Cajoling and compromise drive India’s multi-party system

Indian federalism bristles with paradoxes

Introduction
The special section of this issue of *Federations* magazine tackles two classic themes of federal governance, diversity and intergovernmental relations, and how they shape the internal politics of several federal countries.

These eight articles address themes of central interest to practitioners of federalism. They were chosen to also appeal to the appetites of the less initiated.

The selection includes pieces on unity and diversity in Ethiopia, India, Nigeria and Switzerland, four countries who value their respective forms of diversity and have found unique ways of promoting it in order to strengthen the unity of their nations.
The common thread is that laws have been adopted to protect certain rights of minorities. Two of the four articles on intergovernmental relations focus on how Spain and Italy continue gradually shifting power to their constituent units, demonstrating how a certain level of conflict between the central authority and the constituent units is inevitable and no doubt necessary. The other two pieces examine politics in India through the prism of India’s fascinating multi-party system and the realignment of power sharing within the country. These topics, diversity and intergovernmental relations, form two of the four core themes of the Fourth International Conference on Federalism in New Delhi from Nov. 5-7, the other two being local governments and federal systems; and fiscal federalism, the subject of a recent special section of Federations Magazine.

This is the year of India’s Diamond Jubilee, 60 years of independence. It is thus most fitting that the International Conference, whose theme Unity in Diversity: Learning from Each Other, be held in a country whose enduring unity has been maintained through its considerable diversity. There is much to learn from the Indian experience. We trust these articles will inform and resonate both with you our regular reader and you, the conference participant who is reading us for the first time.

- Rod Macdonell, Senior Editor

BY ASH NARAIN ROY

India is not a textbook federation. Under the classic theory of federalism, it is not a federation at all. The Constitution of India does not use the term federation; rather, it describes India as “a union of states.” And yet, the country’s Supreme Court has unequivocally maintained in two landmark judgments, in 1977 and 1996, that “the Indian union is federal” and “it (federalism) is the basic feature of the Constitution.” Described variously as a “federation without federalism,” quasi-federal and “a union of unequal states,” the federal system in India has often evoked lively academic debate.

India has an evolving federalism. With the advent of coalition governments in New Delhi, India has shed the straightjacket of the unitary colonial regime it inherited and operated under in the initial years of independence. Indian federalism has moved beyond textbook formulations; it bristles with many paradoxes.

The success of Indian democracy and federalism has many roots. India is a state built on ancient civilizations but its democratic institutions have adapted well to modern and post-modern realities. The development of the Indian political system during the six decades after independence has given it a measure of strength and stability. Unlike most post-colonial states, India’s basic constitutional and political framework remains that which became operational soon after independence.

Indian federalism is a judicious blend of rigidity and flexibility. The basic structure of the Constitution cannot be easily changed. Certain changes in the Constitution require a two-thirds majority in Parliament, besides being ratified by not less than half of state legislatures. There are also cases, including the formation of new states, which require approval of a simple majority in Parliament. Thus, the Indian Constitution allows for change and evolution through its amending formulas. By 2006, it had been amended 96 times.

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Independence and evolution

The existing federal system in India has deep historical roots. The British Crown, the rulers of the princely states and the independence movement leaders each saw federalism in a good light for different reasons. To the British, the federal formula was the best guarantee of their trading interests. The rulers of Indian princely states - local hereditary rulers within British colonial India – welcomed such a framework as they could retain their autocratic powers. And freedom movement leaders thought federalism offered the best possibility of an early realization of their goal of political freedom and as a compromise to prevent the partition of India along communal lines. For the Muslim League, federation could only be considered a stepping-stone toward a sovereign Pakistan.

India’s Constituent Assembly was ready to frame a federal constitution when it first met in 1946 and early 1947. However, the announcement of the Mountbatten Plan, outlining the partition of India, changed the mood of the country in favour of a strong central authority. Overnight, federalism became suspect in the eyes of the constitution makers.

After the partition of India and independence in 1947 there was sectarian violence of an unprecedented scale accompanied by a huge exchange of populations between the two countries. What loomed large at that critical moment for India was not federalism, but national unity and integration. The constitution makers did not abandon the federal idea as such, but rather vested the central government with extraordinary powers. Thus India became a union of states.

The Congress system

Ironically, independent India has always been a federation despite the silence of the Constitution in this regard. During the period of one-party domination by the Congress Party, which Indians have named “the Congress system,” India remained what former Supreme Court judge V.R. Krishna Iyer calls “unitary at the whim of the Union and federal at the pleasure of...