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Federalism

Subrata K. Mitra and Matte Pehl

Federalism is best understood as a method of promoting self-rule and shared rule and of balancing the interests of a nation with that of its regions. Typically, this is done for a dual purpose—that of limiting the possibility of a tyranny of the majority, and of generating strength through union. A durable federal design thus aims at the contradictory goals of reconciling freedom with cohesion, and a diversity of political cultures and identities with effective collective action. Usually, one can assume such a design to be the product of a context with a tradition of political bargaining among autonomous units, and of a political culture leavened with a history of a social contract. None of these *a priori* conditions prepares the student of comparative federalism for the Indian case. With its history of colonial subjecthood and a constitution that is more the result of a transfer of power than of a concerted, organized, violent quest for independent

statehood, based on a contract, India stands apart from the world's major federations. The history of the evolution of India's federalism is a striking contrast to the union of pre-existing political units jealous of their identity, as in the case of the USA. India, not least with its more recent, ambiguous history of crisis government (*State of Emergency* and *President's Rule*), is hardly a model candidate for an optimal path towards a robust federal system. This chapter will show how in India, though it is not among the world's oldest federal political systems, federalism is nevertheless steadily emerging as a key feature of its political system, and as an interesting example of the innovative potential of federalism more generally. The success of India's federal arrangement, as argued in this chapter, derives from a combination of sometimes diverging factors such as its constitution, other institutional arrangements, political practice, and public opinion on these matters.

With a formally relatively clear, constitutionally guaranteed division of power between the Central government and the constituent states,¹ nowadays

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effectively policed by an independent Supreme Court, separate, direct elections to the Central and regional legislatures, monitored by an independent Election Commission, and the capacity of the political process to sustain a dynamic balance between the jurisdictions of the two sets of governments, India exhibits many of the features of federalism. However, India's membership of this exclusive club remains a matter of some dispute.² Indians themselves, as the findings of surveys ranging from 1967 to 1999 indicate,³ do not appear to share these doubts about the existence and effectiveness of a federal government along with regional and local governments. The political evidence with regard to the characteristics of a federal process⁴ is present, and appears to support the conjectures based on the survey data, as shown later in this chapter. Scholarly scepticism persists, nevertheless, and surfaces as part of a larger question: with her multi-ethnic society, structural asymmetry of constituent units, mass illiteracy and poverty, and the uphill task of state-formation and nation-building, why does federalism not lead to a disintegration of the political community and system as a whole?⁵ This chapter addresses some of these issues through its analysis of the innovative character of Indian federalism.

Since the indiscriminate use of the concepts of federalism, federal systems, and the federal process might lead to confusion, following Watts and building on notions from Elazar (Watts 1998; Elazar 1994; Elazar 1987), the terms will be defined at the outset. Federalism, for the purpose of this inquiry, and thus differing slightly from Watts' definition, is both a descriptive and a normative category, implying the opposite of unitary rule, and embodying the normative ideal of a division of substantive areas over which power is exercised between at least two sets of governments. A federal system is the constitutional arrangement that gives federalism its institutional form. It is typically identified with the existence of four institutional characteristics. First, there should be two sets of governments, each with its independent spheres of administrative and legislative competence; second, each set of governments should have

independent tax bases; third, there should be a written constitution from which each side derives its legislative power; and finally, in case of conflict, there should be a system of independent judicial courts to arbitrate between the Centre and the constituent units. The federal process, then, is the ensemble of actual participatory, legislative, and policy interactions that relate the structure of the federal system to the dynamics of everyday political life.

This chapter describes the features of India's federal system and process, and seeks to explain their effectiveness in terms of their symbiosis with the projects of nation-building and state-formation in India. This is done through a presentation of the basic structure of federalism in India and its political constraints. Next, the main role that the federal system and process have played in transforming a mere collection of disjointed British-administered territories and former princely states, set free to follow their destiny by their British 'allies' at the end of colonial rule, and the Indian provinces into an effective 'Union of States' is discussed.⁶ The flexibility of the federal process has made it possible for the state in India to accommodate ethno-national movements in the form of new regions, thus gradually increasing both the number of states and the governability of the Union. In addition, the vertical expansion of the federal structure, to which a third tier was added through the constitutionally mandated authority and some financial autonomy accorded to village-level political institutions by the Seventy-third and Seventy-fourth Constitutional Amendment Acts of 1993, along with a mandatory quota of 33 per cent of seats for women in bodies of local self-government, deserves careful attention. This has turned the federal process into a major source of legitimization and democratization of power in India, even though some might argue that it has made governing unnecessarily complex and that policy performance did not clearly improve. However, as the example of Kashmir indicates, this success story has its limitations, for the juxtaposition of religion and geopolitics defines the limits of the integrative potential of federalism in India.

THE FEDERAL PROCESS: THREE PHASE OF DEVELOPMENT SINCE INDEPENDENCE

The framers of the Indian Constitution, as we saw above, were keen on federalism as a functional instrument for the creation of an Indian nation and a strong, cohesive state. The leading politicians of the immediate post-Independence state were besieged by threats to India's security both from outside and inside, and faced the challenge of development through having perceived and chosen centralized economic planning as an optimal method by which to reach that objective. Thus, both for constitutional and political reasons, the institutionalization of a strong federalism in the Indian system appears to have been seriously compromised from the outset. Nonetheless, the political process has been able to adapt to this design, and in many, though not all, cases mollify it when necessary to safeguard regional interests.

The first phase of federalization of the political process extended from the time of Independence to the mid- 1960s. Prime Minister Jawaharlal Nehru took democracy seriously enough to face the enormously expanded Indian electorate (in 1951, in the first general election held both to the national Parliament and the provincial assemblies), providing for full and free participation in the election. He took the chief ministers (all of whom, with rare exceptions, were members of the Indian National Congress (INC), the party of which he was for part of this period the President and, of all this period, leader of the parliamentary party) seriously enough to write to each of them every month in an effort to keep them informed of the state of the nation and the world, and to solicit their opinion in an attempt to build a national consensus.⁷ The INC, which had already embraced the federal principle back in the 1920's by organizing itself on the basis of Provincial Congress Committees based on linguistic regions, institutionalized the principle of consultation, accommodation, and consensus through a delicate balancing of the factions within the 'Congress System' (Kothari 1970). It also practised the co-optation of local and regional leaders in the national power

structure,⁸ and the system of sending out Congress 'observers' from the Centre to mediate between warring factions in the provinces, thus simultaneously ensuring the legitimacy of the provincial power structure in running its own affairs as well as the role of Central mediation.

The second phase of the development of Indian federalism began with the fourth general elections (1967), which drastically reduced the overwhelming strength of the Congress party in the national Parliament to a simple majority and saw nearly half the states moving out of Congress control and into the hands of opposition parties or coalitions, and led to a radical change in the nature of centre-state relations. No longer could an imperious Congress Prime Minister afford to 'dictate' benevolently to a loyal Congress Chief Minister. However, even as the tone became more contentious, the essential principles of accommodation and consultation held between the crucial 1967-9 period of transition. The Congress-dominated Centre began cohabiting with opposition parties at the regional level. The balance was lost once the Congress party split (1969), and Prime Minister Indira Gandhi took to the strategy of radical rhetoric and strong centralized personal leadership. In consequence, the regional accommodation, which had been possible by way of the internal federalization of the Congress party, was subsequently eroded. However, after the authoritarian interlude of 1975-7, which, in both law and fact, reduced India's federal system to pretty much a unitary state, the system reverted to the earlier stage of tenuous cooperation between the Centre and the states.

With the prolonged period of coalition governments at the Centre, the third phase in the federalization of Indian polities began at the end of the 1980s. Regional parties, such as the Dravida Munnetra Kazhagam (DMK) of Tamil Nadu or the Rashtriya Janata Dal (RJD) of Bihar, have asserted their interests more openly over the past one-and-a-half decades of coalition and minority governments. This increased assertion on the part of regional parties at the Central level had forced even the Hindu nationalist Bharatiya Janata Party, which led the ruling coalition in the thirteenth Lok Sabha until 2004, to

be solicitous in its, at least symbolic, adherence to the norms of centre-state relations established by its predecessors, including such hallowed principles of the Indian Union as the three-language formula, in spite of its advocacy of Hindi as India's national language during its long years in the opposition.⁹

INSTITUTIONAL DESIGN: STRENGTHS AND WEAKNESSES

When compared to the relatively longer existence of four key federal states, namely the United States (1789), Switzerland (1848), Canada (1867/1931), and Australia (1901), their comparative ethnic and cultural homogeneity during long periods of their existence, and the high literacy and standards of living considered necessary for the sophisticated power-sharing that a federal system requires, India presents a set of apparently insurmountable obstacles against a likely federal solution. Wheare, reflecting this and other reservations, describes the Indian case as '[...]a quasi-federation—a unitary state with subsidiary federal features rather than a federal state with subsidiary unitary features'.¹⁰

The Institutional Set-up of Indian Federalism

The fact that academic debates have arisen over time around the question of the character of Indian federalism is rooted in the very constitutional framework that constitutes its basis. While this framework at first glance meets the basic normative requirements of federalism, a number of additional provisions have the potential of diluting their effects in reality and transforming the system into a unitary one instead.

India's system of government is divided between the Central level and the federal units (currently twenty-eight states and seven Union Territories, including the National Capital Territory of Delhi).¹¹ The Constitution of India provides for a relatively clear *vertical* division of powers between the Central legislature (referred to in Indian usage as the Union government) and the state legislatures, both constituted through direct elections, respectively, in the Seventh Schedule (see Table 4.1). The Union controls the 'Union list', consisting of areas that involve inter-state

relations, national security, and foreign affairs. Subjects of primary interest to the regions, called the 'State list', encompassing law and order, culture and education, are under the jurisdiction of the states. The 'Concurrent list' holds subjects of overlapping interest, like land reform laws or issues relating to cultural or religious minorities, where both Centre and state can make laws with the understanding that in case of conflict, the Central laws will take precedence. Subjects not specifically mentioned in the Constitution, called the residuary subjects, come under Central legislation. Each list also mentions how the two governments can raise income through taxation. In case of a conflict of jurisdiction, the Centre or the state can move the Supreme Court to have the point of law authoritatively interpreted.

A number of formally constituted organizational units execute the responsibilities allocated to them under this constitutional framework, sharing power over the affairs of a political territory in two senses, namely having joint or competing powers over the same matters on the one hand, and having separate powers over separate matters on the other. Ideal typically, in a multi-level system of government such as a federal political system, the sharing of powers of this kind can be conceived of as involving three types of sharing (in the sense of separation, but also fusion): vertical power-sharing, horizontal power-sharing, and transversal power-sharing. The term *vertical power-sharing* describes the allocation of certain issue areas and competences in decision-making to be handled by either the Central, sub-national or the local level of government, denoting the division aspect of the allocation of powers, rather than the fusion aspect. Thus, the vertical division of powers is depicted in Table 4.1, allocating specific matters to either one of the three levels of government. The term *horizontal power-sharing* describes the sharing of competences at the Central and the sub-national levels between the branches of government, denoting the fusion as well as the separation-aspect of sharing mechanisms, as well as the sharing of powers between sub-units in a federal political system in its separation and fusion variants. By *transversal power-sharing* is meant, among other things, a structural and processual sharing of powers between levels of government, such that it involves, in addition to the superior-level unit, one or more or all

Table 4.1: Important Legislative Competences

COMPETENCES	ENABLING PROVISION
Defence, Atomic Energy, Foreign Affairs, Citizenship, Transport Infrastructure, Currency, Postal Service, Banking/Insurance, Electoral Laws, Organization of the Supreme Court, Taxation in various areas, Natural Resources, Union Territory matters, Residual Competences	Art. 246 + Seventh Schedule (List I), Constitution of India
Public Order/Police, Public Health, Local Government, Agriculture, Water, Land, State Public Services, Taxes (on agricultural income, on land, etc)	Art. 246 + Seventh Schedule (List II), Constitution of India
Economic Development, Social Justice (subject to state laws allocating powers of local self-government to village councils)	Art. 243 C + respective State legislation
Criminal Law/Criminal Procedure Law, Marriage and Divorce Law, Transfer of Non-agricultural Property, Civil and Commercial Law, Economic/Social/Family Planning	Art. 246 + Seventh Schedule (List III), Constitution of India

Source: Gol 1991.

lower-level units (such as the states in the Indian case) in its fusion-variant. The non-hierarchical and informal modes of joining levels and units through coordinating mechanisms are part of the phenomenon that has been described in another regional context as 'political interlocking' in cooperative federalism.¹² These three types of power-sharing involve, respectively, both hierarchical and non-hierarchical modes of coordination of action, as represented in Table 4.2, and also both formal and informal institutions.

At the Union level, a tripartite sharing out of power, referred to here as a *horizontal* allocation of powers, allocates different functions of government to the executive (President and Council of Ministers/ Prime Minister), the legislative (Union Parliament, consisting of Lok Sabha and Rajiya Sabha), and the judicial branches of government (Supreme Court of India), although there is significant overlap in personnel between the legislative and the executive branches, with the requirement being that the Prime Minister and all other ministers must be members of either House of Parliament or lose their office after a period of six months (Article 75, Constitution of India). This division is mirrored to some extent at the state level with the institutions of chief ministers and their cabinets, state legislatures (unicameral in most, bicameral in some states) and the respective high courts (although high courts apply Union, as well as state laws, and their organization is highly centralized).

Another set of units, such as the Finance Comission, the Inter-state Council, the Inter-state

Table 4.2: Typology of Power-sharing Arrangements in Multi-level Systems

TYPE	MODE OF COORDINATION	LEVELS/UNITS INVOLVED
Vertical	Non-hierarchical	Centre-State levels State-Local levels
Horizontal	Non-hierarchical	Centre (branches) States
Transversal	Hierarchical and Non-hierarchical	Centre-State levels

Source: Authors' depiction

Tribunals, the National Development Council, and a number of informal fora serve as bridging mechanisms between the levels of government and between states, thus enabling *transversal* as well as *horizontal* power-sharing. The *Inter-state Council*, which was set up for the first time in accordance with Article 263 in 1990, is a body that aims, despite not having legislative or administrative powers, at enabling consultation between governments at the state and the Union levels. It is constituted according to the Presidential Order of 1990, under which it was set up by the Prime Minister, chief ministers of states and those Union Territories which have legislative assemblies, governors of states under President's rule, and eight Union cabinet ministers.¹³ Although its primary function to date has been the debate on reforming centre-state relations, the Inter-state Council also functions as an important policy forum for informal discussions on other political issues affecting the states.

The *Finance Commission* is an organizational unit performing the task of providing recommendations to the President of India regarding the distribution of taxes between the Centre and the states, and between the states (Article 280, Section 1, Constitution of India). It is appointed regularly by the President of India every five years and consists of five members. Its importance in the process of regulating intergovernmental fiscal relations is enhanced by the fact that the recommendations, although not formally binding, have a quasi-binding character, and by the fact that many of the most expensive tasks of government, such as social matters or public orders are, directly or indirectly (through local government programmes financed from state funds), state-level matters. This issue will be taken up once more in a later section. The *Inter-state Tribunals* are ad hoc bodies infrequently constituted under the Inter-

state Water Disputes Act of 1956 in order to solve disputes over the use of water resources that cross the boundaries between states, such as rivers. In the past, these tribunals had been slow in their decision making and ineffective in the area of implementation of decisions. With the Amendment Act of 2002, the period within which decisions now have to be reached has been shortened to a combined maximum of six years. Due to the increase in the need for, and the depletion of, freshwater resources on account of increasingly rapid agricultural and industrial expansion as well as urbanization, and the more frequent disputes arising from inter-state competition for this resource, these bodies can be expected to acquire increasing importance and visibility in the future.

Another institution which served informally as a mechanism for the coordination of political action between the central and sub-national levels

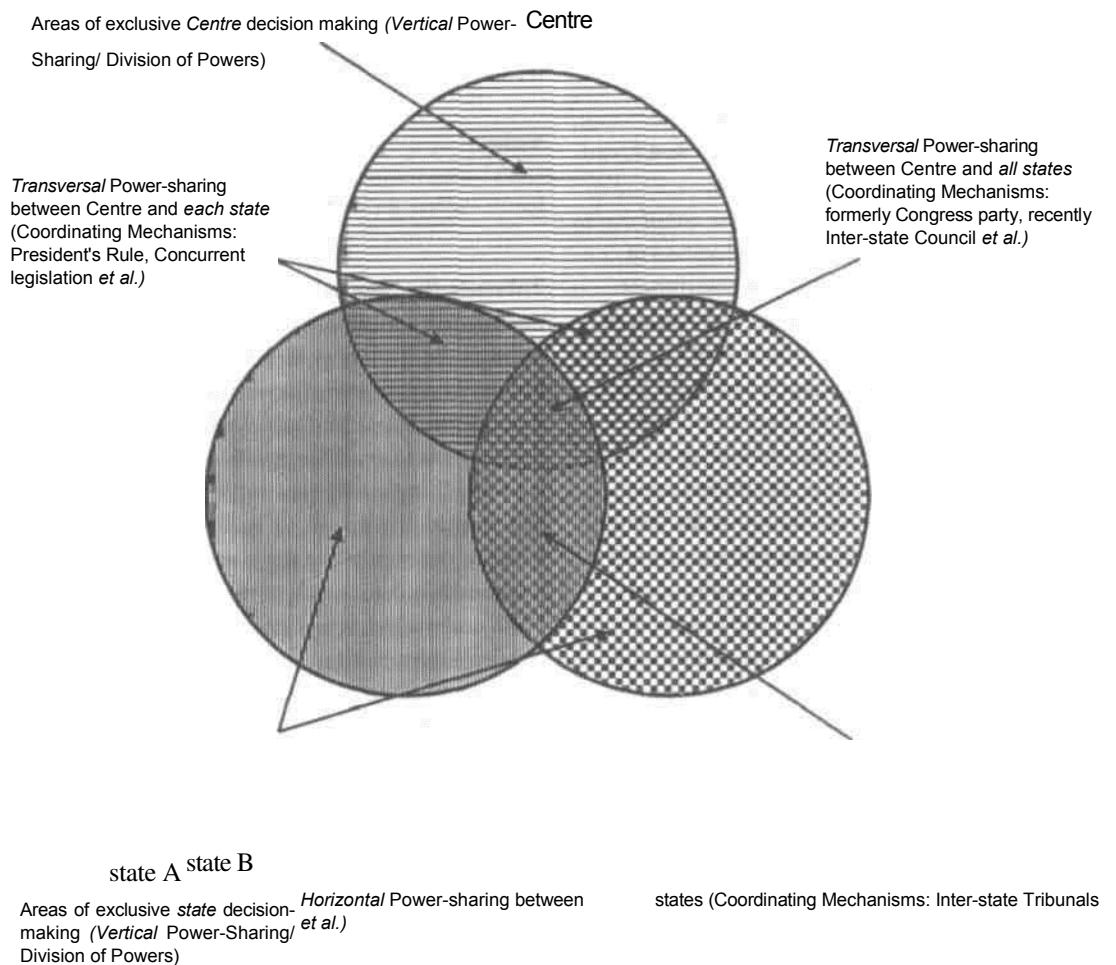


Figure 4.1: Issue-overlap, Power-sharing, and Coordination of

Action of Centre and States Source: Own depiction

of government in the past was the *Indian National Congress*, during the period of its electoral and administrative dominance.¹⁴ Through its internal processes of decision-making and channels of communication, this system facilitated coordination between the leading politicians at the Centre and in the regions until the second half of the 1960s, thus joining decision-making elites at the national and state levels and enabling some degree of *transversal power-sharing*. Figure 4.1 illustrates the areas of issue overlap in decision-making by the Union and the state governments, and the location of the various formal and informal institutions and coordinating mechanisms serving as instruments of policy coordination.

Nonetheless, doubts about the authenticity of Indian federalism arise from the constraints placed upon it by a number of institutions. These constraints are in part elements of the transversal type of power-sharing, which employ a hierarchical mode of coordination of action. One of these features, which has repeatedly come under intense criticism, is the role played by the Governors within India's states, and the use of *President's Rule*.¹⁵ While the framers of the Indian Constitution intended the Governors to play a rather minimal role in the political process, mainly confined to extreme crisis situations, they have often intervened at the behest of the Central government in the political affairs of states.¹⁶ The institution of the Governor has added a veto player to the democratic setup of state politics, one who is appointed by the President on the advice of the Union Cabinet (Article 155), and is not accountable to any legislature either at the state or at the Central level. In essence, the Governor occupies the same constitutional position as the President at the Central level, as the Indian Supreme Court noted in *Ram Jawaya Kapoor vs State of Punjab*.¹⁷ The influence of the Union within the constitutional framework of Indian politics is comparatively strong, and this fact has led to claims of Governors acting as the 'long arm' of the Centre and their neglect of state interests, especially in the area of decisions which the Governor takes at his discretion and not on the advice of the respective state's Council of Ministers. One arena in which this double-edged sword—of the formal obligation to uphold constitutional government in the states on

the one hand and the accountability to the Centre on the other—has played out is that of President's Rule in the Indian states, that is, the supplanting of state governments by rule of the Central government in certain crisis situations in accordance with Article 356 of the Constitution of India. This issue will later resurface as part of the discussion on the interaction of institutional design and the political process. Another constitutional peculiarity that has attracted commendation and scepticism alike with regard to India's federal character is the issue of the territorial integrity of the constituent units of the Indian Union, the states. Early authors such as Wheare (1964) noted that the fact that the constituent units within India did not enjoy a guarantee of territorial integrity, which could be waived only with their express consent, was one of the reasons why India was merely a 'quasi-federation'. This now dated assessment invites scrutiny of this particular arrangement among the constituent units. As Articles 2 and 3 of the Indian Constitution stipulate, the power to form, alter or dissolve states lies with the Parliament of India. The states' indirect role in this process is therefore confined to the vote in the Rajya Sabha, where debate ensues, in particular at the initiation of members from the respective regions in question, and to the expression of non-binding opinion on the issue of alteration of boundaries by the state Assemblies to the President (Article 3). On the other hand, however, the Indian Supreme Court, vindicating the claims of Watts (1998: 126) regarding the importance of an institutional arrangement to guarantee the autonomy of the constituent units, declared that 'the fact that under the scheme of our Constitution greater power is conferred upon the Centre vis-a-vis the states does not mean that states are mere appendages of the Centre. Within the sphere allotted to them, states are supreme. The Centre cannot tamper with their powers.'¹⁸ It also confirmed the status of Indian federalism as part of the basic structure of the Indian Constitution. A different arrangement can be found in the German Constitution (the *Grundgesetz* or Basic Law), which does not specify the number of states that constitute Germany and also allows for the alteration of boundaries, albeit only with the consent of the people living in the territory concerned (Article 29), but declares the

abolition of federalism, that is, the division of the country into constituent units as such, as beyond the scope of parliamentary amendment power (Article 79, Sec. 3, *Grundgesetz*).¹⁹ Thus, this institutional designing, which was not expressly laid out in the Constitution of India, has been done procedurally by the Supreme Court. Nonetheless, the alterations of boundaries, not least in the cases of the creation of the state of Jharkhand out of Bihar, or Uttarakhand out of Uttar Pradesh, have invited protest on several occasions; and this instrument, while creating opportunities for greater autonomy to be afforded to certain ethnic or linguistic groups, has also placed constraints on the political process.

Institutional Design and the Political Process

The ambivalent legal position that the Indian Constitution accords to the constituent states of the Union must appear startling to the federalist. Not only did the construction of the Union not follow from a decision by a group of independent political units to shed parts of their sovereign powers out of mutual interest and create a federal state, but the Union and the states were also formally a simultaneous creation of the Constituent Assembly, in which the provinces did not have any special representation. Further, the Central government gradually dissolved the political character of the units that existed at the time of Independence, and started creating new units. The first major redesigning of state boundaries was undertaken in 1956-7 through the States' Reorganization Act, 1956, after prolonged agitation in some regions, notably in south India, for a reorganization of states along linguistic and cultural boundaries.²⁰ The process has continued unabated, facilitated by the fact that the consent of the states, especially those forced to cede territory, is not required for alteration of the names or boundaries of the states.

Further, even though in normal times the states have the exclusive power to make laws in the areas allocated to them (which are far less numerous than those given to the Centre), the Central Parliament has an extraordinary power of legislation on state subjects in the national interest when authorized by the Rajya Sabha, the Upper House of the Parliament, to do so

(Article 249). The Rajya Sabha, which was meant to be the states' representative at the Centre, is far from being the equal of the Lok Sabha, the Lower House. It has fewer legislative functions, particularly with regard to finance. Traditionally, the Prime Minister and other important members of the national Cabinet are members of the Lok Sabha. In view of its size, which is less than half of that of the Lok Sabha, it runs the risk of being outvoted in a joint session, that is, the prescribed method of decision-making in case of a serious difference of opinion between the two Houses. Nor does the composition of the Rajya Sabha reflect the equality and dignity that is accorded to all members of a federation which are, in the cases of many other federal systems, treated as equals. This is because the number of seats allocated to the states, in spite of the weighting added to the smaller members of the Union, still reflects the inequality that flows from the fact that the population of Uttar Pradesh is now nearly 170 million, compared to three million for Nagaland.

There are other points that continue to question the trust of those who believe in states' rights. The Governor of each state, head of state under the Constitution and the ceremonial head, is an appointee of the President of India, most of the time acting on the advice of the Prime Minister. The Governors of India, invariably political appointees of the ruling party at the Centre, have continued to act as the Centre's eyes and ears. Their role becomes crucial if no majority party or coalition emerges from the election, in which case the Governor is obliged to organize a viable government coalition. In the event of a loss of support of the majority for the state government in the legislature, in the past often due to defection or splits, or if law and order declines precipitously, the Governor's report becomes the basis of the declaration of President's Rule. The modes of emergency government (Articles 352, 356, 360, Constitution of India), if and when employed, can hold the federal character of the division of powers in temporary abeyance. However, a distinction needs to be made between (a) the breakdown of constitutional government in a state leading to President's Rule and what President's rule implies—that is, administration by the Centre rather than by a popularly elected state government, and (b) a national emergency.

As outlined above, President's Rule at the state level can be declared by the President at the recommendation of the Governor (again, Central appointee and not, as in the United States, a political leader elected by the voting population of the respective state) under Article 356. The same article authorizes the President to dismiss the government of a state and dissolve or suspend its legislature when he receives a report from the state Governor, or in any other way, that 'the government of the state cannot be carried on in accordance with the provisions of the Constitution'. He may then 'assume all or any of the powers' vested in the government of the state with the exception of the function of the state legislature, which is then exercised by the Union Parliament, which in turn can delegate this power to the President in accordance with Article 357. As far as federalism is concerned, the negative implications of this article became clear as early as 1959, when the elected Communist government of Kerala was dismissed by the Congress-ruled Central government. Once again, safeguards such as approval of the national Parliament are provided for, but the use of this power under the prime ministership of Indira Gandhi, which drastically reduced the autonomy of the states, serves as a reminder of the potential threat to federalism from this angle. The instrument of a declaration of President's Rule in the states was used 10 times between 1951 and 1966, 65 times between 1967 and 1988, and on 13 occasions between 1989 and 1997.²¹ This means that on an average, Presidents Rule in the states was declared 1.5 times per year between 1951 and 1966, 3.1 times per year between 1967 and 1988, and on an average 2.3 times between 1989 and 1997, the latter being the period of minority and coalition governments at the Union level.

The proclamation of President's Rule, and also a national state of Emergency as a form of exceptional or crisis government, used to hang above the heads of India's regional governments like the sword of Damocles in the early decades of independent India.²² The national Emergency of 1975-7 deeply scarred India's democratic and federal record. Once proclaimed by the President under Article 352, it can in principle reduce India to a unitary state with an authoritarian government. If the President is satisfied that the security of India or any part of India is threatened by war or

external aggression or armed rebellion, and issues a declaration to this effect, the Emergency provisions are applicable to the whole of India or any part (Article 352).²³ Article 353 specifies the implications of a national state of Emergency, of which two are relevant to federalism. During the state of Emergency 'the executive power of the Union shall extend to the giving of directions to any state or as to the manner in which the executive power thereof is to be exercised'. Further, 'the power of Parliament to make laws with respect to any matter includes the power to make laws conferring powers and imposing duties, or authorizing the conferring of powers and the imposition of duties, upon the Union or officers and authorities of the Union, notwithstanding the fact that it is one that is not enumerated in the Union List' (Article 353).

The Constitution now provides safeguards against the abuse of this provision. Thus, after the constitutional revisions in the second half of the 1970s, the President may act only at the written recommendation of the Cabinet, and the proclamation of Emergency needs to be approved by the Parliament. Still, the experience of 1975 continues to be a reminder of the potential threat. Ultimately, however, this institutional feature, as well as the instrument of President's Rule, as means of Central intervention in times of crisis, are in themselves not sufficient to warrant the claim that India is merely a 'quasi-federation', since similar provisions exist in many countries' constitutions. It is the process of employment of this instrument that calls the federal arrangement into question at certain times, when it is used for apparently party political considerations rather than crisis management.²⁴

Finally, the problem of structural asymmetry, implying a great difference in the size of the members of a federation, is a key feature of the Indian case, affecting the political process. In terms of their presence in the Lok Sabha, for example, the contingent from Uttar Pradesh, with 85 Members of Parliament (MPs), is a much more significant presence than tiny Tripura with just two. Many of the Prime Ministers of India and many important members of the Central Cabinet have come in the past from Uttar Pradesh. Watts mentions India along with Spain, Belgium, Malaysia, and Russia as a federation that shows the presence of

structural asymmetry either in its constitution or in political practices. Drawing on the work of Tarlton (1965), who first drew attention to the phenomenon of structural asymmetry in federations, Watts shows how 'political asymmetry, arising from the impact of cultural, economic, demographic and social conditions [could affect] the relative power and influence of different constituent units, as well as their relations with each other and with the federative institution'.²⁵ The dominance of some groups in the political systems of neighbouring South Asian countries, both in terms of language and area of origin, are enough evidence of the potential consequences of structural asymmetry in terms of relativizing the federal quality of the Union.

FISCAL AND DEVELOPMENTAL FEDERALIZATION AND CENTRE- STATE RELATIONS

Another characteristic of Indian federalism is the fact that the Central government possesses superior financial powers. The more lucrative sources of revenue in the past and of the future like import or export duties, non-agricultural income tax, and corporate taxes are allocated to the Centre (Part XII, Constitution of India). The revenue of the states, on the other hand, constitutes a shrinking base in some of the states because, under pressure of populism, they have done away with or drastically reduced the taxation on land and income from agriculture. In addition to this, the Indian states' capacity to collect taxes has traditionally been rather weak. This compounds the problems, especially at the state level. States' revenues mainly accrue from four sources: tax and expenditure assignments derived from the Constitution of India (Seventh Schedule), transfers allocated by the Finance Commission (Article 275), transfers from the Planning Commission, and transfers from Central ministry budgets to the states. The transfers take the form of grants and loans to the states. Over the decades, the capacity of states to finance both revenue and capital expenditure from their own tax-based resources has declined substantially. Only 42 per cent of the states' total expenditure was covered by their own revenue receipts in 2000-1 (Singh 2004: 7-8). At the same time, a marked increase in the share

of loans and advances in the total amounts of capital receipts of states from the Central government has also contributed, among other factors, to a further increase in the indebtedness of states (Saez 2002: 145).

The Union government alone, on the other hand, is empowered to regulate the money supply, contract foreign loans, charge income tax on non-agricultural income and on services, or collect import and export duties. Depending on the composition of the Central government of the day and its political inclinations vis-a-vis state autonomy, revenue centralization and subsequent decentralization have taken place during the first decades after Independence (Rao 2001: 2741-5). Also, compared to other federal systems, India's states had a relatively low level of revenue, which they could generate themselves (as opposed to the total revenue of states, which includes transfers from the Centre to the states) when measured against the total revenue of the states and Central government combined (*ibid.*: 2751-6). Part of the revenue levied at the Central level is of course redistributed among states, on the basis of the advice of the organizationally independent Finance Commission or through the Planning Commission, and constitutes a significant source of income for them. However, the impression that is thus created is one of profligate states, and a more careful and sophisticated Central financial management. The superior financial powers of the Centre are further reinforced by other functions relating to financial management that are allocated to it. For it is the Central leadership that appoints the Planning Commission as well as the Finance Commission, which generally set the priorities for the national government, allocate resources to the states, and act as a clearing house of economic policy.

Nevertheless, as studies have shown, since the liberalization of economic policies and the decentralization of policymaking to states from the early 1990s onwards²⁶ (and even before then²⁷), states have been able to exercise some autonomy in regulating their own development trajectory. While this has increased the scope for competition among states and provided incentives for reform-oriented policies, disparities between states that are more and those that are less successful at coping with this changed policy environment have become apparent.²

While some states such as Andhra Pradesh, Karnataka, Tamil Nadu, and Kerala have shown signs of catching up as compared to early developers such as Gujarat, other states like Uttar Pradesh, Madhya Pradesh, Rajasthan, and Bihar have lost further ground when compared to the leading states. Thus, the trends of economic liberalization at the Centre, sub-national policy differentiation, and federalization of the overall political process have enabled some actors to use these new opportunities to their advantage, while others have fallen behind, compromising the relative comparability of living conditions for all Indian citizens. The picture today, then, is one of increasing differentiation among India's states in terms of their fiscal capabilities as well as their developmental potential, and a need for reform of inter-state mechanisms of coordination and equalization.²⁹

THE FEDERAL PROCESS: PERCEPTION IN INDIA

It can be argued that the Indian political elite has demonstrated its trust in the Indian Union through participation in its electoral and everyday politics. Yet the question raised by both Harrison and Moore (Harrison 1960; Moore 1966)⁹ about the acceptance of the democratic and federal rule of the polity by ordinary people still remains. To measure the interest of the electorate in the political system at the Central, regional, and local levels, as well as the loyalty to the respective political arenas, questions were asked in the different National Election Studies of the Indian electorate.³⁰ The answers are presented in Tables 4.3 and 4.4.

Table 4.3: in Central and State Government (in per cent)

	1971	1996	1999
al Govt.	24.9	39.7	26.0
al Govt.	21.0	11.0	14.8
Govt.	14.5	20.9	26.7
Govt.	18.9	23.0	25.6
IA, Other	20.7	5.4	6.9

Source: Centre for the Study of Developing Societies (New Delhi), National Election Studies 1971, 1996, and 1999 : DK = Don't Know NA = Not Available

Table 4.4: Loyalty to Region First and Then to India (in per cent)

	1967	1996	1999
Agree	..	53.4	50.7
Disagree	22.3	21.0	21.4
DK/No Opinion	8.4	25.6	27.8

Source: Centre for the Study of Developing Societies (New Delhi), National Election Studies, 1967, 1996, and 1999

An analysis of these findings reveals, first, a growing interest in regional matters from 1971 to 1999 (Table 4.3). After the peak in 1996, the group of respondents who expressed no interest in either state or Central governments' work reverted approximately to the same level as that of 1971. A notable and steady increase can be seen, however, in the group of respondents who express an equal interest in both levels of government.

Thus, while the Central government seems more remote from many respondents, the regionalization conjecture also requires caveats. While the concern for the politics of regional matters conducted by state governments has certainly grown, so has, in an even larger measure, the group of people who view both as equally important. This can be interpreted as evidence of the internalization of the federal norm in that section of the electorate that appears to view the power-sharing arrangement as a natural given.

Based on the results presented in Table 4.4, one could infer that loyalty first and foremost to the regions is in steady decline. This is a fairly safe assumption to make. Yet, the findings from the 1967 survey need to be viewed in light of the emergence of regional politics as a separate political sphere for the first time in the 1967 elections and the political campaigning of that year. Increasingly, however, it does indeed seem that a growing number of citizens no longer perceive national and regional politics, conducted in the states, as a trade-off. From both Tables 4.3 and 4.4 it becomes relatively clear that both arenas are being increasingly perceived as legitimate arenas of political action that need not be mutually exclusive. Regional political forces, having established themselves in the states as well as at the Central level, can be assumed to have turned the issue of the