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***GOVERNING FEDERAL INDIA: POLITICAL
INSTITUTIONS FOR A DIVERSE SOCIETY
AND A RESURGENT ECONOMY***

India's political system has attempted to structure its enormous diversity through the application of the federal principle, and is today widely considered a robust parliamentary democracy. The seeds of the federal idea were already present in the Government of India Act 1935, which attempted to contain rising national sentiment with the grant of limited provincial autonomy. As India celebrates the sixtieth anniversary of its Republican Constitution², it is important to evaluate the strengths and weaknesses of a system that has survived decades of unimpressive economic growth to manage today the political challenges posed by a resurgent economy.

In the first part of this essay, we shall outline the basic structure of India's federal democracy, and the ways in which it has tried to represent a fragmented society within a unified polity. Adopting asymmetrical treatment of states when required, and reinventing institutions to suit changed contexts, Indian policy makers have innovated on basic federal principles to create a hybrid system of centralised federalism.

Thereafter, we analyse the impact of the federal structure on the functioning of India's political processes, notably the formulation of public policies. We will discuss how federal structures, which have led to the proliferation of political parties via the federalisation of the party system, have impacted decision-making in the public sphere. The growing prominence of local parties, having an electoral base in a single federated state, has given rise to governments that can be described as federal coalitions.

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² The Constitution entered into effect on 26 January 1950 and the First Lok Sabha, elected through the first ever general elections with universal suffrage, commenced in April 1952. The current Lok Sabha elected in May 2009 is the fifteenth since that date.

In the third part, we reflect on the accommodation of diversity within a democratic framework. With its 23 constitutionally recognised languages, the Indian Union has developed a framework for reconciling the competing and often conflicting demands of its 28 states. The recent phase of rapid and sustained economic growth has generated new tensions within the federal polity due to increasing regional inequalities and the persistence of vast tracts of poverty even in the more developed states.

We conclude with some reflections on how these new economic inequalities are being managed by the Union. We ask whether the role of the central government, referred to as the Union in the Constitution, has changed under the impact of globalisation and economic liberalisation.

I

The Union of India has a bicameral parliamentary structure, which is replicated with some variations in its 28 states. The Lok Sabha or House of the People is the lower house directly elected by universal adult suffrage. The Rajya Sabha or Council of States is a permanent body, not subject to dissolution, whose members are chosen by the elected members of State Legislative Assemblies.

The Rajya Sabha is empowered to give the consent of the States in some special cases such as the transfer of states' legislative powers to the Union Parliament (Art 349), and approval of amendments to the Constitution (Art 368). However, its credentials to speak in the name of states have been challenged on the grounds that its members have weak links with the states that they represent.

Three lists in the Constitution define the respective jurisdictions of the Union and State legislatures, as also areas where they are both competent. They reveal that while some effort has been made to apply the criterion of handling matters at the appropriate level, they have also been designed as a series of interlocking jurisdictions for purposes of crafting an integrated Union. It is therefore extremely difficult to delink issues according to levels because the same subject graduates from the lower to the higher level as it gains in scale or complexity. A literal reading of the constitutional division of powers can therefore be misleading. Multiple overlaps have occurred, not merely in the concurrent spheres of jurisdiction but also in spheres explicitly assigned to the states.

It is important to recall that the original constitutional design vested substantial legislative powers and responsibilities in state governments for key developmental activities. The subsequent mismatch that has arisen between their responsibilities and their resources, and the resultant dependency on the Centre, have their roots in policy decisions taken at both levels of government, notably regarding strategies for mobilisation of

financial resources.

In practice, a rigid separation of levels is unattainable due to overlapping concerns. For example, the power to legislate the implementation of international agreements is vested in the Union Parliament under article 253, even when the subject matter of the agreement falls in the state list, such as agriculture. While land is a state subject, environmental and ecological concerns, notably forests, are covered by Union legislation and industrial projects require clearance after an environmental impact audit. Similarly, while public order is a state subject, internal security and terrorism have increasingly become central concerns due to their international ramifications.

While the issue of distribution of responsibilities and powers in federal political systems is generally contentious, a gross mismatch between the two can lead to tensions. Table 1 illustrates the ways in which jurisdictions are interlinked in selected subjects pertaining to socio-economic development. The jurisdiction of the Union Parliament, as enumerated in List I, is subject to the prerogatives of the state legislatures in the spheres enumerated in List II. Both legislatures have concurrent jurisdiction in matters mentioned in List III, with the Union Parliament having pre-emptive power.

Table 1: Distribution of Legislative Powers and Executive Responsibilities between the Union Parliament and the State Assemblies in Key Areas.

Domain	List I: Union Parliament	List II: State Assemblies	List III: Concurrent Powers
1. Defence	Defence of India (1) Armed Forces (2) Para Military Forces (2a)		
2. Foreign Affairs	War and Peace (15) Diplomacy (11) UN (12) International Conferences (13) Treaties (14) Citizenship (17)		
3. Money	Public Debt (35) Currency & Foreign Exchange (36) Reserve Bank (38) Foreign Loans (37)	Money lending and money lenders (30)	Bankruptcy and Insolvency (9)
4. Judiciary	Supreme Court (77) High Courts (78)	High Court Personnel (3) Prisons (4)	Criminal Law (1) & Code (2) Justice Administration (11A) Civil Code (13)
5. Internal Security	Para Military Forces (2a) Central Bureau of Investigation (8) Preventive Detention for Defence, Foreign Affairs (9)	Public Order (1) Police (2)	Preventive Detention for state security, public order (3)
6. Land		Land rights , tenures, rents, transfer (18)	Forests (17A)
7. Water	Inter-state rivers and river valleys notified by law in public interest (56)	Water supplies, storage, power, irrigation and canals (17)	

Domain	List I: Union Parliament	List II: State Assemblies	List III: Concurrent Powers
8. Electricity, Power Energy	Atomic energy and related mineral resources (6)	Natural and Bio-Gas (25)	Electricity (38)
9. Agriculture & Fisheries	Fishing/Fisheries beyond territorial waters (57)	Agriculture (14); Livestock (15), Fisheries within territorial waters (21)	Wild Animals (17B)
10. Industry	Industries notified by law for national defence (7) or to be in public interest (52)	Industries other than those in List I(24)	Factories (36)
11. Oil, Mines, Minerals,	Mineral oil / Petroleum (53), Mines and minerals notified to be in the public interest (54)	Mines and minerals other than those in List I(23)	
12. Trade & Commerce	Foreign trade and commerce, import/export, customs frontiers (41) Inter-state trade & commerce (42)	Trade & commerce within the state (26) Production, supply and distribution of goods (27) Markets & Fairs (28)	Trade, commerce, production & distribution of foodstuffs, edible oils, cotton & jute (33)
13. Transport & Communications	Railways (22), national highways (23), national waterways (24), maritime shipping (25) major ports (27) airways (29) rail/sea/air transportation (30)	Roads and means of communication other than those in List I(13)	Minor ports (31), shipping & navigation on inland waterways (32)
14. Education	Universities & Institutions of national importance for scientific technical education and research (63-66)	Incorporation and regulation of Universities, literary and scientific societies, associations, cooperatives (32)	Technical, medical, and university education including vocational and technical training (25)
15. Information & Broadcasting	Posts/telegraph/telephone/ wireless/broadcasting and communication. (31) Cinema censorship (60)	Theatre, Cinema, Sports (33)	
16. Public Health and Social Welfare	Port quarantine (28)	Public health and sanitation/ hospitals & dispensaries (6) Relief of disabled/ unemployable (9)	Infectious and contagious diseases (29) Economic & social planning (20) Population control (20A) social security/insurance & employment / unemployment (23) Labour welfare (24)
17. Local government, public works co-operatives		Municipal corporations local self - government (5) Public works (35) Co-operative societies (32)	
18. Taxation Powers Financial Resources	Taxes on Personal Income (82), Corporate Income (85), Capital (86), Estates (87), Rail/Sea/Air Transportation (89), Services (92) .	Land Revenue (45), Agric Income Tax (46), Lands Buildings Tax (49), Alcohol (51), Electricity (53), Sales of Goods (54), Vehicles (57), Cinema (62).	

Source: Compiled from *Constitution of India*, Seventh Schedule. Numbers in brackets refer to item numbers in the concerned list. **Residuary powers are vested in the Union.**

We have seen that the overlaps in the policy implication of jurisdictions are increasingly numerous. One finds further explanations for this blurring of levels in the logic of federal political processes. Union ministries deal with land-use issues through their jurisdiction over environmental protection and ecological elements such as forests. Recent tensions over land acquisition for mining and industrial purposes illustrate these jurisdictional overlaps, since land per se is in the domain of the states.

An understanding of the role of institutions such as the Finance Commission, which recommends the basis for sharing of tax revenues between the Centre and the states, or the Planning Commission, which supervised the system of centralised economic planning in the first phase, is crucial for appreciating the working of the federal system. A particularly striking example of the reinvention of institutions is provided by the Planning Commission, which sank from its earlier heights as a 'Super Cabinet' to quasi-irrelevance in policy making under Rajiv Gandhi during the first phase of economic liberalisation. Conceived as an advisory body to the Prime Minister, it has become a powerful player in policy formulation under Montek Singh Ahluwalia, and is represented in most key decision-making bodies, such as the Groups of Ministers constituted by the Cabinet from time to time on important but contentious issues.

II

The development of the federal system can be broadly divided into three phases. The first coincides with the dominance of the Congress party (1947-67) at both levels of government, a dominance that was challenged in the 1967 elections before being decisively overturned ten years later after an unpopular national emergency regime.

Political parties are the lifeblood of any parliamentary democracy. Changes in this arena are therefore closely linked to the passage from one phase to another. The second phase, 1979-89, was marked by the transition to a vigorously competitive multi party system, which initially took root in the states. The Congress party was again decisively dislodged from the preeminent position it had regained at the Centre, inaugurating a third phase of experimentation with coalition governments. The turning point in this development came in 1998, when the Bharatiya Janata Party (BJP) succeeded in fabricating a coalition that effectively presented a non-Congress alternative. This National Democratic Alliance, (NDA) succeeded in getting re-elected after an initial hiccup, and wielded power till it was ousted by the Congress-led United Progressive Alliance (UPA) in 2004.

Parties represented in Parliament simultaneously wield power at the state level or are contenders for it. The complexities of electoral federalism and the presence of a large number of single-state parties in federal

coalitions make it inevitable that state-level concerns get reflected in the Union Parliament and government. Thus many of the tensions concerning excessive centralisation through concentration of powers in the central government were attenuated when state parties began to play a more prominent role in national decision-making. The abuse of central intervention powers in the governance of states, under article 356 (commonly known as President's Rule), was checked first by judicial intervention and then by the political clout of states resolutely opposed to its utilisation.

If we look at the party composition of the Lok Sabha over the last five general elections, we see the emergence of a bi-nodal polity in which the two polity-wide or All-India parties are the two defining nodes. They compete for constructing a parliamentary majority, with the help and support of state parties. Table 2 highlights the important fact that the total share of the seats won by the two polity-wide parties saw a steady decline during three successive elections before being arrested in the last election. There was a corresponding rise in the seat share of single - state and multi-state parties. Table 3 shows the distribution in terms of vote shares and tells a somewhat different story. The share of state parties is sometimes more than that of the polity-wide parties even when their seat share has declined.

Table 2: Division of Seats in the Lok Sabha between All-India and State Parties 1996-2009.

Parties	11LS:1996	12LS:1998	13LS:1999	14LS:2004	15LS:2009
All-India Parties	% Seats	% Seats	% Seats	% Seats	% Seats
Congress	25.8	26.0	21.0	26.7	37.9
BJP	29.6	33.5	33.5	25.4	21.4
Sub Total INC+BJP	55.4	59.5	54.5	52.1	59.3
State Parties					
Multi-state parties	18.8	11.8	13.3	14.9	9.9
Single-State parties & Independents.	25.8	28.7	32.2	33.0	30.8
Sub Total State Parties	44.6	40.5	45.5	47.9	40.7
Grand Total	100.0	100.0	100.0	100.0	100.0

Table 3: Division of Vote Share in the Lok Sabha between All-India and State Parties 1996-2009.

Parties	11LS:1996	12LS:1998	13LS:1999	14LS:2004	15LS:2009
All-India Parties	% Vote share	% Vote share	% Vote share	% Vote share	% Vote share
Congress	28.80	25.82	28.30	26.53	28.52
BJP	20.29	25.59	23.75	22.16	18.84
Sub Total INC+BJP	49.09	51.41	52.05	48.59	47.36
State Parties					
Multi-state parties	22.72	19.36	20.11	16.61	16.24
Single-State parties and Independents	28.19	29.23	27.84	34.80	36.40
Sub Total State Parties	50.91	48.59	47.95	51.41	52.64
Grand Total	100.00	100.00	100.00	100.00	100.00

Source: Balveer Arora and Stephanie Tawa Lama-Rewal 'Contests in Context: Indian Elections 2009', Special Issue of e-journal SAMAJ, <http://samaj.revues.org>.

III

How has the Indian federal system fared in its handling of diversity? Has it redefined the way diversity can be organized and lived within a single democratic polity? Or is it as fragile as it was when it all began, since significant numbers of at least two of its dissatisfied populations, the Kashmiris and the Nagas, are still questioning their status and situation in the Indian Union. We must bear in mind that diversities armed with the power of universal franchise are formidable forces, not easily subdued or controlled in a democratic polity.

Identities in India have a long past, but a recent history, in the sense that many of them rediscovered their distinctiveness through the enumeration policies of the colonial power and have been consolidated after independence with the establishment of electoral democracy. The treatment of diversity by India's Constitution has its roots in a culture with a propensity and a readiness to not only recognise but also accommodate difference.

India's pluricultural society was encompassed in a federal polity organized around the founding belief of unity in diversity by the Constituent Assembly. The framers of the Constitution were acutely aware of the vast range of diversity they had to contend with, but were, in the context of the partition of the country that accompanied independence, understandably obsessed with ensuring the unity essential for national cohesion.

The full force of linguistic and cultural diversities began to be felt even in the early years of the republic. Political adjustments, mediated by the electoral process, enabled the political system to extricate itself from many difficult situations such as the protest movements that arose around the demand for linguistic states and the official language policy.

Accommodation is the key concept that characterizes this constitutional approach to diversity. From the propensity to recognise difference to giving them constitutional sanction and status is but a small next step. The existence of multiple identities, superimposed on one another, is one of the key features of pluralism in India. The states, however, are not political units alone. The majority of them have distinct cultural histories and personalities, and, in the case of the larger pluricultural states, there are often distinct communities within each state. In the presence of multiple identities, the overwriting analogy appears the most appropriate. There is a superimposition of layered identities, where the succeeding layers do not erase the existing ones, but merely overwrite them.

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When it came into existence, India's federal parliamentary system was given very meagre chances of survival. The capacity to innovate pragmatic solutions in response to the demands of new forms of diversity has been a constant challenge. Today, the governance of economic growth has to be skilfully combined with the political management of poverty.

How do we evaluate India's efforts at organising an enormously wide range of diversities, perhaps the widest ever organised by a democracy? India's political system has innovated in significant ways in its efforts to evolve a system of governance adapted to the needs and traditions of an ancient country, which is at last emerging economically from the ravages of colonial rule, and facing new domestic challenges and global responsibilities.

Finally, how much has changed in the institutional arrangements for federal governance under the impact of globalisation and liberalisation? India still remains a centralised federation, despite some increase in the effective exercise of their powers by state and local governments. New regulatory bodies have merged to replace the earlier mode of governance based on licences and permits, held responsible for stifling growth. These new regulatory organisations, with the ostensible mandate of benchmarking best practices and ensuring minimum standards across the Union, have developed considerable clout. They are the new pillars on which the federal governance of growth now rests.

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