one protest, however, did have wider implications for India as a federation. This was the attempt to topple Indira Gandhi's government in 1975. The violence led Indira Gandhi to impose the 1975-1977 Emergency, which centralized power in the prime minister herself.[31] For a while it seemed that India's experiment with federation (and democracy) was doomed. However, even during the Emergency some state governments were able to mitigate the effects of the orders from Delhi in a manner that would not have been possible in a unitary state.[32]

Subsequent violent actions have not led to formal changes in India's federal system. The protests against Mrs. Gandhi's handling of Punjab led to her assassination by her Sikh bodyguard in 1984. Five years later, annoyance with Rajiv Gandhi's handling of the Tamil/Sri Lankan crisis led to his assassination. But neither of these led to the imposition of an emergency and a drastic change in the Constitution—or to any particular change in India's federative structure. The 1975-1977 Emergency remains *sui generis*.

The outbreak of violence in Ayodhya in 1992 may have been a turning point in the response to communal violence. After Hindu activists ignored the rulings of the courts and the orders of the government of India and tore down the Babri Mosque, the Congress government in Delhi blamed the BJP government of Uttar Pradesh for not taking effective action to prevent the outbreak. Subsequently, Delhi imposed president's rule in three states where there were BJP governments, one of which was Madhya Pradesh. This led to the 1994 Bommai case in which, through new case law, the Supreme Court made the use of president's rule subject to judicial review.

The implications of this ruling became apparent after the violence in Gujarat in 2002, which killed hundreds and left tens of thousands homeless.[33] On this occasion, neither the state nor Union governments (both led by the BJP) dealt firmly with the riots, and later showed little sympathy for the victims. The Gujarat riots raised new questions about the federal system and the significance of the Bommai case because the ruling that the

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[30]In January 2002, however, there was some concern over the possibility that the BJP might use conciliation and compromise to remain in power at the Center, but permit violence in state election campaigns so that it could present itself as the only party capable of preserving law and order.

[31]The complicity of many others in the Emergency should not be overlooked. The now notorious 42nd Amendment proposed in 1976 was passed in the Lok Sabha by 366 to 4 and in the Rajya Sabha by 190 to 0. In short order 13 of the 22 state legislatures fell into line, and the president signed the Amendment into law on December 1976.

[32]For example, the High Court in Karnataka issued a writ of *habeas corpus* on behalf of a number of people arrested at a conference in Bangalore.

[33]"Reports of Human Rights Watch (New York) on the Gujarat Riots," *The Black Book of Gujarat*, M.L. Sondhi and Apratim Mukarji, eds. (New Delhi: Manak, 2002), p. 185.

government of India would have to justify the proclamation of president's
rule had unintended consequences.[34] Under the Bommai rules, if the BJP
government in Delhi decided to recommend the imposition of president's
rule in Gujarat, it had to provide Parliament and the public with evidence
of the state government's inaction. The Union government was naturally
unwilling to be critical of another BJP government's failure, especially since
it was the only state where the BJP was in control. Instead, the national BJP
defended its own unwillingness to act on the grounds that India was a
federation and that law and order was a state responsibility.

Late in 2002, despite the violence, the BJP won a majority in the state
legislative assembly elections in Gujarat. The victory seems to have convinced
some leaders of the national BJP that playing on anti-Muslim sentiment
might pay off in other state elections. If this had proved to be so, then
India's centralized federalism could no longer be depended upon to protect
minorities. The events of early 2002 in Gujarat would then be interpreted
to mean that if a few members of a minority acted as a murderous mob,
then members of the majority community had a license to take unlimited
revenge on the whole community, and without interference from the police
or the army. The weak response of the Union government suggested that
in the future the government of India might even condone such behavior.

In sum, the Gujarat violence was handled differently from previous
protests. Whereas on earlier occasions, a sort of *hartal* had briefly allowed
passions to play out before the government of India took firm action, in
Gujarat neither the Union nor the state government took action. Federalism
had not provided either a brake or a containment.

FEDERALISM AND THE DECLINE OF SECULARISM

As a predominantly Hindu society, yet without a Hindu government in Delhi
after 1192 CE, India faced unusual problems in its dealings with minorities.
Since then, northern India, the Hindi (and Hindu) heartland, was for most
of the time until independence under Muslim rulers. Like other conquered
peoples, the Hindus maintained their identity in part through religion. Not
surprisingly, acceptance of the hierarchical Hindu social order was not
universal. Many of the downtrodden among the lower castes were converts
to Islam or other religions, including Buddhism and Christianity. By Partition,
about a quarter of the subcontinent's population was Muslim. Partition
transferred to Pakistan the main areas that were Muslim, but even so, India
retained a significant Muslim minority, now estimated at over 11 percent.

Under Jawaharlal Nehru, India's official policy was to create a secular
society, though without formally insisting on what in the West was called

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[34]*S.R. Bommai v. Union of India*, JT (1994) 2 SC 215. For a summary of the conditions, see P.M. Bakshi,
The Constitution of India, 5ᵗʰ edition, (New Delhi: Universal, 2003), p. 295, and Ajit Mozoomdar, "The
Indian Federal State and its Future," *Contemporary India*, eds., V.A. Pai Panandiker and Ashis Nandy (New
Delhi: Tata McGraw-Hill, 1999), pp. 261-296.

"the separation of church and state." Although the Constitution was secular, it did not put a wall of separation between the state and religion. Parliament could pass legislation that included religious reforms. Laws could be enacted for the management of religious shrines, and the management trust might include government officials. Delhi has helped organize Hindu religious festivals that attract millions of worshipers, and for Muslims subsidizes the *haj* pilgrimage to Mecca.

Although the Indian National Congress, whose leaders were largely from the upper castes, established India as a secular state tolerant of all religions, it quietly courted the Muslim vote. It did not enact a uniform civil code (thus allowing differing marriage and family laws for different religious groups; under Muslim civil law, for example, a man may have more than one wife). For several decades, there was relative peace, but in recent years the policy of courting the Muslim vote has come under attack by Hindu nationalists as "pseudo-secularism."

The media have given much attention to the excesses of Hindu extremists, but their activities alone do not account for the increase in religious intolerance. One reason for the emergence of *Hindutva* has been concern about a resurgent Islam, and with it the rise of militancy in many parts of the world, including Kashmir, India's only predominantly Muslim state. Other states with a substantial Muslim minority, such as Assam, have been troubled by an increase in immigration from across the border. It has been difficult to pursue a policy of secularism that attempts to be fair to Muslims in the face of fears of a higher Muslim birthrate, illegal immigration, and, above all, militant activity. Since the appalling attack on Parliament in December 2001 and incidents of violence against Hindu activists in 2002, there has been a fear among many Hindus that terrorism could spread throughout much of India. There have also been fears among the law-abiding majority of Indian Muslims that in the event of further outbreaks of violence by militants, they will no longer be able to depend on the support of either the state or Union governments. Added to this have been the xenophobia of resurgent Hinduism and the demand of some zealots that all Indians recognize the preeminence of the Hindu way of life. They argue that Islam and Christianity, unlike Hinduism, Buddhism, and Sikhism, are not indigenous religions and have no place in India.

It is tempting to compare religious conflict in India with the conflicts that have taken place elsewhere. In one sense, however, India, with its largely Hindu population, is different. Upper-caste Hindus have had to come to terms not only with religious minorities such as Muslims, Sikhs, and Christians, but also with affirmative action (reservations) for Hindus from the "Other Backward Castes," Scheduled Castes, and Scheduled Tribes. With secularism under contention, it is by no means certain that if there is to be a less centralized federation, the 28 states of the Indian federation will be

able to maintain the democratic polity and diversity that has been the hallmark of India.

A MORE FEDERATIVE POLITICAL SYSTEM?

India is widely believed to have become more of a federation. But we need to be specific regarding the meaning of the term "more." It has several connotations. First, it signifies that no longer does a powerful national party, the Indian National Congress, control Parliament by winning a majority of seats. Instead, government is carried on by coalitions of parties. Coalition government in Delhi has evolved over the years from the fractious and unstable coalition of 1989 to the relatively stable National Democratic Alliance of 1999-2004. This has sometimes created alliances between parties as disparate as the BJP of the Hindu nationalists and the BSP of the Scheduled Castes. In an innovative, but ultimately short-lived, experiment in Uttar Pradesh, these two parties rotated the post of chief minister, allowing them six months each.

Second, and partly as a consequence of coalition government, there is widely thought to be less of a concentration of power in the Union government as a whole and in the prime minister and the cabinet in particular. More federalism means that power is wielded by other institutions than the Center, notably by the states, also by numerous interest groups from business to farmers. If this is so, then India's "steel frame" of the Indian Administrative Service and the Indian Police Service can be expected to play less dominant roles, and to reflect the pluralism of India's changing society.

It is commonly asserted that a federal system tends to be slower and less efficient than unitary government, but the conclusive evidence for this is hard to find. Agreements between the two levels of government continue to be worked out, and necessary legislation is passed by parliaments and legislative assemblies. India is an example of country that has, by and large, responded to the demands from state governments, sometimes in novel ways.[35]

It is difficult to estimate the degree to which India is becoming more federal because of two unknowns. One is the degree to which the state parties represented in the cabinet have been the catalysts for change. Only when the cabinet documents are available many years hence will this information be forthcoming. It is possible that the presence of representatives in the cabinet from the state parties will be found to have been the most important element in the transformation of India's federation.

The other unknown is the degree to which the BJP is committed to federalism. Only if the BJP wins a majority in some future election will the extent of its commitment become apparent.

[35]For comparisons between the United States, Canada and India, see Douglas V. Verney, "Are All Federations Federal? The United States, Canada and India," *Multiple Identities in a Single State*, pp. 19-59.