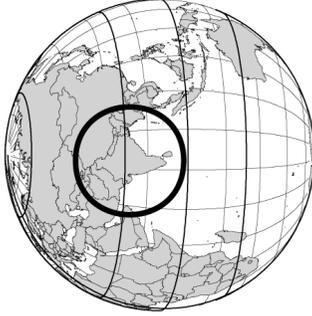


India

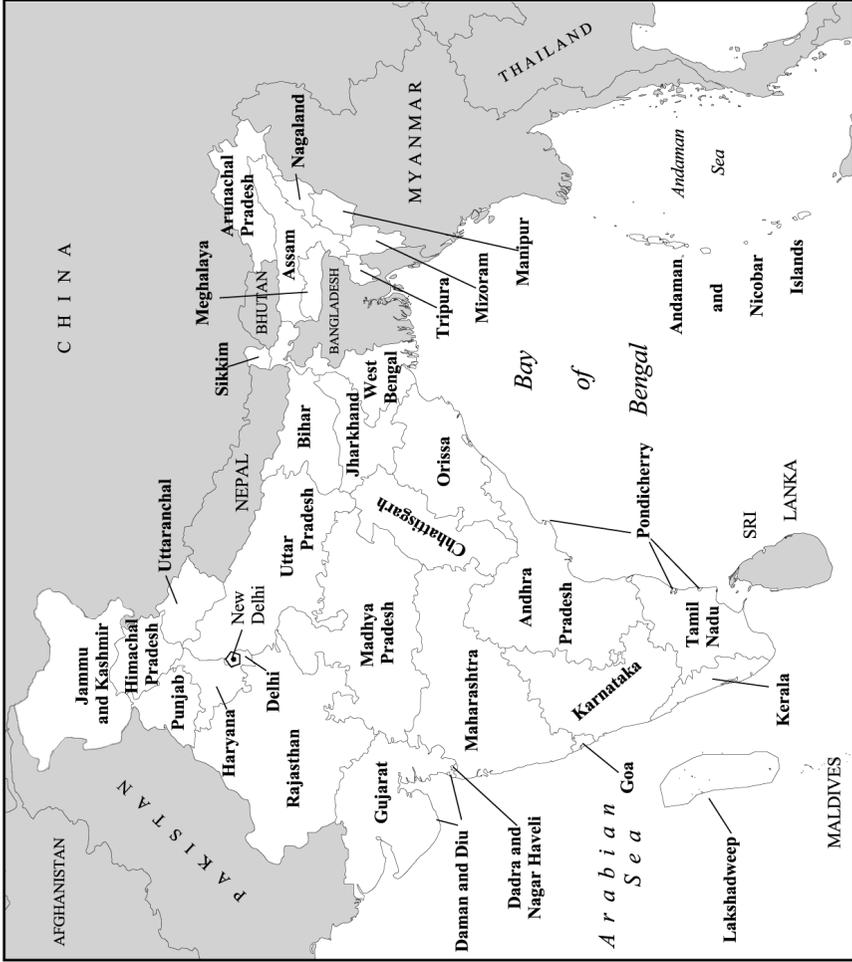
Capital: New Delhi
Population: 1 Billion
(2002)

Boundaries and place names are representative only and do not imply any official endorsement.



Kilometers

Sources: Times Atlas of the World; ESRI Ltd.;
CIA World Factbook



Republic of India

AMITABH MATTOO AND HAPPYMON JACOB

The Constitution of India gives the Union government in New Delhi virtually exclusive jurisdiction over foreign and defence policy. Prior to India's independence in August 1947, foreign relations and defence were managed by the British colonial government. Indian political leaders played virtually no direct role in the conceptualization, formulation, and conduct of foreign policy. However, the Imperial Civil Service, which was bifurcated into the Indian Administrative Service and the Indian Foreign Service shortly after independence, provided a sense of continuity, especially in terms of procedures, if not always in policy.

In practice, the central government has exercised strong control over India's external relations since the Constitution came into force in 1950. The constituent states have, with some notable exceptions, played little role in the formulation or implementation of the country's foreign relations. However, this centralized control has begun to weaken over about the past decade. A variety of factors are responsible, and this gentle erosion of central authority, *de facto* if not *de jure*, is likely to continue in the future. This gradual loosening of the centralized control over foreign relations, of course, is not always a conscious or voluntary act by the Union government. By focusing on the roles of the states, this chapter provides an understanding of how federalism affects foreign relations in India by examining how the formulation and practice of India's foreign relations are changing.¹

India is a union of twenty-eight states and seven centrally administered Union Territories. It has a land area of 490,048 square miles (788,656 km²) and a coastline of more than 4,500 miles (7,200 km), with the Indian Ocean to the south, the Arabian Sea to the west, and the Bay of Bengal to the east. India borders Pakistan in the west; China, Nepal, and Bhutan in the northeast; and Bangladesh and Myanmar in the east. It had a population in 2006 of about 1,129,866,154 people, of whom 75% lived in rural areas. It is the world's seventh-largest country by geographical area and the

second most populous country. With a gross domestic product (GDP) in 2006 of US\$806 billion and GDP per capita of US\$730,² it was the second fastest growing large economy in the world. India's labour force was estimated to be 496 million. Around 9% of Indians are unemployed, while 25% are estimated to live below the poverty line. India's literacy rate is 59.5%, the male rate being 70% and the female rate 48%. As reported in the 2001 census, Hindus constitute 80.5% of the population, Muslims 13.4%, Christians 2.3%, and Sikhs 1.9%. There are strong regional disparities among the states, particularly economically and educationally.

THE REGIONAL AND GLOBAL SETTINGS

India's geopolitical status in the South Asia region is one of natural predominance. Its geography, economy, military power, and population make it the most influential country in a region that is weighed down by interstate and intrastate conflicts, economic underdevelopment, and a colonial legacy. India's cultural predominance in the region also arises from the fact that prior to independence, two of the subcontinent's powerful nations, Pakistan and Bangladesh, were part of British India. In many ways, the extent of cultural affinity that India shares with the rest of the subcontinent (Pakistan, Bangladesh, and Nepal) is often greater than the cultural affinity that the north Indian states share with those in the south of India.

The country has long-lasting conflicts with some of its neighbours. Most significant among them is the one with Pakistan, involving more than fifty years of clashes over Kashmir and other, smaller bilateral issues. India also has bilateral irritants with Bangladesh, including the sharing of water resources and illegal immigration from Bangladesh to India. There is limited transborder migration within the region and little migration between Pakistan and India. Migrants (mostly illegal) come from Bangladesh into India, and India has an open border with Nepal. India has also been a host to refugees from Sri Lanka, Bhutan, Tibet, and Myanmar. Although cross-cutting ethnic and religious affinities would suggest considerable movements of people and transport linkages within the region, and even though these existed before 1947 when the subcontinent was partitioned between India and Pakistan, the existing political realities have ensured that there is now limited movement. There are traditional transportation routes in the South Asia region, but they are little used. The governments in the South Asia region are now negotiating to open many of those traditional routes. Lack of such physical links among the countries of the South Asia region has ensured that there is no unified economy in the region. Legal trade between India, Pakistan, and Bangladesh is much lower than its potential. Trade with Nepal is facilitated by open borders.

There have been some common initiatives for regional cooperation. For example, the Agreement on South Asian Free Trade Area (SAFTA) was signed by all seven member states of the South Asian Association for Regional Cooperation (SAARC) during the Twelfth SAARC Summit, held in Islamabad in January 2004. The agreement came into force on 1 January 2006. Along with SAFTA, SAARC strives to bring about cooperation among its members in the fields of agriculture, rural development, science and technology, culture, health, population control, narcotics control, and antiterrorism. A free trade agreement between Sri Lanka and India has also been signed to increase trade between the two countries. There are also other cooperation initiatives. The Kunming initiative, for instance, envisages integrating Yunan Province in China, Myanmar, India's northeast, Bangladesh, Bhutan, and Nepal into one unit of mutually benefiting communication networks, trading links, and transportation arteries, along with links to the outside world.

India has also been an active member of the Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIMSTEC), a regional organization involving Bangladesh, India, Myanmar, Sri Lanka, Thailand, Bhutan, and Nepal that works toward greater regional cooperation. It has endorsed a plan for a free trade pact by 2017. The three most advanced countries of the area – India, Sri Lanka, and Thailand – are committed to trade liberalization by 2012. Further development of most of these organizations and initiatives has been hampered by bilateral issues.

Like all South Asia states, India does not share its military powers with any regional organizations, nor has India ever entered into a military alliance with another country.

INDIA'S FOREIGN POLICY

Independent India's foreign policymakers had to deal with a host of challenges: partition of the country and creation of a hostile Pakistan, extreme poverty, military weakness, underdevelopment, backwardness in the core sectors of industry, and simmering regional and religious tensions. India's policy toward its neighbours – especially in terms of defining its boundaries – mimicked British colonial policy. New Delhi also pursued an independent approach to foreign policy by choosing to remain nonaligned in the rivalry between the Eastern and Western blocs during the early years of the Cold War. A key characteristic, however, has been the centralization of foreign policy decisions as envisioned in India's Constitution, with New Delhi providing little space for states.

Jawaharlal Nehru, India's first prime minister, was the most influential thinker on foreign policy. Virtually single-handedly, he defined the main

contours of India's foreign policy in the first decades after Independence. His control of foreign and defence policy played an important role in strengthening the control of the Union government over the country's foreign and defence policymaking. Nehruvian ideas had a lasting impact on the country's foreign policy. Nehru's grand strategy rested on two pillars: self-reliance and nonalignment. As India was a militarily and economically weak state, he believed it was important to avoid entrapment in Cold War rivalries while simultaneously becoming self-reliant internally. Nehru's nonalignment was, however, far from neutrality. India was active in the movement for disarmament, in decolonization, and in the campaign for more equitable international economic development. Nehru sought to make Indian foreign policy adopt the role almost of being the conscience of the world.

The limits of Nehruvian "idealism" were demonstrated by India's military defeat during the Sino-Indian war of 1962. Gradually, even while the Nehruvian legacy survived in many other ways, the reality of power politics injected itself into Indian policymaking. It was Nehru's daughter, Indira Gandhi, who became prime minister after Nehru's death. She conducted India's first nuclear test in 1974, intervened in East Pakistan to help create Bangladesh, and established a close relationship with the former Soviet Union. It was not, however, until 1998 that *realpolitik* became the defining feature of India's foreign policy. The dominating influence of Nehru and then Indira Gandhi meant that there was limited space for other leaders and even less for individual states to intervene in foreign policy issues.

The watershed in India's foreign policy came in May 1998, when – defying traditional assumptions, analytical predictions, and international opinion – New Delhi conducted a series of nuclear-bomb tests. This was the beginning of what has been widely described as a new phase of realism in India's foreign policy. This decision was, however, taken in secret by Prime Minister Atal Behari Vajpayee and his closest advisers and without the knowledge of even the Cabinet, let alone leaders from the states.

Despite this new phase, India's fundamental foreign policy goals had not changed very much. These objectives formed the bedrock of India's engagement with the outside world. It was primarily India's search for security and stability in South Asia and its quest to influence international politics – beyond the immediate neighbourhood – through its growing "hard" and "soft" power that formed the mainstay of New Delhi's foreign policy. Faced with the necessity of an accelerated and multifaceted engagement with the outside world, India also sought to retain the autonomy to make decisions on key issues of national interest without capitulating to international pressure or being crushed by globalization. This was most strikingly evident in India's position in multilateral trade talks as well as in New Delhi's unwillingness to support the US-led war in Iraq or to let Indian soldiers be deployed there as part of the multinational force.

THE CONSTITUTIONAL SETTING

The Constitution of India came into effect on 26 January 1950. Federalism, secularism, popular sovereignty, fundamental rights, directive principles of state policy (guidelines in the Constitution to the government of the day on certain things to do and achieve that are, nonetheless, not enforceable), judicial independence, and a cabinet form of government are the basic principles enshrined in the Constitution. Even though federalism is one of the basic features of the Constitution, the word “federalism” is not mentioned in the document. Article 1(1) of the Constitution calls the country “a union of states.” Each of India’s twenty-eight constituent states has its own legislature (some of them have both upper and lower houses), executive, and judiciary. India’s Parliament has two houses: Lok Sabha (lower house) and Rajya Sabha (upper house, or council of states). Because the upper house consists of the representatives of the states and the Union Territories, besides those nominated by the president of India, states can influence legislative proceedings on foreign and defence policy by raising and discussing such issues.

That the Union government has ultimate authority over the foreign relations of the country is evident from the fact that even if a majority of states, theoretically speaking, oppose a particular foreign policy, the Union government is not constitutionally bound to take this opposition into account.

The states have policing powers within their own territory and do not possess anything akin to an organized military apart from the state police, whose senior officers are selected, trained, and called to its service by the central government. Although Parliament has the authority to make decisions regarding foreign and defence policy, in practice the Union Cabinet makes the actual decisions. Parliament can discuss these decisions, review them, and vote against them. If the decisions of the Cabinet were overturned not only would they be reversed but, because of the conventions of parliamentary government, the government would fall. This never happens because the central Cabinet enjoys the support of the majority in Parliament. Parliament also has various committees on foreign and defence policy, but their powers are merely recommendatory and not enforceable. Such committees are comprised of members from both houses, although the majority are from the lower house. The permanent civil service in the foreign office is drawn from the Indian Foreign Service (IFS). Its officials are specially recruited through a federally appointed body, the Union Public Service Commission (UPSC), and their cadre management is with the central government.

On balance, India has a strong central government.³ The centralizing features of the Constitution are evident from the following powers of the Union government: it has major taxation powers; it has the power to reorganize the

states through an act of Parliament, a power it has exercised in the past; state governors, who are appointed by the central government, have the power to delay consent to legislation passed by a state legislature; state governors can play a role in the formation of state governments, and the central government is vested with the power to dismiss state governments by virtue of Article 356;⁴ and Parliament can override legislation passed by the states, citing national interests.

Legislative powers under the Constitution are divided into three lists under Article 246 of its seventh schedule, namely the Union list, the state list, and the concurrent list. Only the central government has the authority to pass legislation on items listed under the Union list. State governments make laws on items listed under the state list. The concurrent list contains items on which both the state and Union governments can enact legislation. However, in the event of a conflict between a state and the centre on any item under the concurrent list, the writ of the central government prevails. The central government, not the state governments, holds the residuary power. The following powers are all unambiguously part of the Union list and thus outside the jurisdiction of state governments: defence of India; matters regarding naval, military, and air forces and other forces of the country; deployment of any armed force of the country in any state as an aid to civil power; delimitation of cantonment areas; foreign affairs and all matters that bring India into relation with any foreign power; diplomatic, consular, and trade representation; the United Nations; participation in international conferences, associations, and other bodies and implementing decisions made thereof; entry into treaties and agreements with foreign countries; implementation of treaties, agreements, and conventions with foreign countries; war and peace; foreign jurisdiction; extradition and admission, immigration and expulsion, passports and visas; and foreign loans. As regards trade and commerce, not only international trade but even interstate trade are the subject matter of the Union government. Treaties with foreign governments can be concluded only by the Union government, and more important, it does not need to have the treaties ratified by Parliament. Parliament may discuss any treaty or agreement entered into by the executive but may not affect its finality or enforceability. The Constitution, then, gives the central government in New Delhi virtually exclusive jurisdiction over foreign and defence policy. The states have, with some notable exceptions, played little role in formulating or implementing the country's foreign relations.

The Indian government's order of business, in allocating functions to each ministry, invariably contains the rider that anything to do with international relations and foreign affairs is not to be dealt with by the concerned ministry but by the central Ministry of External Affairs. As regards the bureaucracy, whether working in the central government or in governments of the various states, its members are forbidden to interact with any multilateral

or bilateral agency without the formal knowledge and consent of the concerned agency of the central government. In fact, even for private companies, the maximum extent of foreign direct investment (FDI) and the degree of foreign ownership permissible in different categories of private companies are limited by laws of the Union government.

CENTRE VERSUS STATES

Despite a strong central government, the relationship between India's states and the central government has been an evolving one. This process of evolution has gone through various phases of cooperation and confrontation. The period until the late 1960s was characterized by extreme centralization. It was in 1967, three years after the death of Jawaharlal Nehru, that one-party rule in India started breaking down. The rise of regional parties in the 1970s and 1980s led to demands for the transfer of more powers to the states. The Union government relented by appointing the Sarkaria Commission to review centre-state relations in 1983.

The rise of regional parties to power at the centre had to wait until the general elections of 1989, which saw the establishment of the National Front coalition government led by Vishwanath Pratap Singh. Singh set up the long-awaited Inter-State Council in 1990, a forum for which provision had already been made in the Constitution. Even the Congress government that succeeded the National Front government had to depend on regional parties to gain and remain in power. This became a regular feature after the formation of the United Front government in 1996. In other words, ever since the 1989 general elections, no single party has won a majority in Parliament. Whereas in the 1989 election, 27 regional parties gained seats, 43 did so in the 1991 election. Many of these small parties' agendas are limited to highlighting only state-specific issues.

The demand for decentralization by the states is further augmented by two factors that play themselves out in the Indian political arena: the movement for local governance (through *panchayati raj*⁵ and urban local bodies, namely municipalities) and demands for further reorganization of India's states. The movement for local governance is enshrined in the 73rd and 74th Amendments to the Constitution, which were passed by Parliament in 1992. These call for further decentralization of state power to local elected bodies, although this provision is not implemented by many Indian states. The movement for further reorganization of states based on regional identities has already seen results in the recent creation of an additional three states. All these factors appear to have strengthened regional forces asking for more and more decentralization of political power and resources. Although this renegotiation of centre-state relations had no direct implication for foreign relations, it did pave the way for the new assertiveness that the Indian states are showing today vis-à-vis the country's foreign policymaking.

INTERGOVERNMENTAL RELATIONS
IN FOREIGN AFFAIRS

The centralized control of foreign and defence policy long exercised by the Union government has begun to weaken over the past decade or so. There are four interrelated reasons for this growing influence of constituent units on foreign relations. First, the special constitutional status given to some states (as in the case of Jammu and Kashmir) may give the states' political leadership a voice in the country's foreign policymaking. Second, the political weight of a leader of a particular state can also influence foreign policymaking, albeit in an informal manner. Third, coalition governments at the centre have provided space for state governments and leaders to exercise greater say on foreign policy issues because coalition Union governments are formed by regional parties, many of which are based exclusively in one state. Finally, although the Constitution has not undergone change, the forces of globalization have created new practices and possibilities that have already given the states a greater role and will continue to do so in the future. This is especially evident in the case of foreign economic policymaking. Many international financial agencies and institutions, for instance, are negotiating directly with the state governments in India.

These trends suggest that this gradual erosion of central authority, *de facto* if not *de jure*, is likely to continue over the next decade. The loosening of centralized control of foreign policy is not a conscious or voluntary act by the Union government but a result of the convergence of a number of factors. However, it is necessary here to point out that (1) the central government is not constitutionally bound to consult states on matters of foreign policy, (2) the states do not have any place in foreign policymaking meetings or during negotiations of international treaties and other agreements, and (3) there is not yet any formal structure to consult states on matters of foreign and defence policy. If any state has a concern in this regard, it is usually taken up at the highest political level (the chief minister conveying it to the prime minister). No bureaucratic mechanism exists to channel any such concerns. Rarely are any meetings called even at the political level to discuss foreign policy matters with states. The exceptions are when the prime minister meets with the chief ministers of states to discuss their concerns regarding foreign economic policies. States do not have offices or representatives abroad to pursue foreign policy, economic policy, or even cultural policy. Foreign missions setting up consulates in various parts of India need to liaise with and obtain clearance from the Union government, not from the state governments. It is for the central government to interact with state governments in this regard.

As the Constitution is clear about the centralized control of foreign and defence policymaking, it is necessary to look for evidence outside the

constitutional framework to see whether the states have been able to influence such decisions through extraconstitutional means and practices. The following sections look at how globalization and coalition politics have affected the making of India's foreign economic policy and how border states and the political weight of state leaders have affected India's foreign and security policy.

DOMESTIC AND INTERNATIONAL MANIFESTATIONS OF CONSTITUENT DIPLOMACY

The 1990s were of great importance for centre-state relations in foreign policy. The ninth general election to Parliament saw a coalition government come to power, with regional parties, some even single-state parties, playing decisive roles in forming and running the government in New Delhi. This meant political decentralization. The years that followed also witnessed an unprecedented phase of liberalization leading to the opening up of the Indian economy. India's experiment with globalization and privatization meant the gradual abolition of the autarkic "permit-licence raj," characterized by bureaucratic red tape, that had been typical of the Indian economy since independence. This translated into economic decentralization. As Lloyd I. Rudolph and Susanne Hobber Rudolph point out, "economic liberalization, the dismantling of the 'permit-license raj' and an increasing reliance on markets, proved to be an enabling factor for the emergence of the federal market economy."⁶ The coming together of these two factors forced a redefinition of centre-state relations in an unprecedented manner. The earlier decades had been characterized by constitutional rigidity, whereas the new era ushered in creative and accommodative federalism. In short, economic liberalization and coalition politics in the country provided the space for the states to confidently participate in the nation's foreign economic policymaking, which earlier had been the exclusive role of the central government.

The states' new role in foreign economic policymaking is demonstrated by the fact that many international financial agencies and institutions, for instance, are directly negotiating with state governments. Independent discussions and negotiations are held between international agencies and organizations – such as the World Bank, the Asian Development Bank, UNICEF, and the United Nations Development Program (UNDP) – and the various state governments, even though the state governments require permission from the centre to conclude agreements reached in this fashion. If these organizations wish to approach the various state governments, they must do so through the Ministry of External Affairs and the Department of Economic Affairs of the Ministry of Finance. However, if the states approach them, they can do so independently, but a memorandum of understanding

(MOU) would require the approval of the Union government. This means that the central government does have the wherewithal to control such negotiations if it wants to do so.

However, on many occasions, the central government is constrained from controlling such activities due to the compulsions of coalition politics. The states of Andhra Pradesh and Maharashtra, among others, have World Trade Organization (WTO) departments to deal with WTO-related issues, and their functioning has been rated innovative. With the southern Indian states becoming the hubs of software development and focal points for foreign investment, the Union government has to consider their policy preferences in making foreign economic policy. Moreover, with the competition for FDI increasing among the states, top state officials often travel abroad to negotiate terms and conditions for such investment with the organizations concerned. Antiglobalization movements in various parts of the country too have exhibited the power to influence the terms and conditions of investment and production in particular regions.

Political and economic structural changes have led the states to become increasingly involved in the world economy. State officials have signed a range of agreements with foreign economic institutions for purposes of collaboration and financial borrowing. There have been visits abroad by state leaders as well as visits of influential political and corporate leaders such as Bill Clinton, Bill Gates, George W. Bush, Yoshiro Mori, and Li Peng to various state capitals. No longer can the central government's prerogative or acts of favoritism determine the destination of FDI. Not only do the states understand that the central government is no longer an all-powerful entity that can bail them out of any financial problems, but they also understand that they need to compete with each other to get investment if they are to survive in the era of economic globalization. State representatives undertake missions abroad to advertise to the world that attractive investment opportunities exist in their states and that the states provide infrastructural support such as roads and low-cost power, capital and interest subsidies, and a stronger enforcement of law and order. Sometimes incentives take the form of special economic zones, software technology parks, reformed labour policies that permit downsizing and more flexible hiring and dismissal practices, tax concessions such as tax-free zones, and more relaxed environmental laws. As early as 1993, this new activism of the states was demonstrated by a deal struck between the Government of Maharashtra and the Enron Corporation to build a 2000-megawatt power plant, with the government of India providing financial guarantees to Enron. This was the first agreement of its kind in the history of independent India.

As the states established their standing among the country's important economic actors, the state chief ministers became the new role models of

the new India's economic strength and development. State leaders such as Chandrababu Naidu (former Andhra Pradesh chief minister), S.M. Krishna (former Karnataka chief minister), and to some extent, Buddhadeb Bhattacharjee (presently West Bengal's chief minister) transcended their traditional role — which had been limited essentially to maintaining law and order and managing the state — to aggressively woo investment and capital. It was Naidu who started off this process by negotiating with the World Bank for a loan. Some chief ministers have even participated in the World Economic Forum meetings in Davos, Switzerland. Naidu has visited many foreign capitals to woo investment. In August 2002, for example, he visited Singapore to attract investments in the Special Economic Zone set up in Vishakapatanam in Andhra Pradesh.

In subsequent years, many state governments signed agreements with international economic institutions and aid agencies such as the Asian Development Bank and the World Bank. This is in addition to the many deals that various states struck with multinational companies. Important also are the negotiations conducted by state governments with foreign firms and governments to set up “smart cities” in the high-tech area in their states in order to promote international collaboration and attract investment. Recently, the Government of Kerala negotiated with a Dubai-based firm to set up such a smart city in Cochin. It is pertinent to note that in all these initiatives by the states, the Union government tried to facilitate only due to coalition pressures and because these initiatives were seen as part of its overall economic-development vision.

There have also been differences of opinion between the Union government and the states on a variety of issues. One of the major issues of concern for many states was the signing by the central government of the WTO agreement. Many states claimed that by signing the WTO agreement on agriculture, for example, the Union government had in fact usurped the states' power over agricultural policy. Some state governments took “the GOI [government of India] to court demanding a reinstatement of the constitutionally mandated division of powers between the central and state governments, in which agriculture is categorized as a subject.”⁷ In another instance of confrontation between states and the central government, the Government of Chhattisgarh opposed the Union government's plans to sell a publicly owned enterprise to a private firm, the Bharat Aluminum Company (BALCO). The state government approached the Supreme Court, but it ruled in favour of the central government. Such aggressive actions by state governments have forced the Union government to consult with them, as did Atal Behari Vajpayee, who held a meeting of state chief ministers in 2001 to discuss with them their concerns regarding the WTO and its impact on agriculture.⁸

THE LIMITS OF STATES' FOREIGN
ECONOMIC DIPLOMACY

The new activism of the states has not been without the imposition of many constraints and limits by the various central governments that have come to power. Rob Jenkins, having looked closely at what has become known as foreign economic diplomacy, argues that the newfound activism of the states has not been very successful. Jenkins claims that states' encounters with external actors "do not constitute 'foreign economic policy' so much as domestic policies with implications for the possibility of transacting business with transnational capital and international financial institutions."⁹

Jenkins points out that the central government has not been particularly accommodating of state participation in the decision-making process in the country's foreign economic policy. He writes that "the general trend is the ability of central government officials responsible for the implementation of trade policy to remain substantially impervious to the entreaties of state governments representing key trade-affected constituencies."¹⁰ This has been amply evidenced in the fact that the central government, heedless of repeated requests from many states, did not raise tariffs on certain imported commodities despite evidence that their import had an adverse impact on domestic agricultural producers. Jenkins also points out that the Government of India has not even included the states in the discussions under the WTO-mandated Trade Policy Review Mechanism (TPRM), in which the states' involvement would have served them well.¹¹ The WTO does not provide any mechanism that allows states to influence agreements signed with the Union government. Furthermore, the complexities of the behind-the-scene politics of most international financial organizations are well beyond the reach and understanding of the state governments. Most of the WTO cells established by state governments have not been able to contribute much to the states' involvement in decision making about foreign economic policy¹² – this despite the fact that the central government has encouraged the states to set up such bodies.¹³ One of the reasons for this is that these cells are often headed by civil servants who are reluctant to undertake initiatives on their own; a second is that their agenda has been limited. A cursory glance at the objectives of the Andhra Pradesh WTO cell, for example, demonstrates that there is nothing radical in its action program.¹⁴

Moreover, the central bureaucracy has not been very positive about the states' participation in the decision-making process of the country's foreign economic policy even as the political leadership seems to be more open and encouraging. In fact, the central bureaucracy does everything to ensure that the states do not bypass the interests and influence of the Union government when negotiating with international organizations and agencies. Even though politically there may be a willingness to demonstrate greater

flexibility, the bureaucracy is unwilling to share turf or to change the status quo. In any case, structural problems inhibit states from taking loans from international organizations, agencies, and states because the central government often has a decisive say in such transactions. A good example is World Bank loans. These always identify the central government as the principal borrower even when the loan is to go to a state government. The central bureaucracy, more often without the explicit consent of the political leadership, also tries to place legal impediments in the way of independent state negotiations with international organizations. Therefore, organizations asked to provide loans almost always try to negotiate with the central government before finalizing the agreement with a particular state. Jenkins puts it well: "Through the considerable leverage it possesses with foreign agencies, the Government of India is able to influence the shape of states' multilaterally funded assistance packages even before the draft programmes are brought to state governments themselves."¹⁵

Be that as it may, it is now widely recognized that there is increasing collaboration and consultation between the Union government and states on matters of economic diplomacy. On the one hand, the central government recognizes that it is better to be understanding of the demands of states because the stability of the central government in the era of coalition politics depends much on the regional parties. The outlook and attitudes of the politicians at the centre also have changed regarding how far they should accommodate regional views. Today's political leadership draws its power from the regional parties and has a thorough understanding of the demands and aspirations of the country's regions. What perhaps has not changed is the central bureaucracy. The real managers of power in the Union government, the bureaucrats, do not like to delegate their power to the states, especially in the absence of clear legislation requiring them to do so.

BORDER STATES AND FEDERAL RELATIONS

India's border states have special problems, two of which are dealing with illegal migration and cross-border terrorism. Because of these problems, they have negotiated special treatment with or have behaved differently from other states vis-à-vis the central government. Debates and arguments about illegal migration from Nepal and Bangladesh have been especially strong in India's north-eastern states. Rafiq Dossani and Srinidhi Vijayakumar point out that, "as the state parties have increased their voice in government, they have demanded an increased role in controlling migration into their states. Nowhere is the ambiguity of federal jurisdiction more apparent than in the case of border patrol. In West Bengal, the state police and the Border Security Force [a centrally-controlled paramilitary force] often work together to control the movement of migrants and goods from Bangladesh."¹⁶

Although the legal power over border control and regulation lies with the Union government, it is often not in a position to carry these out effectively without the cooperation of the state governments. This has prompted the central government to delegate powers to them. In one such instance, L.K. Advani, the then Union home minister, asked the states to take the necessary steps to stop illegal migrants.¹⁷ In another instance, the West Bengal government opposed a move by Maharashtra and the central government to expel some alleged illegal Bangladeshi migrants through the territory of West Bengal.¹⁸

The border states have also had to deal with cross-border terrorism. States like Jammu and Kashmir have designed their own ways to do so and have at least sometimes come into conflict with the central government. The disbanding of the Special Operations Group (SOG) by the Mufti Mohammad Sayeed government in Jammu and Kashmir, opposed by the central government, is such an instance. Although SOG was a state-run organization and therefore operated by virtue of the policing powers of Jammu and Kashmir state, the Union government had definite interests in the matter because it affected the country's internal security. The Mufti government also had adopted a "healing touch" approach to the Kashmir problem and had decided to release from confinement many persons accused of indulging in acts of militancy despite the central government's displeasure.

In the recent past, Sayeed was also able to have an impact on India's policy toward Pakistan. Sayeed is widely regarded as the architect, although indirectly, of several confidence-building measures that were introduced between the two countries. These include the resumption of the Srinagar-Muzaffarabad bus service across the volatile line of control that divides Jammu and Kashmir between India and Pakistan, as well as the unprecedented collaboration between Islamabad and New Delhi after the devastating earthquake in Jammu and Kashmir in fall 2005. Since then, a large number of initiatives vis-à-vis Pakistan have been undertaken in Jammu and Kashmir. The Poonch-Rawalkot bus service has already begun, and bus services are proposed between Kargil and Skardu in Pakistan-administered Kashmir and between Jammu and Sialkot, also in that part of Kashmir. There have been many debates in the Jammu and Kashmir Legislative Assembly on the role of Pakistan in sponsoring terrorism in the state. For example, in March 2000, speaking in the state assembly, the then chief minister, Dr Farooq Abdullah, stated that "Pakistan was bent upon destabilizing peace in India. He said he had requested the US President, Mr. Bill Clinton, that he should tell Islamabad, during his ensuing visit, that it should stop exporting terrorists to Jammu and Kashmir. He said that Mr. Clinton should assert his authority and force Pakistan to end its 10-year-long proxy war which had resulted in the death of several

thousand people in the State. Dr. Abdullah said the USA should declare Pakistan a terrorist state and impose sanctions against it.¹⁹

The political weight of a particular state leader can also influence foreign policymaking, albeit informally. This is illustrated by the example of Amrinder Singh, the chief minister of Punjab, who reached out to Pakistan's Punjab on the basis of a shared cultural tradition, Punjabiya. This policy received considerable popular support in Indian Punjab. Another such instance occurred in 1964 when the Kashmiri leader, Sheikh Abdullah, went to Pakistan as Prime Minister Nehru's emissary, where he is believed to have even worked out an understanding with President Ayub Khan. This understanding, however, was not translated into action because Nehru passed away while the sheikh was still in Pakistan. Similarly, political heavyweights from the southern state of Tamil Nadu have been able to exercise considerable influence on New Delhi's policy toward Sri Lanka. Indeed, the Tamil Nadu legislature has often in the past passed resolutions on the situation of Tamils in Sri Lanka. On 17 August 2006 the Tamil Nadu Assembly condemned attacks on Tamils in northern Sri Lanka by government forces. When Sri Lanka criticized the resolution, Tamil Nadu's chief minister, M.K. Karunanidhi, retorted that "if Tamils condemning the killing of their Tamil brethren was dubbed a mistake, then they [Tamil Nadu Assembly] would continue to commit it."²⁰ Again, in December 2006, the Tamil Nadu Assembly resolved that "this house is deeply concerned about the travails of the Tamils in Sri Lanka because of lack of protection to life and property. We request the central government to take necessary steps to alleviate the situation to the satisfaction of all concerned."²¹

The forces of regional integration in South Asia have also created opportunities for states to play a role. After the chief minister of Sikkim, Pawan Chamling, set up a study group that strongly recommended the opening of the route, pressure from the Government of Sikkim helped to speed up the opening of the traditional trade links between Sikkim and China across the Nathula Pass, which was closed in the 1960s. Similarly, West Bengal has supported the Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIMSTEC), which links South Asia to South East Asia and seeks to create a Bay of Bengal economic community. This would have the potential to make Kolkata (the capital of West Bengal) once again the hub of trade and commerce, as it had been until the early years of the twentieth century.

The Kunming initiative, discussed earlier, will undoubtedly require removing existing bilateral irritants between India and its neighbours. Indeed, linking the northeast of the country with the neighbouring countries would be extremely beneficial for that region, as it would benefit from a sea link as well as trade links with the rest of the region. River-water management, border management, and energy production in the region also

require regional collaboration between India, Nepal, and Bangladesh. As far-fetched as many of these developments may be, that there is thinking along these lines is of great significance.

Indeed, the Union government is considering many more such trade and other links, which will strengthen the country's regional engagements and enable the states to have more say in the establishment and management of the country's trade and links with neighbouring countries. The following are some of them. Integrated check points (ICPs) are being negotiated with Nepal, along with upgrading of highways and train links between the two countries. Border links with Bhutan, Bangladesh, and Myanmar are also being pursued seriously.²² Given the importance that successive Indian governments have attributed to neighbourhood diplomacy over the past few years, it is likely that most of these initiatives will see the light of day. What needs to be noted here is that such links with the neighbouring states will certainly increase the role of the Indian states in policy formulation vis-à-vis their foreign neighbours. However, all these links first have to be approved by the Union government.

It is worth considering what would happen if India gave more freedom to its states to engage the international arena in the same manner as, for example, Canadian provinces, Belgian regions and communities, Swiss cantons, or even US states. Can India take the risk of allowing such freedom? If not, why not? Such counterfactual analysis could provide a clue about the health of India's recent federalism. When the Indian National Congress was the dominant party in Indian politics, a period referred to by many as the "Congress system," giving Indian states more freedom to engage the international arena may not have made much of a difference because the centralized Congress party's high command would not have let the state governments exercise such powers in the first place. However, the state of affairs is different in today's coalition era, when states are vying to influence Indian foreign policy, including foreign economic policy. Regional parties and their leaders, without whose support no Union government can today be formed or sustained, have certainly used such constitutional provisions to influence the country's policies toward its neighbours, and state governments have independently negotiated with foreign governments and firms regarding FDI, joint business ventures,²³ border trade, border patrolling, people-to-people engagements, and matters regarding the Indian diaspora.²⁴

States have also been more vocal about expressing their foreign and defence policy preferences to the central government.

However, it may not be in the larger interests of the country and its unity to allow a great deal of freedom to its states given their wide-ranging and at times conflicting interests. A strong central government may be

necessary to hold together a country that has great diversity and constitutes a subcontinent. It should be said that India is still in the process of state building and consolidation. There are regions and subnationalities in the country that have not yet fully accepted the unity of the country. Under such circumstances, it might be rash to grant constituent units such freedoms. Despite the moderately increasing role of the states in decision making on foreign policy, it is curious that there is hardly any discussion of the need to give a greater role to the state governments in the country's foreign relations.

CONCLUSION

The Constitution of India gives the Union government virtually exclusive jurisdiction over matters of foreign and defence policy. In practice, too, the central government has exercised strong control over India's external relations since the Constitution came into force in 1950. Even before then, there were very marked centralizing tendencies due particularly to the British tradition of a strong central government that did not permit state governments to get involved in defence and external affairs during the period of British rule. Although the states have virtually no direct constitutional jurisdiction over foreign relations, in practice the emerging reality is somewhat different. Since the early 1990s there has been a gradual weakening of the central government's tight grip on the country's foreign relations.

This is being made possible by a variety of factors despite the absence of constitutional change. First, the special constitutional status given to some states, such as Jammu and Kashmir, seems to have accorded their political leadership a voice in the foreign policymaking of the country. Second, the political weight of a leader of a particular state has also influenced foreign policymaking in many cases. Third, coalition politics and its ramifications at the centre have provided space for state governments and leaders to exercise greater say on foreign policy issues. Finally, opportunities provided by opening the Indian economy to globalization have created new practices and possibilities that have given the constituent units a greater role. In fact, the happy coincidence of the opening of India's economy and the arrival of coalition politics in India in the early 1990s paved the way for an increased state role in making the country's foreign and defence policy.

The slow and indirect but steady change that the country is witnessing in its foreign policy formulation is widely welcomed. A diverse, plural country such as India must allow change in its style of policy formulation so that it is really in tune with its heterogeneity. A more consultative, organic, and creative style of foreign policy would be more in line with the needs of the people and could become the basis of a real national consensus.

NOTES

- 1 For other chapters on India, see Akhtar Majeed, "Republic of India," in John Kincaid and G. Alan Tarr, eds, *Constitutional Origins, Structure, and Change in Federal Countries*, 180–207 (Montreal and Kingston: McGill-Queen's University Press, 2005); George Mathew, "Republic of India," in Akhtar Majeed, Ronald L. Watts, and Douglas M. Brown, eds, *Distribution of Powers and Responsibilities in Federal Countries*, 155–80 (Montreal and Kingston: McGill-Queen's University Press, 2006); Rajeev Dhavan and Rekha Saxena, "Republic of India," in Katy Le Roy and Cheryl Saunders, eds, *Legislative, Executive, and Judicial Governance in Federal Countries*, 165–97 (Montreal and Kingston: McGill-Queen's University Press, 2006); and Govinda Rao, "Republic of India," in Anwar Shah, ed., *The Practice of Fiscal Federalism: Comparative Perspectives*, 151–77 (Montreal and Kingston: McGill-Queen's University Press, 2007).
- 2 The Economist, *Pocket World in Figures, 2008 Edition* (London: Profile Books, 2007), 156.
- 3 India's government has also been called a "quasi-federal system," "centralized federalism," and "the union system of Indian federalism."
- 4 Amal Ray, with John Kincaid, "Politics, Economic Development, and Second-Generation Strain in India's Federal System," *Publius: The Journal of Federalism* 18 (Spring 1988): 147–67.
- 5 Local self-government institutions.
- 6 Lloyd I. Rudolph and Susanne Hoeber Rudolph, "The Iconization of Chandrababu: Sharing Sovereignty in India's Federal Market Economy," *Economic and Political Weekly*, 5 May 2001, 1542.
- 7 Rob Jenkins, "How Federalism Influences India's Domestic Politics of WTO Engagement (and is itself affected in the process)," *Asian Survey* 43, no. 4 (2003): 598–621, at 607.
- 8 P.K. Vasudeva, "Chief Ministers' Conference on WTO Mixed Results," 2 July 2001, <http://members.tripod.com/israindia/isr/july3/vasu.html> (accessed 1 February 2008).
- 9 Rob Jenkins, "India's States and the Making of Foreign Economic Policy: The Limits of the Constituent Diplomacy Paradigm," *Publius: The Journal of Federalism* 33 (Fall 2003): 63–81, at 69–70.
- 10 *Ibid.*, 79.
- 11 *Ibid.*
- 12 WTO cells are set up by state governments to assess the impact of the WTO regime on their economies. Andhra Pradesh, West Bengal, Madhya Pradesh, Karnataka, Delhi, Tripura, Nagaland, Haryana, and the Union territory of Dadra and Nagar Haveli have established WTO cells so far. Punjab has also constituted a high-powered committee to look into the impact of the WTO regime.
- 13 "Centre to continue talks with states on WTO," 20 March 2001, <http://www.rediff.com/money/2001/mar/20wto.htm> (accessed 1 December 2007).

- 14 The key objectives are: preparation of the WTO Strategy Document for Agriculture in Andhra Pradesh; regular documentation of WTO impacts on agriculture and allied sectors; advice and guidance to senior management of the concerned departments on WTO-related strategies; determining the communication strategies to advise stakeholders, especially farmers, on WTO-related aspects; and keeping the agriculture sector in Andhra Pradesh in pace with the changing world in the wake of the WTO. See <http://agri.ap.nic.in/wto.html> (accessed 1 December 2007).
- 15 Jenkins, "India's States," 73.
- 16 Rafiq Dossani and Srinidhi Vijayakumar, "Indian Federalism and the Conduct of Foreign Policy in Border States: State Participation and Central Accommodation since 1990," Shorenstein APARC Working Paper, Walter H. Shorenstein Asia-Pacific Research Center, Stanford University, 5.
- 17 *Ibid.*, 10.
- 18 *Ibid.*
- 19 "J&K House resolves to banish terrorism," 24 March 2000, <http://www.tribuneindia.com/2000/20000324/j&k.htm#1> (accessed 1 December 2007).
- 20 M. Mayilvaganan, "Uncertainty in Sri Lanka and a Possible Thaw in Indian Perception," 12 December 2006, <http://www.idsa.in/publications/stratcomments/Mmayilvaganan121206.htm> (accessed 15 October 2007).
- 21 "Tamil Nadu house passes resolution on Sri Lankan Tamils," 7 December 2006, <http://in.news.yahoo.com/061207/43/6a3sj.html> (accessed 15 October 2007).
- 22 Shyam Saran, "Connectivity as India's neighbourhood policy," http://www.himalmag.com/2006/october/opinion_1.htm (accessed 15 October 2007).
- 23 The Jammu and Kashmir Bank has been planning to open branches in Pakistan-controlled Kashmir. The matter is pending with the central government in Delhi, which has not yet given permission. If the state government had been invested with powers to negotiate independently with the Government of Pakistan, things would have been different.
- 24 One would have to consider the outbursts of the Tamil Nadu government in response to the alleged human rights violations against its Tamil population by the Malaysian government. Only the Government of India can formally lodge a protest with the Malaysian government.