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# **Modi-fying Indian Federalism? Center–State Relations under Modi’s Tenure as Prime Minister**

Chanchal Kumar Sharma\* and Wilfried Swenden\*\*

## ABSTRACT

For the first time since 1984, the 2014 general elections handed a majority in the Lok Sabha to a single party. This article provides a critical assessment of what the victory of the Bharatiya Janata Party has meant for the dynamics of center–state relations in India. In doing so, the article first engages with the concept of “competitive-cooperative federalism” and more widely with a framework that allows us to locate shifts in center–state relations across three dimensions: the political, the fiscal, and the administrative. Overall, we argue that despite the BJP’s promise to put “center-state relations on an even keel” these relations have become more centralized under the Prime Ministership of Narendra Modi. At the same time, this process of centralization has not been uniform across the three identified dimensions: centralization is strongest in the political domain, but weakest in fiscal matters, where the central government felt bound by the recommendations of the XIV Finance Commission and by longstanding intergovernmental discussions on overhauling India’s complex indirect taxation system with a polity-wide Goods and Services Tax, the management of which relies on center–state consent.

**Keywords:** federalism, multilevel governance, India, intergovernmental relations, decentralization, Modi.

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RESUMEN

Por la primera vez desde 1984, las elecciones generales de 2014 asignaron una mayoría en el Lok Sabha a un solo partido. Este artículo proporciona una evaluación crítica de lo que la victoria del partido Janata Bharatiya ha significado para la dinámica de las relaciones centro-estado en India. Al hacer esto el artículo primero tiene que ver con el concepto de ‘federalismo competitivo-cooperativo’ y más ampliamente con un marco teórico que nos permite localizar cambios en las relaciones centro-estado en tres dimensiones: la política, la fiscal y la administrativa. En conjunto, argumentamos que a pesar de la promesa del BJP de poner ‘las relaciones centro-estado en un nivel más equitativo,’ estas relaciones se han vuelto más centralizadas bajo el mandato de Narendra Modi. Al mismo tiempo este proceso de centralización no ha sido uniforme en las tres dimensiones identificadas: la centralización es más fuerte en el dominio político, pero más débil en temas fiscales, donde el gobierno central se sintió obligado a seguir las recomendaciones de la XIV Comisión de Finanzas y de las antiguas discusiones intergubernamentales para renovar el complejo sistema tributario indirecto con un Impuesto de Bienes y Servicios presente en las políticas: la gestión de este mismo yace en el consentimiento centro-estado.

**Palabras clave:** federalismo, gobernanza multi-nivel, India, relaciones intergubernamentales, descentralización, Modi

摘要

2014年印度大选是自1984年来将人民院中的大多数席位交给单一党派（的选举）。本文批判地评估了印度人民党获胜对印度中央-地方关系动态意味着什么。为此，本文首先处理了“竞争兼合作联邦制”的概念，然后广泛处理了一项框架，该框架允许我们通过三个维度定位中央-地方关系的变化。这三个维度分别关于政治、财政和行政。总体而言，本文主张：尽管人民党承诺将中央-地方关系放在平等的位置，但这些关系却在印度总理纳伦德拉·莫迪的领导下变得越来越中心化。与此同时，中心化过程在三个维度中却并不一致：中心化在政治领域最为集中，在财政方面最为分散—第十四届财政委员会提出的各种建议约束着中央政府，后者还

要参与长期存在的政府间讨论。这些讨论则关于改革印度复杂的间接税收制度，包括受政体影响的商品和服务税，此税的管理需通过中央-地方政府的同意。

关键词：联邦制，多层治理，印度，政府间关系/府际关系，去中心化，莫迪

### **Introduction: The 2014 General Election Result and its Anticipated Effect on Center-State Relations in India**

The general elections of 2014 restored de facto one-party government at the Indian Center. After nearly two decades of (minority) coalition government, the Bhartiya Janata Party managed to capture a legislative majority in the Lok Sabha on its own. Acknowledging that not all of these seats would have been won without seat-sharing arrangements with regional allies, the BJP inducted some regional partners such as Shiv Sena (Maharashtra) in its (initial) cabinet. Even so, the 2014 elections appeared to mark a change in the Indian party system. The election results seemed to suggest that party competition was no longer structured along two “nodes” in which the BJP and Congress occupied the core of each node.<sup>1</sup> Rather, with Congress reduced to just 44 seats, the BJP occupied a hegemonic position in the party system, potentially—as a set of assembly election results since 2014 have shown—opening the way to one-party dominance.

This article provides a first preliminary assessment of what the implication of this change in government has meant for the dynamics of center-state relations in India. The decentralization of the Indian federal polity since 1989–1991 has often been attributed to two major developments. First, the entrenchment of (minority) coalition governments which marked the post-Congress Polity strengthened the position of the states. President's Rule was used much less frequently and it was usually also sustained for shorter periods of time.<sup>2</sup> The changing political circumstances also strengthened the Supreme Court in its resolve to police the use of President's Rule more strictly as evidenced since its *Bommai* judgment. This process of political decentralization more or less coincided with the liberalization of the Indian economy, the second major development. Liberalization strengthened the states since it widened the opportunities for state governments to attract inward investment and manage their economic affairs.<sup>3</sup> Even so, the center retained an important regulatory role (to keep state budgetary deficits in check), and especially between 2004 and 2014 acceler-

ated spending on social welfare with a view to reducing inter and intra-state disparities.

There are compelling reasons to expect a significant centralization of Indian federalism post 2014. Given the factors which underpinned the strengthening of the states in the post-Congress period, the return of one party dominance without the dependence on regional or state-based parties to uphold a parliamentary majority strengthens the case for political centralization. Furthermore, ideologically, the BJP is committed to cultural (Hindu) nationalism and this may further reduce the central government's willingness to accommodate the ethnically distinctive North East and especially, Muslim-dominant Jammu and Kashmir. Finally, the incoming BJP Prime Minister Narendra Modi had been known to govern Gujarat in a highly centralizing way as Chief Minister of that state between 2001 and 2014, and some political pundits expected him to pursue similar power-concentrating strategies in the governance of the Indian state.<sup>4</sup>

At the same time, the second driver of decentralization—liberalization—has remained intact. The BJP even sought to accelerate liberalization.<sup>5</sup> Therefore, some analysts predicted more continuity than change in the nature of center–state relations. Unlike Congress, the BJP is also less concerned with the provision of a strong central welfare net to offset spatial and inter-personal inequalities which liberalization may provoke, thus potentially limiting the scope of federal redistribu-

tion. Furthermore, the long interlude of party fragmentation and central coalition government may have generated a path-dependent decentralizing effect which cannot be washed away so easily. For long, candidates and voters have paid more attention to local and state issues than to federal issues (even in general elections) and in this context, a stable return to center-based politics and campaigning would seem unlikely. Also, at the time of the 2014 general elections, the BJP was not in control of most state governments and the Rajya Sabha. These institutions could be used as partisan and institutional veto players to curb any attempts at centralization. Finally, based on some declarations of Modi as former Chief Minister of Gujarat and a commitment to “co-operative” federalism in the BJP 2014 general election manifesto, Indian federalism would not necessarily centralize. Narendra Modi, during his tenure as the Gujarat chief minister, frequently lamented the excessive intrusion of the federal government in the exercise of state competencies, especially through the running of Centrally Sponsored Schemes (CSS).<sup>6</sup> The BJP 2014 general election manifesto contained a pledge to put “Centre-State relations on an even keel through the process of consultation” in which “national development” would be “driven by the states.” In this “Team India,” a restructuring of intergovernmental relations was envisaged by projecting the creation of “Regional Councils of States,” and the revival or reconfiguration of “moribund forums” such as the National Development Council and Inter-State Council

alongside a commitment to “ensure fiscal autonomy while urging financial discipline.”<sup>7</sup> Those who predicted a state-favorable direction also pointed at the BJP’s pragmatic approach to seat-sharing or coalition building, facilitating the formation of coalitions with the Sikh nationalist Akali Dal in Punjab or the recent practice of electoral alliances with the Tamil AIDMK or the Assamese nativist Assam Gana Parishad.

In this article, we argue that as expected by the first set of predictions above, center–state relations have become more centralized since 2014. This is so, despite the BJP’s rhetoric of competitive-co-operative federalism. At the same time, this process of centralization has not been uniform across three identified dimensions: the political, the fiscal, and the administrative. In fact, we find most support for political centralization, and least support for fiscal centralization, reflecting the outcome of decisions by the Finance Commission and the impact of a long-planned wholesale reform of India’s indirect tax system. To illustrate our argument, the next section first brings clarity to how we conceptualize change in center–state relations in India. Subsequently, we trace the trajectory of center–state relations across the three aforementioned dimensions.

### **Conceptualizing Center–State Relations in a Time of Party System Change**

**W**e draw on the contribution of several scholars of federalism and institutional anal-

ysis to develop a conceptual framework within which to situate the evolution of center–state relations in India since 2014. More in particular, we use the concepts of self-rule and shared rule to assess centralizing or decentralizing dynamics in the management of public policy between central and subnational regions (states) across three dimensions: the political, fiscal, and administrative.<sup>8</sup> The self-rule properties relate to policymaking autonomy (political dimension), subnational revenue autonomy (fiscal dimension), and the devolution of responsibility for planning, financing and delivery of public services (administrative dimension). The shared-rule properties along these three dimensions involve: participation in public policy-making through common institutions; sharing of centralized tax revenues and joint responsibility for planning, financing and delivery of public service. A process of centralization is marked by a reduction in self-rule properties of the states without a compensatory increase in their shared-rule provisions. Where a reduction in self-rule is offset by increasing shared rule, interactions between both levels do not necessarily become either more decentralized (states acquiring a stronger voice in how the center is run<sup>9</sup>) or more centralized (states agreeing to surrender certain powers to the central government in exchange for policy benefits and resources<sup>10</sup>) but, rather, more interdependent.<sup>11</sup> Conversely, decentralization implies an increase in self-rule properties of the states. Thus, the trio of concepts—centralization, decentralization, and interdependence—constitutes the

analytical core that can be applied to the study of center–state interactions in the three dimensions identified above. Interdependent policymaking may be pitted against independent policymaking which occurs when, in matters affecting other governments, a government takes action without consulting other governments or considering their interests and those other governments may be forced to adjust independently.<sup>12</sup>

Since our paper focuses on center–state interactions, we put particular emphasis on changes in the extent of shared rule across the three dimensions. Where shared rule becomes more common, federalism moves into a cooperative direction. Conversely, where shared rule is replaced with independent and unilateral action by the center, federalism moves into a centralizing or centripetal direction. Finally, when shared rule is replaced with unilateral action by state governments, federalism acquires a more centrifugal form. The dictum “cooperative-competitive federalism” which the current Modi government proclaims assumes that in some policy domains the center and states are expected to move away from independent action and strengthen their collaboration through shared decision-making in which each actor (the center and the states collectively) exercises a mutual veto (powersharing). As we will see, the GST is the best, but also one of the few policy domains in which the principle of collaboration has been put into practice.

In the comparative literature, the term “competitive federalism” is gen-

erally understood to mean that states are given more autonomy to pursue their political, fiscal, and policy goals without interference of the center. The corollary of increasing autonomy is that states increasingly have to fend for themselves and face stronger accountability for their own actions. They also have to find a mix of tax policies and social services which suits their electorate and retains their competitiveness in relation to other states within the federation. The assumed benefit of competitive federalism is that it maximizes the role of the states as laboratories of democracy and policy experimentation. The logic of competitive federalism is inherently decentralizing. However, in India, the term “competitive federalism” is often understood in a different sense, and in fact may not be “competitive” at all. For instance, the Modi government has also used it to refer to the ability of the states to compete for central funding based on centrally—or at best, jointly (center and the states) determined goals and objectives. Understood accordingly, “competitive federalism” may generate a centralizing rather than a decentralizing dynamic. Similarly, the Indian government’s policy to promote competition amongst states to encourage foreign investment loses its decentralizing potential when the national ruling party attempts to selectively promote investments in states under its rule and project them as the top places to do business.<sup>13</sup> At this level of favouritism, “competition” becomes more of an exercise in “partisan federalism” rather than genuinely “competitive federalism.”

In this article, we make two key conceptual moves for explaining the emerging dynamics of center-state political, fiscal, and administrative relations in Modi's India. First, we position center-state interactions (shared rule) along a centralization/decentralization continuum. Such an approach perfectly suits India. Center-state relations have oscillated from extreme centralization under one-party dominance in the 1970s and 1980s, to a much more decentralized format in the 1990s and 2000s under broad-based (minority) coalition governments at the center in which state-based parties played a key role. This prompted an observer to claim that India had moved from being "quasi-federal" in the former period to a "quasi-confederacy" in the latter period.<sup>14</sup>

Second, we analyze the nature and extent of shared rule along each of the three dimensions while being mindful of the overlap—especially the fact that political actors tend to interact across each of the dimensions *simultaneously*. Drawing on institutional theory<sup>15</sup> and veto players theory,<sup>16</sup> we conceive of intergovernmental institutions as sites for interaction between institutional-but-partisan veto players where conflict is always a possibility. This is important because, although institutional veto players—such as state executives and parliaments, the federal cabinet or the Lok and Rajya Sabha—have different interests regarding the principles of federal organization and design of institutions,<sup>17</sup> they can produce either cooperation or conflict, depending on their partisan affiliation. For instance,

when a single party gains a majority in the Lok Sabha and controls all or most of the states, "intra-party" interaction takes place, making intergovernmental coordination easier. In this scenario, key institutional/partisan veto players—that is, national and subnational incumbents—belong to the same political party. This can bring about cooperative federalism, in spite of considerable political centralization: provided state or regional party branches have sufficient autonomy, shared policymaking is not an issue under these circumstances because regional units are incorporated into the central government's decision procedures by virtue of their congruent party affiliation. We saw such a scenario during the Nehru era in Indian politics (1952–1964/7). In contrast, strategic powersharing and interdependent policymaking were at the highest level during the national coalition era in Indian politics (1996–2014), when state parties became pivotal players in the national legislature as either coalition partners or outside supporters. A third scenario can also occur, in which the national majority party faces stiff political competition at the state level. This results in partisan polarization among states on the one hand, and a blending of cooperative and coercive tactics at the center (perhaps to deal with such polarization). A clear example of this was Indira Gandhi's "punishment" regime against opposition-ruled states. Modi's government is facing this scenario at present. Although the party has toppled the Congress in six states since 2014, and as of January 2018 rules 19 out of 29 states, its performance against

some of the state-based parties (notably in Tamil Nadu, West Bengal, Bihar, and Delhi) has been considerably weaker. Furthermore, the party is likely to face strong competition from opposition parties in 2018 assembly elections, especially in Rajasthan, Madhya Pradesh, and Chhattisgarh where anti-incumbency sentiment against the BJP runs high.

On the shared rule dimension, India has fluctuated between extreme centralization and decentralization, based on the nature of the party constellation at the center (one party dominant versus pluralized). This has affected the overall nature of Indian federalism, given that even during the coalition phase the center retained a dominant role in primary legislation and revenue extraction and few constitutional amendments were endorsed which strengthened the autonomy of the states. Indeed, based on a reading of the constitution, India's federalism has always been rather centralized, not unlike German or Australian federalism, rather than the much more decentralized Canadian or Swiss federations. In this "hybrid federation,"<sup>18</sup> the significance of shared rule and self-rule is therefore all the more the result of partisan dynamics. However, under exceptional circumstances, a powersharing impulse in any given dimension may also emerge out of severe limitations on national and subnational governments' abilities to follow *independent policies*. One example is the implementation of the GST, which attempts to achieve center-state tax harmonization, as we will discuss below. Our conceptual understanding of

centralization, decentralization, and interdependence, especially in relation to shared rule equips us to trace the direction of change in center-state relations under Modi. We do so in relation to the political dimension first, followed by the fiscal and administrative.

### **Center-State Relations: The Political Dimension**

**T**he arrival of Modi as the Prime Minister of a government which no longer relied on support from regionalist parties concentrated powers at the center. Compared with Manmohan Singh's Office, the Prime Minister's Office gained in significance and within the BJP power has become increasingly concentrated with Modi and Party President Amit Shah. Intra-party centralization has been exemplified by the role of the center in steering candidate nomination and campaigning in a range of assembly elections which have been held since the general elections in 2014. Election campaigns often centered on the Prime Minister, and Chief Ministerial candidates were either announced late (as in the case of Kiran Bedi who was only announced as Chief Ministerial candidate a couple of weeks before the Delhi legislative assembly elections in 2015) or not at all (as in the case of Uttar Pradesh in March 2017, with the designation of the controversial cleric Yogi Adityanath as Chief Minister after the state assembly elections).

Intra-party centralization does not necessarily generate political centralization within the wider polity. Yet,

there are indications of political “centering” across at least four fronts: (1) attempts to deploy President’s Rule for party political gain; (2) the unilateral nature of important decisions which impinge on center–state relations such as demonetization in 2016; (3) the intention to forge simultaneous general and state elections; (4) the heavy-handed approach of the central government in relation to Jammu and Kashmir. We discuss each of these in turn.

### ***The Political Use of President’s Rule***

First, the ability of the BJP to deploy President’s Rule for political gain firstly assumes the appointment of partisan governors. In this sense, the BJP continued a longstanding practice of dismissing state governors who had been appointed by previous central governments of a different political persuasion. Shortly after it arrived into power, the BJP (by way of the President—a Congress politician nonetheless) ousted nine governors who had been appointed by the previous Congress-led UPA government. Governors play a potentially important role during President’s Rule. Where a governor is of the opinion that “a breakdown of the constitutional machinery” occurs in the governance of the state, (s)he can recommend President’s Rule (resulting into direct central rule as per Article 356 of the Indian constitution). The meaning of the “breakdown of institutional machinery” leaves room for interpretation and has been linked to insurgencies or political deadlock in the state. The latter may result from a government losing its majority in the

state assembly, following defections or the breakdown of a state coalition government.<sup>19</sup> Since Bommai (1994), the material on the basis of which President’s Rule is recommended is open to judicial review by the Indian Supreme Court. The BJP has sought to wield President’s Rule for party political gain on two occasions. In 2016, the party advised the imposition of President’s Rule on the governments of Arunachal Pradesh and Uttarakhand. In Arunachal Pradesh, factious infighting within the Congress-led government propelled the BJP-appointed governor to advance the session of the state assembly by a month, making way for a BJP-led government. The starting point that led to President’s Rule in Uttarakhand was similar: nine Congress MLAs broke away from the Party and the governor subsequently asked the Congress Chief Minister to prove his majority in the state assembly. However, unlike in the case of Arunachal Pradesh, not the governor but the central government instructed the President to suspend the state government a day before the floor test was to be held. Importantly, on both occasions, the Supreme Court struck down President’s Rule. In the case of Arunachal Pradesh, the Supreme Court queried the justification for bringing a planned meeting of the state assembly forward, leaving insufficient time for the Congress government to prove its majority on the floor. In the case of Uttarakhand, the Supreme Court dismissed the authority of the central government to impose President’s Rule *before* a floor test had taken place in the state assembly. The

Supreme Court also reinstated both Congress governments.<sup>20,21</sup> In both cases, the Supreme Court played its role as a potential safeguard of federalism (or institutional veto player) and solidified the jurisprudence which it developed since its landmark Bommai judgment in 1994. In fact, not before had the Court ordered the reinstatement of one, let alone two dismissed state governments.

### ***Unilateral Decision-Making: The Case of Demonitization***

The clearest example of unilateral decision-making in policy terms was the shock decision of demonitization which resulted into the forced withdrawal of 500 and 1,000 rupee notes as legal tender as of November 8, 2016 and their replacement with new 1,000 and 2000 rupee notes. This decision immediately depressed the economy, depleted the revenues of the state governments<sup>22</sup> and, in the process, violated both the spirit of democracy and that of cooperative federalism.<sup>23</sup>

The counter argument is that demonitization was meant to provide a shock—its onset had to be kept a secret<sup>24</sup>—and that it was intended to inflict short-and medium-term pain to achieve some long-term gain, especially the rooting out of black money.<sup>25</sup> However, several analysts have argued that the move was aimed at destroying political rivals, not black money.<sup>26</sup> Most of the opposition Chief Ministers felt the same way. The then Chief Minister of Uttar Pradesh predicted that the move was politically motivated, with U.P. as-

sembly elections in sight.<sup>27</sup> The election campaign and the results in March 2017 seemed to prove him right.

### ***The Pursuit of Concurrent General and State Assembly Elections***

The centralizing intent of the government is also reflected in the central government's expressed preference for simultaneous general and state elections. The idea was put forward in the BJP general election manifesto and further developed in a working paper by the NITI Aayog, the government's think tank (see further).<sup>28</sup> Earlier, the Law Commission of India in its 170th report on the Reform of Electoral Laws (1999) had already recommended such a reform. Furthermore, until 1967, general and state assembly elections coincided. This cycle was broken when in 1971 Indira Gandhi brought forward general elections by a year as a means to assert her authority within the party and demonstrate her electoral appeal vis-à-vis a number of erstwhile state party leaders who had left the party.<sup>29</sup> Uncoupling, in tandem with linguistic state reorganization helped to transform the states into territorial political communities in which turnout in state assembly elections often exceeded electoral participation in general elections.<sup>30</sup>

The current government argues that simultaneous elections are desirable because the "Model Code of Conduct by the Election Commission" currently requires that when an election is called (state assembly or general) most development programs in the state (including welfare projects and capital proj-

ects) are suspended until the election is complete. Usually, the suspension lasts between 2 (state assembly elections) and 4 months (general elections). The total number of months during which the Model Code of Conduct is applicable across India can easily amount to 7 months or more per year (for instance apart from general elections, 2014 also saw assembly elections in Haryana, Jharkhand, Jammu and Kashmir, and Maharashtra). Further arguments put forward to support simultaneity relate to the ability to optimize campaign and organizational costs as well as the security costs involved in running elections.

Although the NITI Aayog paper by Debroy and Desai argues that simultaneous elections would not generate a centralizing impulse, this is not supported by comparative evidence. Across most parliamentary federal systems, general and subnational elections normally do *not* coincide. This is the case in Australia, Austria, Canada, and Germany.<sup>31</sup> Horizontal simultaneity (i.e. the concurrence of most or all regional elections), unlike vertical simultaneity (i.e. federal and all or most regional elections are held on the same day) applies to the quasi-federal systems of Spain, Italy, the United Kingdom, and the federation of Belgium. Yet, regional elections in these (quasi-) federal states are often “second-order.” Turnout is generally lower than in general elections and voters tend to perceive these subnational elections as popularity tests for the incumbent central government.<sup>32</sup> Evidence from India also shows that when general and state assembly elections coincide, voters are much

less likely to engage in split-ticket voting than when they are held separately. The assertion that they may well vote for similar state parties<sup>33</sup> rather than for national parties is questionable given that the outcome of the 2014 general elections (one party majority) appears to have questioned the utility of a state party vote.<sup>34</sup>

The NITI working paper acknowledges that synchronizing general and state assembly elections may have to be implemented in a phase-wise manner, and in the end the proposal settles for the concurrence of half of the state assembly elections and general elections and the other half at mid-point between two general elections. Comparative evidence suggests that the anti-(central) incumbent vote is highest when state assembly elections take place at mid-point, whereas the outcome of state assembly elections more likely approximates the national election outcome the closer it is held to the nearest general election.<sup>35</sup> As such, the proposal would nationalize the election campaign and outcome, though not necessarily strengthen the position of the incumbent central government. The ball is now in the court of the Election Commission which has been asked to study this proposal in more detail and suggest how it could be implemented.

### ***The Accommodation of Ethno-National Difference: The Case of Kashmir and Nagaland***

Shortly after entering into power, the BJP's willingness to tolerate special regional autonomy or constitutional

asymmetry on the basis of ethno-national or regional difference was severely tested in the case of Jammu and Kashmir. Not unlike previous governments (especially Congress), the BJP adopted a centralizing approach. Scholars of Kashmir often attribute the state's disquiet to the high-handed manner in which Mrs. Gandhi centralized political control of the state.<sup>36</sup> This disquiet escalated into armed conflict in 1988 after the rigged 1987 state elections,<sup>37</sup> giving way to a long period of human rights infringements, arrests of popular leaders, and the suppression of political dissent.<sup>38</sup> It was at this juncture that Pakistani attempts to sow discord in Kashmir<sup>39</sup>—which largely failed until 1989—began to bear fruit.<sup>40</sup> Any attempts to restore a lasting peace in this region, therefore, need to focus on conflict *in* Kashmir, not conflict *over* Kashmir. This, however, is a delicate task, given the intense sense of “victimhood” presently evident among residents of the Kashmir Valley.<sup>41</sup>

Despite its Hindu nationalist credentials, the BJP Vajpayee-led NDA government sought to pursue a “healing touch” policy in consultation with the PDP (People's Democratic Party)-led government in Jammu and Kashmir in 2003.<sup>42</sup> This policy was based on the principles of “*Insaniyat*” (humanity or non-violence), “*Kashmiriyat*” (the recognition of Kashmir as a distinctive, secular, and composite culture), and “*Jamhooriyat*” (democracy) and was meant to make Jammu and Kashmir a model of “co-operative federalism.” However, this approach was left behind with the change of government

at the center and the state since 2004. In March 2015—after lengthy negotiations, consequent upon the hung house thrown up by the 2014 assembly elections—the PDP decided to forge a state coalition government with the BJP, declining the unconditional support offered by the National Conference (NC) and Congress. Yet both parties had canvassed on radically different platforms: the PDP on a demand for autonomy, not sovereignty, and the BJP on a “muscular” platform meant to court the Hindu majority vote in Jammu. In it, the BJP promised the abolition of Article 370 (which grants special status to J&K) to facilitate greater integration of the state with India. However, in the “Agenda of Alliance,” the coalition reinstated its commitment to the Vajpayee-principles and promised to start a dialogue with political groups of various ideological persuasions, including the Hurriyat Conference, which supports self-determination. The BJP also conceded to uphold Article 370 and committed to assess the need to continue the Armed Forces Special Powers Act (AFSPA) in disturbed areas.<sup>43</sup>

With time, however, it became clear that the BJP was not willing to shed its muscular electoral stance. The party demanded a ban on cow slaughtering and the selling of beef in the Muslim-majority state. Modi also ruled out any discussion on the restoration of full autonomy, refused to bring the separatists to the negotiating table, and called off talks with Pakistan. Thus, although there is no inherent contradiction between wanting Kashmir to be part of the national mainstream and the

state's desire for autonomous self-governance,<sup>44</sup> the BJP's stand is that these are incompatible goals. A period of instability broke out following the death of Chief Minister Mufti Mohammad Sayeed, and especially after the killing of Burhan Wani, a young militant leader of the Hizb-ul-Mujahideen by Indian security forces in July 2016. The crackdown on civilians attending the funeral of Burhan Wani escalated tensions further.

Scholarship on Kashmir has demonstrated that the gradual whittling away of the state's special status under Article 370 has contributed to fueling resentment against the Indian state.<sup>45</sup> However, the BJP perceives Article 370 as the reason behind the Valley's increasing alienation and its lack of development. Most recently, the BJP has been condemned for not speaking out against a Public Interest Litigation which seeks to repeal Article 35A of the constitution—a provision that gives flesh to the special autonomy status as per Article 370.<sup>46</sup> By not filing a counter affidavit in the Supreme Court to uphold article 35A, and rather seeking a "larger debate" on the issue, the BJP, so its opponents argue, implicitly supports its abolition.

In a nutshell, by acting tough on Kashmir and making it a battleground for majoritarian nationalism,<sup>47</sup> the BJP has sought to appease its core constituency without due regard for the preferences among the inhabitants of the Valley in particular. Comparative scholarship on conflict management in (post)-conflict societies suggests that

such an approach could destabilize the region even further.<sup>48</sup> Kashmir's border status next to a "hostile" neighbor and the Muslim-majority nature of the state in a secular, though increasingly Hindu majoritarian parent-state make accommodation already challenging to begin with. The decline in regional autonomy and in the capacity of regional actors to influence central policies in relation to the state (especially since the BJP central government does not require the support of regional, let alone Kashmiri allies to uphold its central parliamentary majority) is likely to intensify intra-state and center-state conflict even further. The extent of disillusionment in Kashmir is evident from the very low turnout in two recent by-elections in Srinagar in April 2017 (as low as 2 percent). This stands in sharp contrast with the 66 percent turnout figure in the 2014 state legislative assembly election.

However, a more optimistic and accommodative note can be struck in the case of Nagaland. The BJP government (building on negotiations which had started by the previous Congress-led UPA government) signed a framework agreement with the Nationalist Socialist Council of Nagaland (Isaac-Muivah). In it, the NSCN (I-V) accepts the principle of shared sovereignty with India. In turn, Modi pledged to be partners of the Nagas in their "pride and prestige." However, the framework simply opens up a dialogue between the Government of India and the Nagas, but does not result in mutual engagements yet. Furthermore, factionalism among Naga groups and concerns by leaders of Assam, Mani-

pur, and Arunchal Pradesh who fear a “greater Nagalim” and a militarist tradition among NSCN (IM) could weaken the significance of this agreement.<sup>49</sup>

## Center–State Relations: The Fiscal Dimension

### *The Fourteenth Finance Commission (2015–2020): Towards a “Trust-Based” Paradigm of Center–State Relations*

**G**rowth-enhancing benefits of fiscal decentralization stem from both the synergistic combination of independent revenue-raising authority at subnational level and a credible “no-bail-out” policy in the overall context of a common market.<sup>50</sup> However, in India there is less room for the assignment of independent revenue-raising powers to subnational governments<sup>51</sup> and a credible no-bail-out policy is difficult to uphold.<sup>52</sup> Therefore, a combination of an untied transfer system, plus rule-based fiscal control to minimize moral hazards and common pool problems, serves as a second-best solution. This has been the approach of the Fourteenth Finance Commission while making recommendations for the period 2015–2020.

The Fourteenth Finance Commission report details a new “trust-based” paradigm of Center–state relations by (a) recommending a shift from tied transfers (schemes and grants) to untied transfer (devolution of tax share)-based support; (b) ending the plan-non-plan dichotomy; (c) including a generous scheme to supplement

the resources of *local bodies*; (d) recommending a redesign of the Inter-State Council to cover state financial allocations that supplement the statutory transfers recommended by the Finance Commission; (e) rejecting states’ demands for special debt-relief packages and recommending a rule-based approach toward fiscal discipline instead; (f) removing the distinction between general and special category states; (g) recommending an independent fiscal council for monitoring fiscal rule compliance; and (h) eliminating “fiscal discipline” as a condition for the horizontal distribution of tax shares.

The decentralizing thrust of the Finance Commission report is reflected in its recommendation to increase the share of the states in the *net* proceeds of shared tax receipts from 32 percent in the period between 2010 and 1 to 42 percent for the period covering 2015–2020. In doing so, the Commission sought to allow state governments greater autonomy and flexibility in designing, financing, and implementing development programs. The cash flow that comes with this freedom to allocate resources is hoped to unleash healthy economic competition for better provision of public services,<sup>53</sup> thereby limiting subnational governments’ incentives to raid the fiscal commons. Politically, measures such as an enhanced share in the center’s net tax revenues, greater flexibility in the use of funds (even funds envisaged for disaster relief can be utilized on adversities which are not in the notified list of disasters), and central grants-in-aid of Rs 48,906 crore to

11 revenue-deficit states, seem to have pacified states' resentment for the loss of taxation powers and revenues under the GST regime (see below), the other major fiscal innovation since 2014.

The Fourteenth Finance Commission also altered the key for the horizontal (inter-state) distribution of shared tax receipts. In comparison with previous Commissions, it omitted a "fiscal discipline index" (see Table 1 below). Although in the view of some this was perceived as encouraging fiscal profligacy of the states<sup>54</sup>), the Commission removed a significant source of perverse incentives for fiscal mismanagement by the states, namely the distinction between plan and non-plan revenues.<sup>55</sup> This incentivized states to present estimates of deficits on non-plan accounts to the Finance Commission (which allocated grants on the

basis of need) and surpluses on non-plan accounts to the erstwhile Planning Commission (which allocated grants on the basis of state financial capacity).<sup>56</sup> To reverse these perverse incentives, the Fourteenth FC, in a significant departure from earlier Finance Commissions, included plan expenditures in its expenditure projections for states. Thus, the devolved share of states in the divisible pool subsumes block grants given by the erstwhile Planning Commission. The biggest loser in this process are the special category states which so far received generous treatment in terms of funds under Normal Central Assistance (NCA), Special Central Assistance (SCA), and Special Plan Assistance (SPA). In fact, the Fourteenth Finance Commission recommendation means that "special category states" (SCS) are, in effect, not special anymore.

**Table 1: A Comparative View of the Horizontal Devolution Formulae**

Variables	Finance Commissions			
	XIth	XIIth	XIIIth	XIVth
Population (1971)	10	25	25	17.5
Demographic change (2011)	0	0	0	10
Income (Distance Method)	62.5	50	47.5	50
Area	7.5	10	10	15
Tax Effort	5	7.5	0	0
Index of Infrastructure	7.5	0	0	0
Forest Cover	0	0	0	7.5
Fiscal Discipline Index	7.5	7.5	17.5	0
Total	100	100	100	100

*Notes:* Demographic change reflects population shifts between 1971 and 2011; The income distance is computed by calculating difference between 3-year average per capita GSDP for each state with respect to state with highest per capita GSDP; Area has a floor limit of 2 percent for smaller states in deciding horizontal devolution.

On the other hand, the FC has adopted an approach that seeks to provide funds on a more economically rational basis. In addition to recommending an increase of 10 percent in the share of all states in the divisible pool, the Commission has factored in backwardness and forest cover in its devolution formula, both of which will benefit SCS. Furthermore, the commission has recommended post-devolution revenue deficit grants for 11 states without making any distinction based on general or special category status. All this will help backward SCS, without discriminating against backward “general category” states. Notably, under the FC exercise, all special category states except Arunachal and Sikkim have qualified for the deficit grants. In addition, three general-category states—namely, West Bengal, Kerala, and Andhra Pradesh—will also benefit.

The Modi government accepted the recommendations of the Fourteenth Finance Commission on February 24, 2015. However, an implication of the new scheme (argued by the Prime Minister himself in his widely publicized letter to the Chief Ministers) is that such greater devolution will correspondingly reduce the fiscal space for the center.<sup>57</sup> The actual effect, however, is somewhat different. In fact, the revenue forgone due to higher devolution to the states is offset by the revenue saved from delinking or dropping 39 Centrally Sponsored Schemes (CSS) from central support and reducing the contributing share of the center in 24 CSS from 90–80 percent to 50–60 percent. So, the increase in total transfers to the states is marginal (Table 2, Col.6 and Figure

1). In view of the Finance Commission’s recommendation to double and triple the flow of *resources to rural and urban local bodies*, the Modi government also slashed the budget allocated to the union ministry of Panchayati Raj by about 97.19 percent—from Rs 3,390 crore in 2014–2015 to a meager Rs 208 crore in 2015–2016. It did so because the recommendation for local bodies gives states (PRI fall under the authority of the states) huge funds to empower panchayati raj institutions.

Yet, the commission’s devolution scheme has brought about a qualitative shift in terms of the composition of transfers by increasing the “decentralizing” component (untied transfers through tax devolution) in total transfers and minimizing the “centralizing” components (non-statutory grants<sup>58</sup>). The share of statutory grants (given under Art 275) which *fall somewhere between these two poles*—which was already low<sup>59</sup>—has increased only marginally (Table 2). With the implementation of the FFC recommendations, the center’s ability to employ discretionary grants as an instrument of influencing states’ spending priorities or patronizing politically important states has shrunk significantly. Recall how, in August 2015, ahead of the Bihar state assembly elections, Modi surprised everyone by unilaterally announcing Rs 125,000 crore largesse for the state (without prior notification to the Bihar government to prevent them from claiming any credit in the future). Needless to say, the Center could not fulfill this promise.<sup>60</sup> As can be seen from Table 2 in the financial year 2015–2016,

i.e. immediately after the FFC recommendations came into effect, the share of non-statutory grants in net resources transferred to states has declined by almost 15 percent (Table 2, Col. 3).

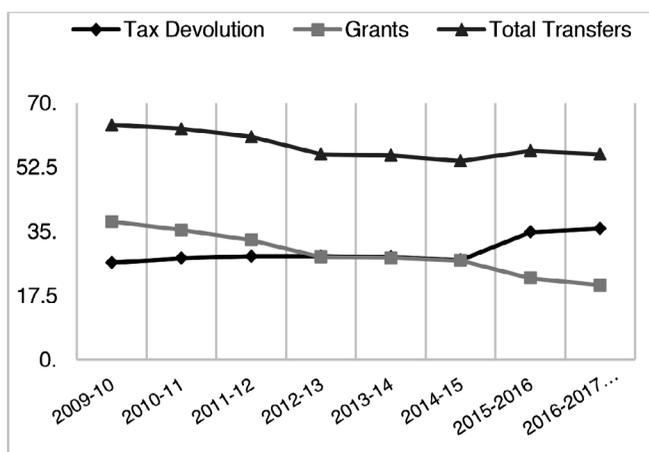
**Table 2: States Share of Tax Devolution and Grants**

Year	Percent of Total Transfers			Percent of Center's Gross Tax Revenue		
	Tax Devolution	Statutory Grants	Non-Statutory Grants	Tax Devolution	Total Grants	Total Transfers
	1	2	3	4	5	6
2009–2010	40.96	11.42	46.98	26.39	37.63	64.44
2010–2011	43.75	9.93	45.90	27.65	35.29	63.20
2011–2012	46.45	9.55	44.12	28.17	32.56	60.66
2012–2013	49.82	8.20	41.21	28.14	27.90	56.48
2013–2014	50.13	9.54	40.17	27.95	27.71	55.74
2014–2015	50.03	11.42	38.34	27.14	26.99	54.24
2015–2016	60.66	10.14	23.37	34.77	19.21	57.33
2016–2017 (RE)	61.39	10.01	20.33	35.70	17.64	58.14

Source: Budget Documents, Government of India.

Note: The practice of giving a portion of central assistance directly to implementing agencies, by passing the states, was reversed in 2014–2015, on the recommendations of the Expert Committee on Efficient Management of Government Expenditures, chaired by C Rangarajan. Thus, in order to ensure comparability, we have included direct release of central assistance to state implementing agencies while calculating non-statutory grants and net transfers prior to 2014.

**Figure 1: Central Transfers to States (as Percent of Center's Gross Tax Revenue)**



Accepting and implementing core Finance Commission recommendations on how taxes collected by the central government are to be shared with, and distributed among states has become an established convention in Indian politics. However, in view of the higher magnitude of the states' shares in the divisible pool, the central government has increased those levies that it is not required to share with the states—namely, cesses, surcharges, and additional/special duties. The share of these special levies in the Central Government's gross tax revenue increased from 8.8 percent in 2012–2013 to 15.2 percent in 2016–17. State governments see this as a violation of the spirit of *cooperative federalism*, as it is clearly intended to deny them a share in additional revenues mobilized by the center. Interestingly, the GST Council, in its meeting held in September 2016, decided that all existing cesses would be subsumed under the GST. The need to cooperate with the states to roll out a GST (from July 1, 2017) ensured that the cabinet cleared abolition of cesses in March 2017 leading to an increase in the size of the divisible pool of resources to the states' advantage.

### ***India's Dual GST—Toward Economic Union in a Federal System***

Unlike several unilateral decisions such as demonetization, the announcement of intergovernmental grants in election rallies and the abolition of the Planning Commission, the implementation of the GST required persuasion, collaboration, and the consent of the states, not just numbers in the Lok Sabha. The

passage of the Goods and Services Tax Act is a landmark, the most ambitious consumption-tax reform attempted so far involving center–state relations. The objective is to develop a harmonized national market while preserving the states' fiscal autonomy. If implemented properly, it promises to (a) make India one common economic market (by harmonizing all state and federal indirect taxes and removing inter-state tariff barriers)<sup>61</sup> (b) reduce compliance cost and litigation (through a simplified GST structure with built-in checks on business transactions through a seamless credit mechanism)<sup>62</sup> (c) make Indian industry internationally competitive (by removing the cascading effect of taxes, thereby reducing the overall cost of indigenous products and services); and, finally, (d) accelerate economic growth (by reducing red tape-ism and distortions to the economy, promoting ease of doing business).<sup>63</sup> The key to the benefits of a GST regime lies in its broad-based low-rate and minimum-rate differentiation.<sup>64</sup> In light of this general description, we take a brief look at the Indian model of GST and what it means for center–state relations.

Although GST reform is considered a major step toward fiscal centralization, the very process which led to the implementation of the new GST regime was highly “federalizing,” i.e. strengthened the shared rule dimension of fiscal federalism<sup>65</sup> Thus, the first element of federalism in the current GST regime (since July 2017) lies in the fact that the center and the states have entered into a grand bargain, after intense consultations,<sup>66</sup> to achieve the common

goal of unifying fragmented markets. In the unified structure of GST, the central government pools its sovereignty over excise, service tax, additional duties, central surcharges, and cesses, while states pool their sovereignty over state VAT, luxury tax, entry tax, entertainment and advertising taxes, and state surcharges and cesses.

The second “federalizing element” lies in the adoption of a “Concurrent Dual GST” model, with a destination principle for cross-border trading (101st Constitutional Amendment Act, 2016). In this model, generally endorsed by the experts,<sup>67</sup> the Center and the States will simultaneously levy Central GST (CGST) and State GST (SGST), respectively, on a common base. In addition, the center would have exclusive power to levy integrated GST (IGST) on all inter-State supply of goods and services. The destination (consuming or importing) states then get their share of IGST. This is a considerable improvement on the previous “origin-based” taxation system, one that essentially exported the tax burden from more affluent, producing states to poorer, consuming states, contributing to horizontal fiscal inequality.<sup>68</sup>

However, this GST has its critics as well, despite its many positive elements and federal compatibility. Some say that it is an imperfect and inefficient model because, conventionally, the single GST (national GST) is considered as an ideal form of GST. But exploring this notion further, it becomes clear that the problem lies not in the dual structure of taxation—unavoidable in Indi-

an circumstances—but in the presence of multiple rates, with exceptions (zero rate) on the one end and very high rates on the other end.<sup>69</sup> Theoretically, the GST, being an indirect tax, cannot be employed as a progressive tax—that is, with a higher tax on goods and services consumed by the rich and lower taxes on the items of mass consumption. This approach can be applied to direct taxes: the higher the taxable income, the higher the tax bracket. But India has adopted this approach for implementing the GST. So, in the Indian model of GST, there is a multilayered rate structure: 0 percent, 5 percent, 12 percent, 18 percent, and 28 percent. In addition, states are allowed to exercise some level of discretion as well. This is in stark departure from general international practice and can lead to artificial barriers to trade and commerce, something that the GST reform is meant to remove.<sup>70</sup> Furthermore, a higher GST rate negates what the GST stands for—that is, a low indirect -tax regime.<sup>71</sup> Yet, this multilayered rate structure has emerged from a consensus in the GST Council (GSTC) in which the central government's vote is worth a third of the total, while votes of all the state governments put together account for two-thirds. Any measure requires a three-fourths majority to be passed. Therefore, the GST Council is the third and the most important “federal feature” of the dual-GST regime, in which both levels of government have agreed to pool their sovereignty for a mutually shared goal. Although in theory the states are not bound to accept recommendations of the GST Council, it appears that all the stakeholders

understand that encouraging states to go their own way would simply lead to the unravelling of the GST. The voting structure on the GST council is such that the states collectively can block the Center's proposal—if at least 12 states join hands. For the Center to get its proposal cleared by the council, it will need the support of at least 19 states. However, the centralizing element in this otherwise cooperative federal institution is that the center can single-handedly veto any proposal put forth by the states.<sup>72</sup> In the event of any dispute between the central government and the states or between the states arising out of the council's recommendations or implementation thereof, the GST Council is empowered to establish a mechanism to adjudicate said dispute.

### **Center–State Relations and Intergovernmental Relations: The Administrative Dimension**

**I**n his first address to the nation on India Day since becoming Prime Minister (August 15, 2014), Modi announced his intention to scrap the Planning Commission and replace it with a new institution. The departure from centralized planning would free to states to develop more policy initiatives of their own and the new institution would merely seek to coordinate center–state interactions whenever states implement policies which are part-funded by the center. States would no longer require the consent of the center for their approval of their “annual plans” and the replacement of the Planning Commission would no longer steer the flow of

(a large component) of central discretionary grants to the states (see above).

Although the Planning Commission appeared to have lost some of its relevance in the increasingly marketized Indian economy, some scholars have argued that liberalization increased the significance of the Commission as a “lobby for development by public investment.”<sup>73</sup> In this way, the Commission had come to play a key role in overseeing, in tandem with the relevant line ministries, important social development and infrastructure programs with the aim of reducing poverty and inter-state inequalities. Indeed, central investment in social services had increased dramatically from 16 percent in the final plan before liberalization (Seventh Five Year Plan, 1985–1990) to 30.2 percent in the Eleventh Five Year Plan (2007–2012). Usually, these schemes took the form of “Centrally Sponsored Schemes” (CSS), the most prominent of which is the Mahatma Gandhi National Rural Employment Guarantee Act; introduced by the Congress-led UPA government in 2005.

However, in spite of the Commission's role in welfare<sup>74</sup> the Planning Commission had been criticized for the centralizing way in which it pursued its objectives. This was exacerbated by the lack of shared rule provisions in the daily operation of the Commission. State chief ministers, the federal Prime Minister and key members of the cabinet plus the members of the Commission were represented in the National Development Council, but this body did not normally convene more than once per

year and had little input in the development of the annual let alone Five-Year economic plans. The NDC served to air (and document, since its meetings were annotated) state grievances and aspirations. The need for adequate state input during early stages of the policy cycle became apparent with the growing role of discretionary, nonformulaic-driven grants to the states which were seen to undermine federalism or state autonomy in a number of ways.<sup>75</sup> Especially affluent states expressed a desire for a reduction in the number of Centrally Sponsored Schemes and lamented a lack of flexibility in their deployment; forcing them to spend money in areas in which they had no need.<sup>76</sup> CSS were also seen to interfere and sometimes contradict state social policies and could operate as “unfunded mandates,” especially where the matching contribution of the center progressively decreased. Finally, CSS were perceived to have a regressive effect since their per capita uptake was often disproportionately lower in states with the highest needs. Given the matching nature of CSS, poorer states often lacked the resources or infrastructural capacity more generally to implement these programs.<sup>77</sup>

The replacement of the Planning Commission with the NITI Aayog in January 2015 was meant to increase the input of the states in intergovernmental policymaking and bring India closer to a model of “co-operative” (later rephrased as “competitive-co-operative”) federalism. Yet, the NITI primarily serves as a think tank attached to the Office of the federal Prime Minister.

Its internal structure makes more space for contractual staff and outside—often more junior—experts,<sup>78</sup> but there is no evidence of a more direct link with the state administrations. It has a CEO, a vice-chairperson, a number of full-time members, ex-officio members (mainly federal cabinet members), and special invitees (So far, none of these have been state office holders). At the apex level, the National Development Council has been replaced with a Governing Council (which has met thrice between January 2015 and October 2017); though full minutes of its meetings are no longer available (summaries can be consulted on the website of the NITI). Governing Council meetings have been criticized as seeking to further the national government’s policy objectives. For instance, the July 2015 meeting was partially devoted to Land Acquisition, given that the federal government had run into trouble amending the Land Acquisition Rehabilitation and Resettlement Act (2013) in the Rajya Sabha (federal second chamber) where it does not hold a majority. The amendment of LARR was seen as necessary to facilitate the development of land for business purposes. In the Governing Council, chief ministers of BJP-controlled states considered ways in which a federal executive ordinance in lieu of the amended bill could increase the role of the states in passing their own laws on land acquisition instead.<sup>79</sup> That this issue was put on the agenda raised concerns among (non-BJP/NDA-controlled states), especially since deliberations took place when a Joint Parliamentary Committee was still seeking to

debate a compromise solution. Consequently, more than 10 chief ministers representing states run by federal opposition parties boycotted the Governing Council meeting.<sup>80</sup>

Apart from the Governing Council, a potentially more relevant contribution in terms of strengthening “co-operative federalism” can be made by so-called Regional Councils. These are composed of groups of chief ministers and have the potential to upload state policy preferences on issues which require center–state coordination at an early stage in the policy cycle. However, the central executive has a prerogative in determining the composition of Regional Councils and the themes on which such groups of chief ministers will focus. States may flag issues which, in their view require further discussion, but the Prime Minister’s Office subsequently selects those themes requiring further elaboration from a long -list.<sup>81</sup> On this basis, Regional Councils on skills development, Swachh Bharat Abiyan (Clean India), and the restructuring of Centrally Sponsored Schemes have been set up since 2015 and submitted their reports later that year. Each of these Regional Councils has been heterogeneous in party political composition, but all three have been chaired by—then NDA chief ministers (Andhra Pradesh, Punjab, and Madhya Pradesh), even though the intention was for two to be chaired by opposition chief ministers (Congress and CPI).<sup>82</sup> Of all three Regional Councils, the Council considering the restructuring of Centrally Sponsored Schemes has been the most significant. Its report has been accepted

by the federal government.<sup>83</sup> The report advised the division of CSS into core and optional schemes. The former are welfare schemes which the government considers vital to its implementation of the National Development Agenda, and consists among others of MGNREGA and a number of additional schemes for Social Inclusion. The center contributes 100 percent of core scheme funding for union territories, 90 percent for what used to be “special category states” (8 North Eastern and Himalayan states) and 60 percent for other states. Optional schemes are allocated to the states by the Ministry of Finance on the basis of a lump sum from which the states are then free to choose which schemes they wish to implement. The contributing share of the center in these schemes is slightly lower compared with core schemes (except for union territories): 80 percent in the case of the “special category states” and 50 percent for other states. Unlike the Planning Commission, the NITI lost its prerogative in making Scheme-wise allocations and in determining the inter-state distribution of these discretionary grants, although the “NITI in consultation with state governments and central ministries” would advise the Ministry of Finance on this matter.<sup>84</sup>

Bringing the “competitive” element into federalism, the NITI also envisages awarding smaller projects (such as funding for smart cities, or projects to improve schooling outcomes) on the basis of a competitive bidding process. It plans to do the same for projects in the health sector. For instance, in December 2017, the NITI signed a Memorandum

of Understanding with the state governments of Madhya Pradesh, Odisha, and Jharkhand to assist these states in bettering their educational performance. With the assistance of the NITI and a US consultancy, pilot projects within each state are meant to enhance education governance and outputs, which, when completed, should provide a model for other states to emulate.<sup>85</sup> Yet, schemes like these do not necessarily produce “competitive-co-operative” federalism. Rather, they may engender a degree of centralization since the federal government puts forward the stated goals and objectives on the basis of which states can bid for project assistance. Beyond the capacity to allocate smaller selective grants, the NITI has lost most of the independent grant-making powers which the Planning Commission had. Instead, it serves mainly as a repository of state practices across a range of policies (“sharing best practices”), but its power in these matters is merely advisory.

There is then an interesting paradox which emerges based on the analysis of fiscal federalism and changes in the working of the central government as set out above. Increased state financial devolution led to the partial retrenchment of the center from co-funding intergovernmental (welfare) programs (potentially strengthening self-rule). However, this process coincides with a rise in authority of the PMO and Ministry of Finance in relation to the NITI Aayog in comparison with the Planning Commission before, weakening the (selective) voice of state actors in the design of intergovernmental programs part-funded by the cen-

ter. Furthermore, by seeking to replace in-kind subsidy payments with “direct benefit transfers” in the disbursement of these schemes on the ground, the BJP government not only aims to avoid “leakage” in their implementation, but also enhances the ability of the center to take full credit for such schemes; thus, strengthening its centralizing narrative.<sup>86</sup>

Finally, in convening a meeting of the Inter-State Council in July 2016, Modi, for the first time in a decade, reactivated what constitutionally is envisaged as India’s seminal apex intergovernmental body.<sup>87</sup> The meeting brought together the Prime Minister, key union ministers and all state chief ministers to discuss key findings of a Commission on the Reform of Center-State Relations which reported as long back as 2010. It also debated center-state cooperation in the further rolling out of Aadhaar (unique identification scheme) and “direct benefit transfers” (necessitating Aadhaar). Education, security, and police reforms were also discussed. Although not insignificant as a symbolic gesture to affirm “co-operative” federalism, the abolition of the Planning Commission could have provided an opportunity to reinvigorate the Inter-State Council as an intergovernmental body of genuine significance. In the view of Amitabh Pande, a retired secretary of the Inter-State Council, the NDC and ISC could have merged and some experts could have been moved from the Planning Commission to the ISC. For such a revamped ISC to play a genuinely intergovernmental role, the ISC would also have to be placed on the

same footing as the statutory Election Commission; unlike the NITI and ISC which are currently subsumed under the Prime Minister's Office and Home Office, respectively.<sup>88</sup> As such, reconvening the ISC, without modifying its remit and organizational structure, does not really strengthen the shared rule attributes of Indian federalism.

### **Conclusion: Center–State Relations at a Critical Juncture?**

**I**n this contribution, we provided a first and preliminary analysis of the dynamics of Indian federalism under Modi. We focused primarily on the nature and outcome of inter-state relations, and thus emphasized the shared rule attributes of Indian federalism. The extent to which center–state interdependence is genuinely met by center–state cooperation or “shared rule” is important, especially since the Indian federal system attributes most legislative powers to the center, but relies on the states for their implementation. In the era of coalition government (1996–2014), this co-operation was at least partially realized through the participation of a large group of state parties in central government. With the return to a single party parliamentary majority after the 2014 general elections, the strengthening of shared rule could still result from an ideological commitment to expand cooperative modes of decision-making, but it is no longer *built in* the modus operandi of the central government. In light thereof, it is not unexpected that we find considerable evidence for centralization since the

2014 general elections. However, as our article shows, the push toward centralization is most apparent in political affairs (as evidenced by the attempted application of President's Rule, the shock decision of demonetization, the debate on shifting to concurrent state and/or general elections, and the centralized and heavy-handed approach in relation to Kashmir).

We would argue that the same trend toward centralization marks the administrative sphere. Programs which the states implement on the basis of federal legislation do not necessarily result from more shared rule input. Regional Councils within the NITI Aayog enable the states to participate in central or shared policies which the states implement during a much earlier stage in the policy-cycle, but based on current evidence they do not appear to have made decision-making more “shared” or “interdependent.” This is so especially when the federal government sets the agenda of the NITI, determines who chairs the Regional Councils, and in theory is free to adopt the NITI's reports as it sees fit. Central ministries or the NITI also determine on what terms states can “compete” for federal assistance in certain schemes, thus providing further evidence of centralization, rather than “competition.” We should also note that the NITI's weakness of grant-making powers in comparison with the Ministry of Finance may lead to further centralization. A centralizing effect also emanates from the proliferation of direct benefit transfers (in lieu of in-kind subsidy payments), which not only standardize but also centralize

service delivery since the technological skills required to put such schemes into practice (Aadhaar) are not equally shared between the center and the states.

Centralization tendencies are least apparent in the fiscal domain, where the current government has been bound by the decentralizing intent of the Fourteenth Finance Commission and continued the path toward the harmonization of India’s indirect tax regime on the basis of increasing center–state cooperation. Importantly, “fiscal” decentralization or interdependence has been brought about not by the BJP government, but by a statutory expert commission and through the constitutional imperative to work with the states in forging a new indirect tax regime.

Another BJP single party majority in the 2019 Lok Sabha elections, and—based on successive wins in state assembly elections—a BJP majority in the Rajya Sabha and the (co)-governance of even more than the current (January 2018) 19 Indian states could lift the constitutional impediments to further centralization. Conversely, financial decentralization has provided state governments with some space to develop their own track record. Especially non-BJP-ruled states could use this to build a counter-narrative for bucking the trend of political (and) administrative centralization. Time will tell which way the pendulum will swing at this critical juncture in the trajectory of Indian center–state relations.

## Endnotes

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inefficiency, wastage and sub optimal outcomes ... and [should] appreciate the benefits of having transparent guidelines with inbuilt mechanism for flexibility in the norms as well as flexi-funds to address State specific problems ... [Furthermore] the Central government [should ensure] that Ministries do not function within the confines of departmental silos and convergence becomes a new mantra of transforming national governance at the centre. It is important to trust the States. All decisions regarding implementation of Central schemes must be taken in the States by State Level Committees and by State Officials” (57th meeting NDC Council, December 27, 2012).

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