



POLICY BRIEF

CHRISTOPHE JAFFRELOT AND SANSKRUTHI KALYANKAR

To What Extent is India a Union of States? From “Quasi Federalism” to “National Federalism”

The first article of the Indian Constitution presents the country as “a Union of States”. But there are different forms of federalism in the world. The kind of federalism that has been established by the 1950 Constitution in India has been defined by experts as “cooperative” because of the prerogatives it gave to the central government at the expense of the states. However, lawyers like former Chief Justice of India, Fali Nariman, have gone one step further and described this institutional system as “quasi unitary”¹. This centralization of power is evident from the proportion of the fiscal resources cornered by New Delhi – and redistributed to the states. It has also found expression in the growing importance of Centrally Sponsored Schemes (CSSs) consisting in massive programs of development and social policy spending which were traditionally coordinated by the Planning Commission, the arm of the New Delhi in this matter.² These CSSs are often seen by the states as “patronizing instruments” limiting their autonomy.³

Most of the state governments tended to resent this domination of “the Centre” – a key formula in the Indian political lexicon - even though New Delhi, on many occasions, let them take credit of the implementation of CSSs vis-à-vis the voters benefiting from them.⁴ At the helm of the government of Gujarat for 13 years, from 2001 to 2014, Narendra Modi complained that the Congress-led government of Manmohan Singh (2004-2014) exerted an over-centralizing authority. As a candidate to the post of Prime Minister in 2014, he promised to give more autonomy to the states. The Election Manifesto of his party, the Bharatiya Janata Party (Indian People’s Party), committed itself “to ‘place centre-state relations on an even keel’, ‘strive for harmonious centre-state relations’

¹ “Justice Fali Nariman Delivers the 2nd Justice Verma Memorial Lecture Hosted by Jindal University”, <https://www.prnewswire.com/in/news-releases/justice-fali-nariman-delivers-the-2nd-justice-verma-memorial-lecture-hosted-by-jindal-university-598169211.html>

² Louise Tillin and Anthony W. Pereira, ‘Federalism, Multi-Level Elections and Social Policy in Brazil and India’, *Commonwealth and Comparative Politics*, 55(3), 2017, pp. 328-352.

³ Yamini Aiyar and Avani Kapur, ‘The Centralization Vs Decentralization Tug of War and the Emerging Narrative of Fiscal Federalism for Social Policy in India’, *Journal of Regional and Federal Studies*, 29(2), 2018. 187-217, DOI: 10.1080/13597566.2018.1511978.

⁴ Avani Kapur writes in this regard: “Politically, a CSS set-up allows chief ministers to leverage their role as implementers to take credit for central schemes when implemented well or blame the Union government in case of failed programmes”. (A. Kapur, “Federalism and Social Policy”, in Yamini Aiyer and Louise Tillin, *The Union and the States - Seminar*, n° 717, May 2019, <https://www.india-seminar.com/semframe.html>)

and 'revive and make more active moribund forums like the National Development Council and Inter-State Council.'"⁵

But Modi and the BJP are a part of the Hindu nationalist movement, a school of thought which has traditionally been in favor of a unitary state for defending more effectively the culture of the majority community.⁶ For the first time in Indian history, the BJP won an absolute majority in the Lok Sabha (the lower house of Parliament) in 2014 and Modi had become Prime minister. In the first part of this paper, we will show that the Modi government has not been fully faithful to the decentralizing agenda that Modi had articulated during the campaign.

In the second part, we will observe that such a policy is not only at odds with the spirit of the Constitution, which codifies in detail the Indian federal system, but also contrary to a strong tendency of the Indian political trajectory: the rise of regional parties for over thirty years, a political development that refers to cultural, economic, and social realities that all companies investing in India have faced. We will explore them too, in order to evaluate the diversity of India, which the economic liberalization of the 1990s has accentuated further in socio-economic terms.

Map 1: The Indian Union



Source: C. Jaffrelot (dir.), *L'Inde contemporaine*, Paris, Pluriel, 2019.

⁵ K.K. Kailash, "The Chimera of Cooperative Federalism", in Yamini Aiyer and Louise Tillin, *The Union and the States*, op. cit.

⁶ On the ideology of the Hindu nationalist movement and its reservations vis-à-vis federalism in the 1950s-60s see the first two chapters of C. Jaffrelot, *Hindu nationalism and Indian politics*, London, Hurst, 1996.

The Centralizing Tendencies of the Modi Government

Narendra Modi's government is heir to a political tradition that has never fully accepted the cultural diversity of India, believing that the country's identity is embodied in the Hindu majority and in Hindi, a northern language spoken by less than 50% of Indians. While Modi, who had governed a state of the Indian Union, Gujarat, seemed to give reassurance of his support for federalism when he took office, the country has experienced a noticeable process of centralization over the last five years.

Institutional and financial reforms

Few weeks after taking over, in his first Independence speech of August 15, 2014, Narendra Modi announced his plans to dismantle the Planning Commission, a creation of Nehru, which, in his view, had been responsible of excessive centralization of power – after all, the Prime Minister, since Nehru, presided over the Commission. In January 2015, the Commission was replaced with the NITI Aayog (National Institution for Transforming India Commission)⁷, a new body that was supposed to “bring states to act together in national interest and there by foster Cooperative Federalism.”⁸ The cabinet resolution establishing the NITI Aayog explained that the “States of the Union do not want to be mere appendages of the Centre” and it endowed the new body with the task to reshape this relationship in such a way that states became “drivers of national development.” Indeed, Narendra Modi often refers to NITI Aayog as “Team India”, suggesting that it stands for the collective formed by the Centre and the states.

Secondly, within the NITI Aayog, a panel of Chief Ministers, headed by Shivraj Singh Chouhan, the then head of the government of Madhya Pradesh, recommended the reduction of the CSSs from 72 to 30 and the recognition of a clear distinction between the CSSs forming “the core” of New Delhi's social programs and those which were not seen as priorities. In the same vein, the panel recommended that the share of the flexi funds which is a allocated component within the centrally sponsored schemes (CSS) to provide, increased flexibility to states to meet local needs & requirements and to foster innovation in building efficiency within the overall objective of any given scheme at the sub-head level could be shifted from one of the CSSs to other programs according to the circumstances, should increase from 10 to 25 per cent of the total⁹. This component also deals with relief during natural calamities or internal security disturbances.”

Thirdly, in 2015, Narendra Modi also accepted the recommendations of the 14th Finance Commission to increase by ten percentage points, from 32 to 42 per cent the state governments' share in the divisible pool of taxes in order to improve their financial autonomy.

Thirdly, the BJP started to fulfill one of the promises it had made during the 2014 campaign, which is to create regional councils bringing together states with similar problems so that they could share their best practices. Indeed, the Modi government created the Himalayan State Regional Council, which is now made up of Jammu and Kashmir (which then had no government), Uttarakhand, Himachal Pradesh, Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, and some districts in Assam and West Bengal.

But this Council was created at the very end of Modi's first term, in 2018, and it was the only one. In fact, most of the BJP's promises of decentralization have not been implemented fully and others have, on the contrary, resulted in more centralization.

⁷ NITI stands for “National Institution for Transforming India”, but “niti”, in Hindi, also means well as “policy”.

⁸ NITI Aayog (National Institution for Transforming India), ‘Overview’. niti.gov.in/content/overview

⁹ “Centrally sponsored schemes likely to be reduced to 30”, *Live Mint*, 27 June 2015 (<https://www.livemint.com/Politics/RtbCWdokmYGtuSaN1umUSL/Centrally-sponsored-schemes-likely-to-be-reduced-to-30.html>).



The recentralization of power

The recentralization of power under Narendra Modi resulted from both, institutional developments as well as political practices.

- Institutional contradictions:

The decentralizing intentions that the reforms mentioned above reflected from 2015 onwards were contradicted in many different ways.

Firstly, NITI Aayog remained a weak institution. Not only it was much smaller than the Planning Commission in terms of staff, but it lacks expertise in many domains. More importantly, it has no resource and grant distribution authority. As a result, the power that used to be exerted by the Planning Commission has, in fact, been transferred to the Ministry of Finance.

Secondly, another major institutional reform, the introduction in 2016 of the Goods and Services Tax through the 101st amendment to the Indian Constitution, had a clear centralizing effect. This Indian version of the VAT, which was intended to unify the national market by harmonizing the fiscal rules, reduced the financial autonomy of the states which, till then, were fully in charge of their sales taxes - whose rates they could change according to their needs¹⁰. In the name of "shared sovereignty", the GST (that replaced the sales taxes and other indirect taxes) is monitored by a Council where the states have only two thirds of the voting rights. The Centre, which owns the remaining third has presented this reform as a sign of its commitment to federalism, but many states have expressed their reservations because any decision can only be made in the GST Council if it gets 75 per cent of the votes - a proportion that gives a veto power to New Delhi, a power centre which, on the contrary can prevail if it gets the support of only 19 states. Here, it must be noted that these states may be very small as in the GST Council each state has the same number of voting rights, irrespective of its population. It must also be noted that the decisions of the GST Council are binding to Parliament - in contravention to the principle of parliamentary sovereignty.

Thirdly, in 2017, the Modi government had the Inter-State River Water Disputes (Amendment) Act passed, which was supposed to handle these problems, but, in practice, the Supreme Court resolved the legal dispute between Karnataka and Tamil Nadu regarding the Cauvery River by requiring the creation of the Cauvery Management Board, which the Modi government established only after the Supreme Court itself followed it up with him. The conflicts opposing the states of Delhi and Haryana on the one hand, always concerning water issues, and, on the other hand, Karnataka and Maharashtra regarding issues of defining their borders, were not handled by the authorities.

Fourthly, while the BJP had promised to revive the Inter-State Council, this body-which has been created for promoting cooperation between states (see below)-has been convened only once during Modi's first term.

In addition to these institutional contradictions, the Modi government's practices have not reflected a strong commitment to federalism.

- Exerting power, the concentrated way:

First, in contrast to the initial discourse of Narendra Modi vis-à-vis the Centrally Sponsored Schemes, the importance of these programs has not diminished: while Modi resented the CSSs that had been initiated by his predecessor, he was naturally more favourably inclined towards those he initiated himself. The Swachh Bharat Mission (the Clean India Mission) is a case in point: its budget jumped by 288 per cent between 2014-15 and 2016-17. The Pradhan Mantri Awaas Yojana, a program intended to build houses for the poor, saw its budget rising by 51 per cent over the same

¹⁰ L. Kennedy, « Nouvelles spatialités étatiques et économiques dans l'Inde fédérale », *Hérodote*, n°173, pp. 157-174.



period. As the name of this scheme suggests, most of these initiatives were closely associated with the personality of the Prime Minister, whose photograph was almost systematically shown on the ads publicizing these programs. Correlatively, the communication budget of these CSSs represented sometimes more than the operational expenditures.¹¹ This political (and even electoral) dimension of the CSS was criticized by opposition ruled states "as the prime minister directly claims credit for flagship national schemes". But the politicization of the CSSs was not the only problem they took exception of. They also denounced the fact that the Terms of Reference of the new Finance Commission, in charge of dispatching funds between the states (see below), for the first time mentioned that one of the criteria presiding over this distribution of funds included the states' "achievements in implementation of flagship schemes of government of India..."¹²

Secondly, Narendra Modi did not consult the Chief Ministers even when taking decisions with consequences as significant as "demonetization," a term used to describe the abrupt withdrawal in 2016 of 500 and 1000 rupee bills, or 86 per cent of the currency in circulation.¹³ This order from the central government, decreed in the name of the war on dirty money and corruption (on which it had no significant effect) crippled the informal economy- which employs 90 per cent of the active population, who were suddenly deprived of the cash that they generally use.

Thirdly, some politicization of the position of governor, which according to the Constitution of 1950 must establish a "living connection" between the states and the central government, has also taken place over the last five years. Named for five years, officially by the President of the republic, but, in reality, by the Prime Minister, the Governor is supposed to ensure that the Constitution is respected. This position, which was initially held by qualified individuals was gradually reserved for figures from the party in power, for whom the Prime Minister sought a golden parachute, a cushy do-nothing job, or a reward for services rendered. In this way, the position of Governor has been politicized and governors have played a political role in the service of the party in power. This development reached its peak during the term of Narendra Modi, who named BJP veterans to positions of governor and was able to count on their support. For example, in the state of Goa, after the 2017 elections, the Governor, in a surprise move, called on the BJP to form a government, although the Congress Party had a larger number of representatives, though still without a majority. The Governor admitted to having taken this decision after asking the advice of a minister in the Modi government, which is not in the spirit of the Constitution, but allowed the BJP to form a governmental coalition. The same situation played out the same year in the state of Manipur. The role of the Governor was also controversial in the state of Delhi, which does not enjoy as much autonomy as the others and whose Chief Minister, Arvind Kejriwal, has been one of the most vehement opponents to Narendra Modi. In this state, the Lieutenant Governor has made the life of the government particularly difficult.¹⁴

Last but not least, in another infringement on good constitutional practices, Modi's government was the first, since the 1990s (see below)¹⁵ to make use of the President's Rule, an emergency procedure

¹¹ Aroon Deep, "Swachh Bharat spent Rs 530 crore on publicity in three years – but little on grassroots awareness", *Scroll.in*, 22 Nov. 2017 (<https://scroll.in/article/857030/centre-spent-rs-530-crores-in-3-years-on-swachh-bharat-publicity-but-has-little-to-show-for-it>). Another scheme that has been lavishly publicised intended to give access to gas cylinder to poor Indian families (Shine Jacob, "Ujjwala scheme to get Rs 293-cr publicity push from BJP ad brain", *Business Standard*, 17 January 2019). (https://www.business-standard.com/article/economy-policy/ujjwala-scheme-to-get-rs-293-cr-publicity-push-from-bjp-ad-brain-sources-119011700048_1.html).

¹² « Achievements in implementation of flagship schemes of Government of India ». Voir sous le point 4. (iii) les termes de référence. Disponible en ligne : <https://fincomindia.nic.in/ShowPDFContent.aspx>

¹³ Similarly, Modi did not consult the opposition parties during the military escalation with Pakistan in early 2019, while all his predecessors, in similar circumstances, attempted to build a national consensus. Modi's attitude reflects his desire to embody the entire nation and to "rid India of the Congress party" (hence his slogan, a pure expression of national populist sentiment, "Congress-free India").

¹⁴ For K.K. Kailash, in the case of the Delhi state, "the actions of the central government have been transparently vengeful, and the Lieutenant Governors have been willing accomplices to show the AAP government in poor light" (K.K. Kailash, "The chimera of cooperative federalism", op. cit.).

¹⁵ There were attempts to use the President's Rule in the late 1990s, for instance in Bihar in 1999 following the killing of Dalits – The Cabinet and the President approved its imposition, but it was not applied, eventually,



that allows the central government to take control of a state.¹⁶ It abused this rule in Arunachal Pradesh and in Uttarakhand, where it wrongly claimed that the government – led by the Congress Party – no longer had a majority in the assembly. The Supreme Court had to force the government to reverse its decision, something that had never previously occurred in Indian history. The attitude of the governor of Arunachal Pradesh had been criticized so strongly by the Supreme Court that he had to resign.

The imposition Governor's Rule (a local version of the President's Rule) also seemed abusive in Jammu and Kashmir in 2018, given that a coalition of political parties allowing the formation of a majority had emerged when the decision was taken; in fact, this was the reason for the decision.

Financial Tensions

A similar gap between the election promises of candidate Modi and his practices as Prime Minister can be seen in the financial domain. Traditionally, the states are in a delicate situation here insofar as the tax revenue that was attributed to them in 1950 (sales taxes and farming income taxes) is less than what the federal government collects (income tax, corporate taxes, customs duties, etc.). The states are partly responsible for their chronic deficits because for decades they have preferred not to tax the farmers in order not to alienate these voters, who are still very numerous and vulnerable. But in any case, taxes on rural dwellers would not suffice to counter a strong tendency: the taxes that are more and more profitable are those that the central government collects and those levied by the states currently allow them to fund only 45 per cent of their expenses, versus 80 per cent in 1950.

Traditionally in India, financial transfers from New Delhi (which collects most taxes) to the states were carried via three mechanisms: the CSSs, the Finance Commission, which distributes two-thirds of the total and attempts to reduce regional disparities by taking into consideration the level of mass poverty and demography, and, on the other, the Planning Commission, which was replaced in 2015 by the NITI Aayog, as mentioned above.

The Finance Commission has posed new problems under Narendra Modi. The Terms of Reference (ToR) of the Fifteenth Finance Commission intend to use the demographic criterion in a way that the southern states deem unfair, given that their efforts to reduce the birthrate is bound to have detrimental effects. While the Fourteenth Finance Commission had determined its distribution by weighting an older census (that of 1971) more heavily than the most recent one, precisely to avoid penalizing the southern states who had made efforts to contain their demography, the ToR of the Fifteenth Commission considered only the census of 2011. Consequently, for one rupee of income tax from Kerala, this state would receive only 25 paise (cents) in return, Tamil Nadu, 40, and Karnataka, 47, whereas Uttar Pradesh, on the other hand, would receive 1.79 rupees. In reaction, in April 2018, Kerala, Andhra Pradesh, Karnataka and Puducherry met in April 2018 and protested against what they considered an unfair project.¹⁷ West Bengal, Punjab and Delhi joined them in this protest one month later. They've have written a letter to the President of the Republic, who is supposed to be a neutral head of state...

Last but not least, as mentioned above, to improve the financial independence of the states, it was decided in 2015 to increase by ten percentage points their share in the divisible pool of taxes. But

because of lack of support in Rajya Sabha. See Louise Tillin, *Remapping India. New States and Their Political Origins*, London, Hurst, 2017,, p. 172).

¹⁶ The President's Rule, codified by article 356 of the Constitution, is an emergency procedure that is supposed to apply only in the case of a constitutional crisis. It authorises the central government to dismiss the state government and dissolve the state assembly. While this procedure is known as the "President's Rule," because officially, the president of the republic is the one who decrees its use, its application is of course decided by the prime minister.

¹⁷ « ToR of 15th Finance Commission against progressive states: FM of Kerala, Karnataka & Andhra », *The Economic Times*, 10 April 2018 (<https://economictimes.indiatimes.com/news/politics-and-nation/tor-of-15th-finance-commission-against-progressive-states/articleshow/63699708.cms>).



this measure, which was announced to great fanfare, turned out to be of little benefit. In 2016-17, on average, taxes collected by the states represented only 45 per cent of their resources.¹⁸

Political Centralization

Conflicts between the Modi government and state governments are particularly intense when the latter are led by parties other than the BJP. For instance, Kerala, which was headed by the Communist Party, resented the fact that, after suffering from catastrophic flooding, it was not allowed by New Delhi to accept aid offered by the United Arab Emirates (with whom the state has a close relationship because of the Kerala migrants in the UAE).

According to K.K. Kailash, “non-BJP opposition has often noted that agencies like the Income Tax Department and the Enforcement Directorate have been selectively used to target opposition leaders in different states. In November 2018, two states (Andhra Pradesh and West Bengal) withdrew what is called their ‘general consent’ that allowed the Central Bureau of Investigation (CBI) to function in their respective states. Things took an ugly turn in West Bengal when the CBI attempted to interrogate and arrest the Kolkata Police Commissioner in connection with their enquiry in two corruption scandals. The fracas in Kolkata and the public spectacle it generated was not in the spirit of cooperative federalism.”¹⁹

But the centralization of power does not affect only states led by opposition parties. Modi is at the forefront during regional elections even in states which are old BJP strongholds. The BJP no longer runs in provincial elections behind a regional leader who is projected as the next Chief Minister in case of victory, but behind the Prime Minister who then designates the Chief Minister after the victory. From 2014 to 2017, this allowed Modi to hold mini-referenda supporting his image of invincibility almost every six months and this has prevented the emergence of regional leaders who enjoy their own legitimacy – and who could become rivals. This modus operandi was illustrated starting in 2014-2015 with the nomination of Anandiben Patel, Devendra Fadnavis and Manohar Lal Khattar to lead, respectively, the governments of Gujarat, Maharashtra and Haryana. The role that falls to individuals without, sometimes, any political base, weakens the party and strengthens the centralization effect, since some of these Chief Ministers return to New Delhi to take their decisions.

The Modi government’s centralizing policy not only goes against the Indian institutional architecture, but also the political trajectory of a country where regional or even regionalist parties have continued to be strong for 25 years and where the urge to centralize, historically, has always been the cause of dysfunctional tensions or even of crises.

The Teachings of History

Federalism is older than the Indian Union itself because during the colonial period, the British had already divided the country into a dozen provinces (with the addition of a myriad of princely states led by more than 500 Maharajahs and Nawabs). These provinces were the first to benefit from the process of democratization that was implemented through the reforms of 1909, 1919 and 1935. In 1935, the Government of India Act granted a form of government and parliamentarianism to these provinces, which, therefore, constitute a political framework older than the nation state that was born in 1947. They were granted important prerogatives in the 1950 Constitution, even if, following Partition, a trauma that gave birth to Pakistan, the Congress opted for a stronger government than it had previously envisioned within a system of “cooperative” federalism.

¹⁸ Louise Tillin, *Indian Federalism*. New Delhi: Oxford University Press, 2019, p. 74.

¹⁹ K.K. Kailash, “The chimera of cooperative federalism”, op. cit.



"Cooperative" Federalism ?"

The Constitution of 1950 established three lists for the division of authority between the Centre and the states: the list of the Federal Union has 97 articles where we find, naturally, everything related to national defence, international affairs, communications, and currency; the list of the states has 66 items, including police, education (until higher education), health, agriculture, industry, and local governance. This last point is very important because it allowed the state governments to maintain the municipal councils under their control, despite the 73rd and 74th amendments to the Indian Constitution which, in 1993, sought to strengthen the municipal level in the hierarchy of levels of governance. Finally, the Concurrent List has 47 areas on which the Centre and the states are supposed to work in collaboration.

In practice, in addition to this Concurrent List, the central government and the state governments are called on to collaborate on practically a daily basis in the context of a federalism that is, indeed, called "cooperative," in contrast to a more classical type (such as that seen in the United States). Not only do the areas of responsibility overlap, but also the implementation of laws passed by the national parliament falls to the states, except in some areas such as those related to sovereign power (defence, foreign affairs, etc.). Moreover, it should be noted that the national civil servants, who are the heirs of the elite Indian Civil Service under the British, which was renamed Indian Administrative Service (IAS), shuttle back and forth every three years or so, between the state where they are assigned and New Delhi. They are the living symbols of this cooperation between the Centre and the states.

The centralizing bias of Indian federalism is not only due to the role of the powerful administration of the IAS, but also to the way in which the upper house of parliament, the Rajya Sabha (Assembly of States) is appointed. Intended to represent the states of the union, it has a number of representatives that is proportional to the populations of the states, and not an equal number of representatives per state as is the case in the United States, for example. Indeed, the problems of the states are not discussed in this assembly in particular.

Nehru, or the Art of Defusing Tensions between the Central Government and the States

As the constitutional framework left politicians wide room for maneuver, the degree of centralization and decentralization of power varied a great deal throughout Indian history, with each phase of centralization leading to a crisis.

In 1947, the provinces inherited from colonialism were problematic because their borders had been drawn arbitrarily by the British and they therefore included linguistic groups as varied as, for example, in the province of Bombay, speakers of Gujarati in the North, Marathi in the centre, and Kannada in the south. Similarly, the province of Madras had speakers of Tamil and Telugu, etc. After 1950, the contradictions between the linguistic map and the political map was especially unsustainable since India had officially recognized 22 regional languages in the Constitution and the dominant party, the Congress Party, had based its organization chart on the linguistic criterion as of 1920, at the request of Mahatma Gandhi. The leaders of the regional branches of the Congress Party thus demanded that Nehru make the borders of their states respect the linguistic boundaries. Nehru refused in the name of a relatively centralizing vision of the nation as a community-of-citizens-transcending-regional-identities. The result was an open crisis within the Congress Party. To resolve it, Nehru yielded, and, starting in 1953 and even more after 1956, the redividing of federal states on the basis of the linguistic criterion suddenly gave these states a new cultural and political coherence, as if they were now little countries. Not only provinces developed strong identities, but they were headed by regional "bosses" often well entrenched in their strongholds.



Nehru was a good sport and adapted to this new power relationship, allowing the assertion of the states. He adapted so much, in fact, that he took care to consult the heads of the state governments, whether they belonged to his party or not, on all important issues. To do this, he wrote them a letter every two weeks, which also had the goal of informing them of his projects and accomplishments.

Indian Federalism, a Collateral Victim of Indira Gandhi's Populism

Nehru's daughter, Indira Gandhi, gradually broke with her father's practice. Starting in the 1970s, she centralized the political decision-making process in a system that was perfectly parallel to her populist style, through which she attempted to connect directly with Indian citizens in order to short-circuit the party bosses who wanted to control her. From that point on, she avoided allowing the regional bosses with a strong base to establish their authority within the Congress Party, for fear that they would resist her. Instead, she installed men whom she had selected herself. In the states governed by the opposition, she attempted to undermine the Chief Minister and did not hesitate to use the President's Rule. While this procedure had been applied only 10 times between 1950 and 1967, it was used 40 times during the following ten years. Indira Gandhi continued to use it after her return to power in 1980 (after less than three years in the opposition between 1977 and 1980), with her reign marking the first apex of Indian centralism.

1990-2014: The Assertion of Indian Federalism

The 1990s marked the beginning of a "refederalization" of the country for three reasons. Firstly, the judges on the Supreme Court, who, until then, had supported New Delhi in its centralization efforts, changed their minds. In 1994, they declared that, as Indian federalism was part of "the fundamental structure" of the Constitution, it could not be jeopardised. Then, in the case of *S.R. Bommai v. Union of India*, they indicated that the use of Article 356 is subject to the approval of the two houses of Parliament. Between 1997 and 1998, the President of the Republic K.R. Narayanan used this argument to refuse to apply the President's Rule as the Prime Minister demanded.

Secondly, Indian states benefited from the weakening of the federal government, which sped up in the 1990s. On the one hand, due to a deficit, the federal government cut social aid so much that the states sometimes picked up the slack to maintain aid at a level that was bearable for the population, or to maintain the universal nature of the aid (as in the case of the food aid of the Public Distribution System). On the other hand, the economic liberalization of 1991 (also due to deficits that led to a structural adjustment plan supervised by the IMF) liberated the states from the oversight of New Delhi in many areas. In particular, it allowed them to attract foreign direct investments (FDIs) and to negotiate financial support with international organizations such as the World Bank or the Asian Development Bank.

Thirdly, the redecentralization of the Indian government can be explained by the electoral decline of the Congress Party, which lost and did not regain its majority in parliament, ceding power to the Hindu nationalist party, the Bharatiya Janata Party or BJP (Party of the Indian People), and regional parties. These parties, which usually exist in only one state, ended up capturing 50 per cent of the votes in general elections. As no single national party could govern India alone anymore, the country entered the era of coalitions. In 1991, the Congress Party needed support from the outside. From 1996 to 1998, a "third force" made up of regional parties formed a government. In 1999, the BJP created a coalition, the National Democratic Alliance (NDA) that was made up of 15 regional parties and would lead India until 2004, when the Congress Party created its own coalition, the United Progressive Alliance (UPA), which would govern India for ten years due to the approximately 20 parties that participated in it at one time or another.

The era of the coalitions was naturally favorable to decentralization: to obtain the support of regional parties, the BJP and the Congress Party had not only to offer important ministerial



portfolios to their leaders, but also remain attentive to the regions, even investing in them to develop their industry, infrastructures, universities, etc.

In addition to its effect on political practices, this tendency towards increased recognition of states' rights took the form of governmental decisions on the institutional level affecting the future. Firstly, the coalition government of V.P. Singh created an interstate council in 1990. Comprised of the Prime Minister, six of his ministers (including the Minister of the Home Affairs) and all the Chief Ministers, this new institution was intended to promote decentralization, especially the transfer of additional funds to the states. It met 5 times during the 1990s and 5 more times during the following decade. It met only one time under Modi, in 2016. These meetings were an opportunity to condemn any abuse of the President's Rule, which, in fact, was no longer used except in the quite unusual case of Jammu and Kashmir in 2018. Secondly, in 2000 New Delhi granted the request of three regions who were seeking to have additional states created: Uttarakhand, Jharkhand and Chhattisgarh. In 2014, one more state, Telangana, was created. Thirdly, the senior civil servants of the IAS were gradually integrated into the state governments to which they were assigned to the point of being recruited by a growing number of government leaders to be part of their cabinets. While in the past the states saw them as "the eye of New Delhi," they now appeared to be "the eye of the states" when they were appointed to the federal government.²⁰

While the trajectory of Indian federalism is not at all linear, a strong tendency can be detected through the assertiveness of the federated states, which are not only governed by regional parties that are as important as the national parties, but are also necessary to form majority coalitions in New Delhi. This tendency toward more decentralization, which the victory of the BJP, with only 31% of the vote, has sought to counteract since 2014, is the political reflection of regional diversity that is based on cultural, economic and social criteria.

The Indian Mosaic: From Socio-Cultural Diversity to Economic Competition

Indian federalism is not only the product of the linguistic diversity of India. It also expresses disparities that can be measured by many social and economic indicators—something to which foreign companies investing in India should pay attention. Foreign companies soon realize that they are establishing themselves not only, or even not primarily, "in India," but in Tamil Nadu, Gujarat or Maharashtra.

Not all Indian states attract investors—far from it. Maharashtra alone represents one third of FDIs, followed by the state of Delhi with one fifth, and the four states of Karnataka, Tamil Nadu, Gujarat and Andhra Pradesh together count for about 5 per cent of the total each. The last quarter is distributed among approximately twenty states. These disparities are linked to public policies that could change with governments, but also to more structural factors such as the state of infrastructure and the quality of human resources—as well as that of the local government.²¹

Unequal Policies to Attract Investment

Some states have attempted to attract foreign investors by implementing specific policies that generally combine three parameters:

²⁰ L. Tillin, *Indian Federalism*. New Delhi: Oxford University Press, 2019, p. 75.

²¹ On the comparative advantages of the various Indian states for foreign investors, the best study is that of the National Council of Applied Economic Research, *The NCAER State Investment Potential Index, 2018* (<http://www.ncaer.org/uploads/photogallery/files/1533372106The%20NCAER%20State%20Investment%20Potential%20Index%202018%20Report.pdf>)



- the development of Special Economic Zones (SEZs) offering advantages in terms of taxation, customs duties and labour law.²²
- special access to the land required to establish operations (and, especially, to build a factory).
- simplified procedures reducing the time required to begin industrial or commercial operations.

To measure the attractiveness gaps among various Indian states from the viewpoint of this last criterion, New Delhi introduced a ranking based on the World Bank's "Ease of Doing Business." In 2018, the top five states were Andhra Pradesh, its neighbour, Telangana, Haryana, Jharkhand and Gujarat. While this ranking differs from that of the favorite destinations of foreign investors, it is because other factors must be taken into consideration, beginning with the level of industrialization.

These disparities have something to do with the state-wise density of the SEZs. There are 40 in Tamil Nadu, 31 in Karnataka, 30 in Maharashtra, 29 in Telangana, 20 in Gujarat, 19 in Kerala and 19 in Andhra Pradesh.²³

Uneven Industrialization

One of the most important types of infrastructure for manufacturers is naturally the energy supply, which was for a long time extremely troublesome, with inopportune electric outages requiring companies to build their own power plants. The problem has practically disappeared. It continues only in a few of the least industrialized states, such as Jharkhand, Bihar, and Jammu and Kashmir.

In fact, the infrastructure performance of Indian states goes hand in hand with their degree of industrialization. The five states with the most factories are Tamil Nadu (37,378 factories in 2013-14), Maharashtra (29,123), Gujarat (22,876), Andhra Pradesh (15,719), and Uttar Pradesh (14,463). While these five states had 53 per cent of the factories in India in 2014, the density of these production plants was of course greater in the least populous states, Tamil Nadu and Gujarat, which represent two models of industrialization in India, each in its own way.

The former is more open to labor intensive manufacturing activities, while the latter has more large capitalistic companies: in 2013, Gujarat represented 17.7 per cent of the fixed capital in India, but only 9.8 per cent of its factory workers, while Tamil Nadu represented 9.8 per cent of the fixed capital, but 16 per cent of the factory workers.²⁴

This results in noticeably different industrial cultures that often reflect old social structures and affect both business circles and administration-and even the political sphere. Tamil Nadu, has myriad towns of average importance that are specialized in industrial activities ranging from textiles to mechanics and which were each originally supported by a dense fabric of small and medium-sized businesses. Gujarat, which has had international trade since at least the 19th century and is known for the business sense of its merchant castes-which are very influential locally-shifted to industry in the 20th century and gave rise to the country's large companies (Tata, Ambani, Adani, etc.). Their economic ethos has penetrated all spheres of society, with politicians and civil servants embracing economic logic and protecting businessmen against government intervention.²⁵ In contrast, in Tamil Nadu, while the merchant castes played an important role, including very early on

²² For more detail, see the web site of the Ministry of Commerce and Industry: <http://sezindia.nic.in/index.php>

²³ See the map documenting the article of Loraine Kennedy, « Nouvelles spatialités étatiques et économiques dans l'Inde fédérale », op. cit.

²⁴ ISED Small Enterprise Observatory, *Gujarat Micro, Small & Medium Enterprises Report 2013*, Cochin, Institute of Small Enterprise and Development, 2013.

²⁵ C. Jaffrelot, "Business-Friendly Gujarat Under Narendra Modi: The Implications of a New Political Economy", in C. Jaffrelot, Atul Kohli and Kanta Murali (eds), *Business and Politics in India*, New York, Oxford University Press and Delhi, Oxford University Press, 2019.



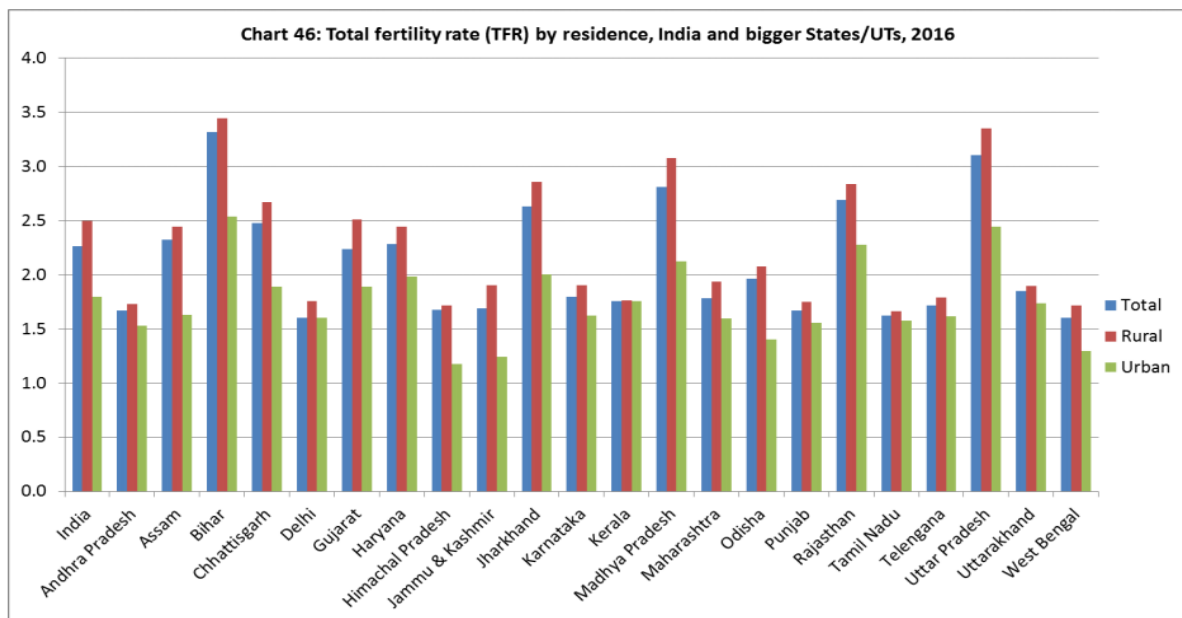
in international trade, they never dominated society. Political authority and bureaucracy remained relatively external to the business world, allowing the economic fabric to develop in a more balanced, independent manner.²⁶

From the North-South Division to the Syndrome of the BIMARU States

The environment created by the overall development level of a state is important to economic operators, one reason being that the higher the overall level is, the more the local market will thrive and the more educated the human resources will be.

From this point of view, the gap between north and south has continued to widen. But in addition to the north-south division, it is also possible to isolate a group of states who are the inheritors of the BIMARU states. In the 1980s, this anagram, which meant "sick states," referred to Bihar (and Jharkhand, which was then part of that state), Madhya Pradesh, Rajasthan and Uttar Pradesh. While these four states still have in common poorly-controlled demographics (see graph), Rajasthan has changed category, while Orissa and West Bengal have become "sick" based on the maps below.

Graph 1: A demographic transition with varying geometry

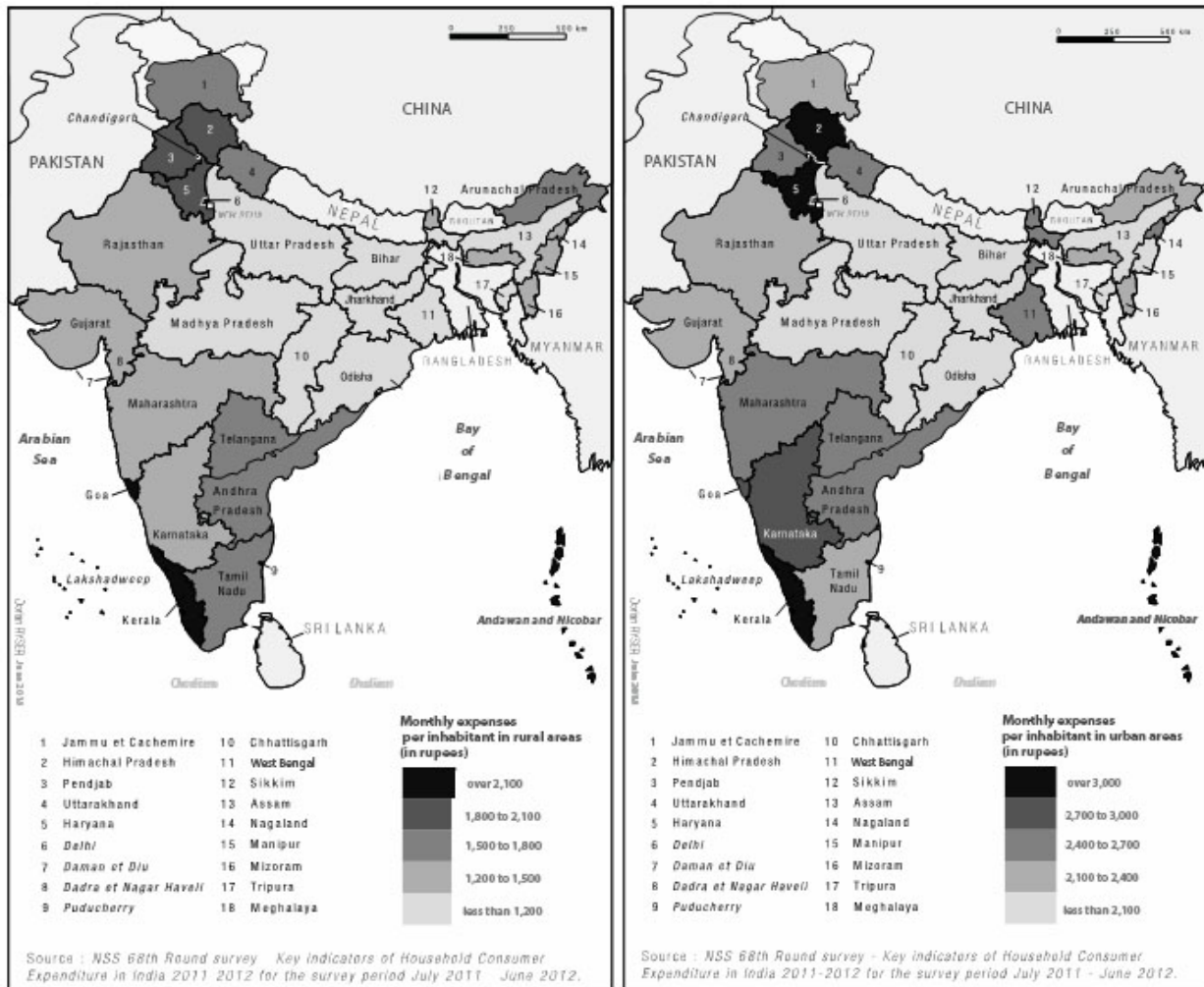


The per capita GDP of the three richest states represents 300 per cent of that of the three poorest states, while it represented only 150 per cent in the 1990s. Economic liberalization has resulted in a widening of the gap between rich states and poor states.²⁷ The following maps display a more finely-honed analysis by distinguishing the cities from the countryside and by using household expenses as the indicator, which is much more relevant than per capita income. We observe that a state like Maharashtra, which is prosperous because of Mumbai, suffers from an agricultural crisis linked to an alarming rainfall shortage and reduced groundwater-phenomena that are also present in Gujarat and elsewhere.

²⁶ John Harris et Andrew Wyatt, "Business and Politics: The Tamil Nadu Puzzle", in *ibid*.

²⁷ "The gap between India's richer and poorer states is widening", *The Economist*, 2 September 2017 (<https://www.economist.com/news/finance-and-economics/21727867-ec...guing-poorer-states-should-be-catching-up?fsrc=scn/tw/te/bl/ed/>).





Source: C. Jaffrelot (dir.), *L'Inde contemporaine*, Paris, Pluriel, 2019.

Conclusion

The recentralization of power that the Modi administration has sought during the last five years partly explains why India is now considered to be a case of centralized federalism, like Australia.²⁸ This march towards a unitary state is partly due to the concentration of power in the hands of one man, partly the reflection of the BJP nationalist Hindu ideology, a vision of the world that strives to impose the culture of the majority community of India on everyone else—as shown by the increasing use of Hindi by the authorities.²⁹ Ajay Kumar Singh convincingly argued that, as a result, India was heading towards what is known as “national federalism”, a variant of this “ism” that he defines as follows:

“In this form of federalism, sovereignty and autonomy of units have no intrinsic value. Units are viewed as partners in the national governance agenda of the federal government. For national federalism, the term ‘cooperative federalism’ acts as signifier of collective governance.”³⁰

²⁸ A.K. Singh, ‘Dynamic De/Centralization in India, 1950-2010’, *Publius: The Journal of Federalism* 49(1), Winter 2019, pp. 112-137.

²⁹ See A. Chatterji, T.B. Hansen and C. Jaffrelot, *Majoritarian State. How Hindu Nationalism is Changing India*. New York: Oxford University Press, 2019.

³⁰ Ajay Kumar Singh, « An emerging national federalism », in Yamini Aiyer and Louise Tillin, *The Union and the States*, op. cit.

One of the main features of this version of federalism listed by Singh must be emphasized: "the Centre and states are viewed not as distinct and separate structures but as parts of one integral national whole". This is perfectly in tune with the ethnic definition of the nation that the supporters of the ideology of Hindutva are propagating.

This approach is counter to the reaffirmation of states' rights by the Supreme Court and the effects of economic liberalization, which have all contributed in their own way to the renewal of Indian federalism starting in the 1990s. Moreover, Narendra Modi's attitude is somewhat contradictory insofar as he attempts to concentrate power in New Delhi while inviting the states to assert themselves economically. He called on them to embrace a form of "cooperative and competitive federalism" on the occasion of the launch of NITI Aayog. His political centralism goes hand in hand with a certain economic liberalism—at least in theory—for in practice, the former dominates the latter, establishing an Indian-style "crony capitalism" with detrimental effects.³¹

Certainly, the Modi government may consider that "cooperative federalism" is something of the past, as the BJP's hegemony is conducive to a new form of "national federalism". After all, the BJP has won an absolute majority for the second time in May 2019, jumping from 282 to 303 seats. But this success runs parallel to many setbacks at the state level. In fact, the BJP has not won any state elections, except in very small states, since 2017. Not only it has not been able to win in Rajasthan, Madhya Pradesh, Chhattisgarh and Telangana in 2018, but in 2019, it has also failed to win in Orissa and Andhra Pradesh, two states which were voting for their assembly and their Members of Parliament at the same time. Very interestingly, many voters supported BJP in the Lok Sabha in order to keep Modi as Prime Minister, and for other parties for the regional elections in order to have them rule their states. This disconnect shows that regional identities remain strong and that federalism, therefore, is well entrenched in Indian politics.

³¹ C. Jaffrelot, *Le Capitalisme de Connivence en Inde sous Narendra Modi* [Crony Capitalism under Narendra Modi]. *Les Etudes du CERI* n° 237, September 2018.



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