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Federalism as State Formation in India: A Theory of Shared and Negotiated Sovereignty

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Introduction: Sharing, Layering and Contesting Sovereignty; An Alternative to the Monopoly Sovereignty Narrative of the Modern State

In the master narrative of the formation of the modern state, its unified, monopoly sovereignty is presented as universal, the natural culmination of a teleological process. We challenge the naturalness and universality of that claim by historicizing the sovereignty concept. We do so by examining the history of state formation in late medieval and early modern Europe. When, why and how were sovereignty concepts constructed and contested are questions that engage the politics of category formation.¹ After historicizing the sovereignty concept, we turn to the study of federalism in India as state formation process rather than studying it constitutionally or comparatively.

Federalism as we theorize it in the context of state formation is a way to share and negotiate divided sovereignty. From our perspective, a federal state is an alternative state form. From the conventional perspective of unified, monopoly sovereignty, a federal state becomes at best an anomaly and at worst an aberration.²

Many stories can be told about sovereignty. One is by Hendrik Spruyt. In *The Sovereign State and Its Competitors*³ he argues that there was nothing inevitable about the displacement of feudal institutions by modern states.⁴ State forms in play in late medieval and early modern Europe included sovereignty seeking dynastic monarchies exemplified by France, self-governing urban leagues exemplified by the Hanseatic League and city states exemplified by the Italian city states, Venice, Milan Florence, Genoa. But Spruyt in the end succumbs to the ‘inevitability’ of the sovereign territorial state that he had set out to challenge. Invoking a Darwinian struggle for survival among the variety of state forms he had depicted, he tells us that in a ‘subsequent selection phase of institutional evolution’, ‘sovereign territorial authority’ had ‘significant institutional advantages over its rivals’. According to Spruyt, it proved more successful in ‘organizing domestic society’ (a

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euphemism for crushing regional and cultural differences), and in ‘structuring external affairs’ (a euphemism for waging aggrandizing wars).

A recent study by Joon Suk Kim, *Making States Federatively: Alternate Routes of State Formation in Late Medieval and Early Modern Europe*,⁵ challenges Spruyt’s ultimate embrace of the received wisdom. Kim remarks that in the standard story of the formation of the modern state the two dimensions, domestic society and external affairs were closely interrelated, external struggles spurring internal homogenization and vice versa. In the federatively formed states that he studied this connection did not hold. While facing expanded geopolitical competitions in the 15th and 16th centuries, they remained decentralized and continued to retain loosely integrated political and institutional structures.

How was this possible? Some late medieval and early modern European states came to adopt different, alternative strategies of state building in the face of mounting geopolitical pressures. Decentralized or federative state formation was made possible by processes that integrated diverse constituent units rather than organizing them hierarchically. Federative states provided ‘efficient’ or ‘rational’ solutions to internal order, economic activity and external security that enabled them to survive and prosper.

Kim makes his case by reviewing the new historical analysis of the (‘German’⁶) Holy Roman Empire, the Swiss Confederation and the Dutch Republic in late medieval and early modern period. They have been given scant attention in the existing state formation literature because they have been regarded either as a non-entity (the Holy Roman Empire) or, in the cases of the Swiss Confederation and the Dutch Republic, as exceptions of little significance. Kim regards this neglect as mistaken in an era when many believe that the heyday of the modern state is over,⁷ traditional territorial sovereign statehood has been ‘spontaneously’ relinquished for power sharing in supranational polities such as the European Union (EU) or the World Trade Organization (WTO), and states are ‘failing’ in the face of challenges by sovereignty seeking nationalities, sub-national regions or minority ethnic groups.⁸

Kim draws on a fresh view among a new generation of European historians, that what happened did not have to happen; that the imperial form need not have been extinguished.⁹ The presumption that a polycentric Europe based on shared sovereignty, an EU, is a possibility has cast a new light on predecessor models, such as the Holy Roman Empire. A conclave of scholars of the Holy Roman Empire, assembled to reflect on the 200th anniversary of its disestablishment after Jena remarked:

Scholarly assessments of the Old Reich and its significance for the evolution of modern Germany have undergone several transformations each shaped, to various degrees, by current political agendas. While some have seen the Holy Roman Empire as a medieval anomaly whose prolonged existence into the early nineteenth century delayed German national integration, with fateful consequences ... others have seen the Reich as a model for polycentric government and regional diversity, even as a blueprint for the European Union.¹⁰

The loose federative forms of late medieval and early modern polities, damned by enlightenment historiography as ineffective historical detritus, are once more read as relatively successful in their time. Kim writes:

What needs to be stressed here is that these federative political organizations were created as a result of conscious and deliberate efforts to cope with intensified geopolitical competition. A

common perception has been that decentralized, alternative states of early modern Europe were just the remnants of medieval political institutions that failed to adapt themselves to changes in political and economic conditions but nevertheless managed to survive. The truth, I argue, is that the process of constructing them constituted a *sui generis* mode of state formation, distinct both from the modern state building and from the retention of medieval political order.¹¹

Kim's analysis examines the ways that proved effective for aggregating, dividing and sharing power and for apportioning and re-apportioning sovereign prerogatives among multiple sovereign entities. He shows how it was possible to regulate conflicts of interests and to keep operative the system of cooperation and competition among them. This account helps us to reflect critically on the present state of state making and to 'imagine' what the future might bring. Philippe Schmitter has spoken of the need to go 'far back in European history to recapture a more diverse language about political units', language that will help us to ask questions about the fundamental transformation of statehood in the contemporary world.¹²

European State Theory and the Monopoly Claim

The conventional state formation story privileges the formation of the absolutist state in early modern Europe¹³ and ignores federal forms in Europe and Asia. Machiavelli made reason of state a ruler's supreme consideration. Bodin, then Hobbes, then Rousseau advanced monopoly claims for state sovereignty.

The idea of shared and negotiated sovereignty is anathema to theorists of the early modern state. Thomas Hobbes speaking for 17th-century absolutism and Jean-Jacque Rousseau for 18th-century popular sovereignty excoriate dissent, opposition and lesser associations. The political theory of absolutism and monopoly sovereignty reaches its apogee in 1651 with the publication of Hobbes' *Leviathan*. In it Hobbes addresses the consequences for the theory of sovereignty of the universal fear generated by the war of all against all in the state of nature. In order to survive men must surrender their liberty of thought and action to an absolute sovereign, what he depicted as a Leviathan.¹⁴

In Book XXIX, 'Of those things that Weaken, or tend to the DISSOLUTION of a Commonwealth' Hobbes invokes a powerful metaphor to characterize the opposition when he speaks of 'lesser Commonwealths in the bowels of a greater, like wormes in the entrayles of a natural man'.¹⁵ He also warns against dividing the sovereign power for 'Powers divided mutually destroy each other.'¹⁶

Rousseau in the 18th century like Hobbes in the 17th argued for an absolute sovereign and against opposition and lesser associations. Rousseau's sovereign was the general will, the collective will of a people or nation. Its sovereignty was indivisible. Particular wills of individuals or of lesser collective wills subverted the general will. Only the general will desired the common good. 'Whoever refuses to obey the general will shall be constrained to do so by the whole body, which means nothing other than he shall be forced to be free ...'¹⁷

The absolutist state, it was said, displaced dysfunctional feudal and dynastic political formations. After the French revolution the absolutist state gave way to the nation state; the people rather than the king were said to be sovereign. With the defeat of the Girondins in 1792, federalism became a deviant case in the master narrative. With Hegel the modern state story came to be read teleologically. It was read as natural and thus universal; a civilizing force that promoted freedom.

The spread of European empires into Asia, Africa and South America in the 18th and 19th centuries globalized the modern state by creating colonial states. When post-Meiji Japan pursued

modernity by creating a modern state form, the impression of teleological universality was further enhanced. At Indian independence, Jawaharlal Nehru, overriding Gandhi's goal of village-based, bottom-up sovereignty,¹⁸ embraced the modern state and its vision of monopoly sovereignty. It suited his goals of achieving rapid industrialization and economic autarchy via state directed planned development.

Sovereignty Shared and Negotiated

Recently, scholars have begun to challenge the modern state's teleological master narrative, that the modern state was the pre-ordained outcome to the state formation story. Such a view ignores or marginalizes theorists of shared and negotiated sovereignty¹⁹ as well as successful state practice in late medieval and early modern Europe by federal states such as the ('German'²⁰) Holy Roman Empire, the Swiss Confederation and the Dutch Republic. It also marginalizes the experience of federal states, such as the USA and Commonwealth countries in the 19th century and of India and other federal states in the 20th century.²¹ It overlooks how globalization processes and the rise of civil society have led to the shrinking, compromising and displacing of modern nation-state sovereignty.²²

Beyond the European state formation stories lay the alternative experiences of tributary empires on the Indian sub-continent and in Southeast Asia.²⁰ These experiences featured medieval or divided and federal concepts of sovereignty or those found in tributary empires or other forms of indirect rule. They treated sovereignty as dispersed and its practice as limited, shared and often contested. Multiple and layered sovereigns might share in forms and norms of ritual or symbolic sovereignty as well engage in tributary relationships. The result has been alternative versions of state formation that recognize and theorize divided, layered and negotiated sovereignty.

Dimitrios Karmis and Wayne Norman, in their introductory essay to *Theories of Federalism: A Reader*, 'The Revival of Federalism in Normative Political Theory',²¹ make clear that in the late medieval and early modern eras federal theorists, such as Althusius, Pufendorf, Montesquieu, Kant and, paradoxically, the Rousseau who theorized European federation, challenged the monopoly sovereignty theories of absolutism in Bodin and Hobbes and of the nation state in Rousseau.

In a globalizing world of shrinking nation-state sovereignty and increasingly shared and negotiated sovereignty the feudal model has come into its own. Federal states that share sovereignty and negotiate its parameters and balances seem more relevant to 21st century requirements than do the sovereignty claims of progressively obsolescing modern states. The shared and negotiated sovereignty of India's pluralist state and federal system and of the EU's multi-layered governance and commitment to 'subsidiarity'²² may be a better way to deal with sovereignty questions in the 21st century than a French-style monopoly sovereignty nation state.

The Nation State and the Sub-continental Empire in Europe and India

The idea of federalism and the idea of empire have different genealogies. Federalism is associated with liberal ideas of autonomy and freedom. Historical empires have been associated with the experience of authoritarian rule. What they have in common is various degrees of sovereignty sharing, an attribute that distinguishes both the empire and federalism from the 18th-century absolute state or the 19th-century nation state as envisioned by Hobbes, Bodin and Rousseau. The monopoly sovereignty of the absolute state and the nation state also stand in

contrast to the parcellated sovereignty of the imperial state, by which we mean a polycentric polity in which a center holds together and dominates subordinate, multi-ethnic polities with which it shares power.²³ Western absolutist theory does not fit well with Asian empires, such as the Ottomans, the Saffavids, the Mughals, although the theory of Oriental despotism was often invoked to suggest some fit. Monopoly sovereignty as articulated by Western absolutist theory was a reaction to any form of polity, liberal or authoritarian, medieval or contemporary, in which sovereignty was parcellated and shared. And many empires, from Mughal through Hapsburg, though authoritarian, encompassed parcellated multi-ethnic polities. The imperial form, still prominent in 18th-century Europe, lost out when Napoleon forced the electors to sign off the Holy Roman Empire after Jena (1806). In this political tableau, the leading creator of monopoly sovereignty and state homogeneity is seen abolishing the remains of the medieval multi-ethnic empire and its parcellated sovereignty. Or perhaps imperial forms of polity did not finally lose until 1918, when both the Ottoman and the Hapsburg empires paid the penalty for walking the deviant path in history.

We cite these circumstances at the beginning of an essay on Indian federalism because the imperial form figures large in the genealogy of Indian political development. Indian history can be read as an alternation between sub-continental empires and regional kingdoms, where regional kingdoms are understood as the relatively more homogeneous forms out of which the nation state might have grown, and empires are understood as aggregations of ethnically and culturally diverse polities. The imperial form won out. That it should have done so was not inevitable. However, its heterogeneous nature provides the context in which an understanding of today's Indian federalism should be located.

The idea of the homogeneous sovereign state has dominated the political science imagination in Europe. But when we turn to Asia, specifically India, we recognize that the empire as aggregate of heterogeneous entities provides the provenance of the modern federative state. As Peter Nettl noted:

The European experience of stateness was essentially the product of a particularization or narrowing of sovereignty into ethnically homogeneous or at least ethnically defined areas ... Developing countries, on the other hand, have in common the extension of central authority across ethnic boundaries and particular, hitherto 'sovereign, communities'.²⁴

The leading difference between European and Indian state formation is their historical outcomes, the nation state in Europe and the sub-continental empire in India. The ideology and reality of the nation state has been far less powerful in Asia than Europe. Again Nettl:

if the entry of the third world onto the stage of modern socio-scientific consciousness has had one immediate result (or should have had), it is the snapping of the link between state and nation. What were awkward exceptions (Switzerland, the Soviet Union, empires generally, and so on) have now become also a rule of non-nation-states.²⁵

India is a striking exemplar of the non-nation-state rule. It continued along the road Western Europe turned away from when it abandoned the Holy Roman Empire. India's historic concepts of stateness and collective representations of the political universe featured an imperial state. On the one hand, it aggregated diverse territorial, cultural and functional communities. On the other, it featured a symbolic and institutional state domain.

Unlike Europe, where monopoly sovereignty became the reigning state conception, in India a segmentary conception of state power prevailed. The doctrine and practice of the Indian state preserved subordinate jurisdictions, the tributary states of the Mughals, the dependent alliances of the British. It included rather than eliminated layered and segmented social and political power and created a socially constrained negotiated political order. This order was not only a concession to the contingent and layered distribution of power among regional kingdoms and local chiefs that prevailed through much of Indian history or a consequence of limited technical means of control. It was also a principle of state formation and maintenance. The doctrine of sovereignty, with its implications of exclusive jurisdiction, was inimical to the sharing and layering of power among culturally diverse areas that made possible a multi-national empire.²⁶

Precursors to Indian Federalism: Pre-British Empires

The alternation between the regional kingdom and the sub-continental empire played itself out in India since earliest times, the aggregation and fragmentation of the Mauryan (320–185 BC) and Gupta empires (AD 320–497) representing the most extensive exemplars. Here we want to call attention only to the most recent alternations. The empire of the Tughlaq Sultans lasted for most of the 14th century before fragmenting. The Mughal successor empire lasted for almost 300 years before fragmenting. The 200-year rule of the British empire was not subject to disintegration, but rather gave place, after independence, to a new form of organization under Indian federalism that combined the relative autonomy of the regional kingdom and the encompassing and aggregating role of an empire.²⁷

Political developments in Mughal times include the hegemony of the imperial form in the 16th and 17th centuries, the period of erosion of the imperial form in the 18th century, and the British reassembling of the imperial form. Speaking of the 18th century, Muzaffar Alam tells of ‘an emerging sense of regional identity which buttressed both political and, to a degree, economic decentralization ... Different regions of the empire gained in strength in the wake of relative peace and political stability under the Mughal system in the seventeenth century.’²⁸ These events played out the recurring dialectic between regional kingdom and sub-continental empire, and remind us that the outcome was by no means pre-determined. One can imagine an alternative pattern of state formation in which, absent the British drive for a colonial empire, many of the provinces that broke off from the Mughal empire and many of the kingdoms not well integrated into those provinces might in the course of the 19th century have adapted to the global example of a nation-state form.

A noticeable if irregular continuity of regions repeatedly asserts itself in the political geography of India. James Rennell, as Surveyor General of the East India Company and author of many 18th century maps of ‘Hindustan’,²⁹ had ample opportunity to reflect on the provenance of the geographic units he recorded. Writing in the 1780s when much of the outline of the Mughal administrative structure was still visible even though the form had been drained of its substance, he asserted the continuity of regional polities: ‘many of the old Hindu kingdoms bore the same names as the present subahs [provinces] do; and had probably nearly the same limits ... those kingdoms under the Pathan emperors became Subahs’. Saran says when the empire of the Tughlaqs (1320–1398), predecessors to the Mughals, broke up, ‘the ancient natural divisions, which more or less represented the provinces of the empire, became independent kingdoms, such as for instance, Malwa, Gujarat, Bengal, Jaunpur’.³⁰ However, apparently there was also much fluidity in the boundaries and extent of formalized regions, whose exact dimensions often depended on the accident of new acquisitions of war, and which must have compromised the likelihood of the same region having an administrative or political continuity over time.³¹

The propensity to organize Indian governance into large regional units, some of them similar over time, suggests that there is a logic of size and geography which dictates similar governing forms to Indian governors. The Tughlaqs formed their empire into 25 provinces. Under Babar (1483–1530) one hears of 30 sarkars and zamindaris, titles of administrative divisions. Akbar explicitly formed 15 new provinces, many with names that correspond to geographic regions that are recognizable today: Ilahabad, Agra, Awadh, Ajmer, Ahmbedabad, Bihar, Bengal, Dilhi, Kabul, Lahore, Multan, Malwa, Berar, Khandesh and Ahmednagar.

A legacy of centuries of empires and kingdoms in India was the consciousness that regional political and administrative units, units that might be more or less autonomous, were an abiding aspect of the India's political experience. How to relate to India's regional kingdoms was a problem that confronted the incipient successor empire, the British in the form of the East India Company, when it came to their turn to shape institutions for the sub-continent.

The East India Company Era and Indian Federalism

We have characterized the multi-centric sharing of sovereignty in pre-British times as contestations between sub-continental empires and regional kingdoms. The East India Company era³² continues this pattern of contestation. The Company began as a chartered trading company in 1600 and ended as a de facto colonial empire in 1857. That was the year of the mutiny and rebellion that very nearly drove the British out of India.³³ The decline of the Mughal empire that began after Aurangzeb's death in 1707 opened the way for regional kingdoms, including Company presidencies in Bengal, Madras and Bombay, to gain and exercise sovereignty.

The de facto end of the Mughal empire as a military power is usually associated with Robert Clive's victory over the Nawab of Bengal, Siraj-ud-Daulah, at Plassey in 1757. The Company's annexation of Bengal followed. By the time Warren Hasting's was given the nominal title of Governor-General in 1774, the presidencies in Bengal, Madras and Calcutta had entered the contest for power on the sub-continent. They joined Hyderabad,³⁴ Mysore³⁵ and the Maratha Confederacy in contesting for hegemony on the Indian sub-continent.

The three presidencies had begun as Company 'factories' or trading posts in the 17th century and grew into presidency towns and became capitals in the 18th century. The British conceptualization of Indian regions arose from their historical experience of Indian space. The East India Company arrived by sea, as a trading company. It established its first factories and ports at Calcutta, Bombay and Madras, then extended their writ into the adjacent lands and peoples. The presidencies acquired governors and councils that reported independently to the Company in London. Its governing bodies in turn answered to Parliament in ways set by Parliamentary Acts of 1773 and 1784 and the Charters of 1813, 1833, 1853.³⁶ For most of the 100 years between Plassey in 1757 and the mutiny and rebellion in 1857 the presidencies enjoyed a good deal of autonomy³⁷ and developed distinctive policies with respect to land holding, revenue collection, forms of law and administrative approaches.³⁸ The Bengal, Madras and Bombay presidencies had their own armies until 1895 when the commanders-in-chief for Bombay and Madras were abolished and an Indian Army came into being.³⁹

In the late 18th and early 19th centuries the presidencies acquired distinctive regional identities and distinctive approaches to the problems confronting them. Presidency differences were in part a result of the larger than life presidency governors who served in the late 18th and early 19th centuries, in part of the presidencies' distinct histories, languages and cultures. Larger than life presidency governors include Warren Hastings in Bengal (1772–1785),⁴⁰ Thomas Munro in Madras (1820–1827)⁴¹ and Mountstuart Elphinstone in Bombay (1819–1829).⁴²

The first three East India Company presidencies created a federal way of thinking best expressed by Thomas Munro. Munro argued that each presidency had ‘a distinctive approach to problems confronting it’. As a result ‘... competing, independent states in India would produce more efficient and enduring general political order than the total dominance of any single regime, even a British one’.⁴³ Munro’s attitude and perspective carried forward after the close of Company rule in 1858 into the 90 years of crown rule. Independent India’s constitution reflects Munro’s perspective sufficiently to create a federal state to whose history and dynamic we now turn.

Federalism Under the Raj

The sudden and seemingly inexplicable disappearance of the East India Company as a result of the mutiny and rebellion in 1857 destroyed the Company’s self-understanding and narrative. In a flash it became clear that the Company had lost touch with those it ruled. The world view that had produced centralized rule in the second quarter of the 19th century was largely to blame.

The defeat and displacement of the Orientalists, who valued Indian civilization and were patronized and celebrated by Governor-General Warren Hastings (1772–1785) by the Utilitarians and Evangelicals, who had contempt for Indian civilization and were patronized and celebrated by Governor-General Lord William Bentinck (1828–1835), goes along way in explaining 1857.⁴⁴ So too does the displacement of Hasting’s regional kingdom’s balance of power strategy by Dalhousie’s (1848–1856) aggressive policy of conquest and annexation. In the contestation between regional kingdoms and empire, empire had become ascendant. Starting with Bentinck, governor-generals began to displace the federal practice articulated by Munro with the centralized authority created but not realized by the Regulating Act 1773.

In 1858, Queen Victoria’s Proclamation in conjunction with an Act of Parliament replaced indirect Company rule by direct Crown rule. Authority was vested in a Viceroy and Governor-General to act in the Queen’s name and on her behalf ‘subject to such orders as regulations as he shall, from time to time, receive from one of our Secretaries of State’. At the time the distinguished imperial administrator, Bartle Frere, warned that it was dangerous to continue ‘to legislate for millions of people with few means of knowing, except by rebellion, whether the laws suit them or not’.⁴⁵ The result was the Indian Councils Act 1861. It not only enlarged the governor-general’s executive council to form a legislative council at the center, it also re-established a federal state form by reconstituting and enlarging provincial legislative councils in Bengal, Madras, Bombay, the North-Western Provinces (contemporary Uttar Pradesh) and Punjab. The Act prescribed that half the members of the provincial councils should be non-official, i.e. chosen from outside the ranks of the civil service. Since most non-official members proved to be Indians, the Act of 1861 ‘may be said to have introduced the representative principle into the Indian constitution’.⁴⁶

Indians continued the journey toward de-centralized representative government when the Lord Ripon, Viceroy from 1880 to 1884, introduced elected municipal councils and rural district boards. As Ripon saw it, India lacked indigenous local government institution. These British-style arrangements would introduce ‘a measure of political and popular education’.⁴⁷ The move was strongly opposed by the ICS (the Indian Civil Service), the ‘steel frame’ of British rule in India. Its members for the most shared the views of the Mills, James and John Stuart, that, in John Stuart’s words, ‘India was not one of those dependencies whose population is in a sufficiently advanced state to be fitted representative government.’⁴⁸

The Government of India Act 1909, popularly known as the Morley–Minto reforms after the then Secretary of State for Indian Affairs and the Viceroy, extended the legislative councils created

in 1861 by enlarging their non-official membership and allowing them to discuss financial matters. Although those seeking movement toward 'responsible government' found their expectations disappointed, the Morley–Minto reforms⁴⁹ kept alive and marginally strengthened federal state formation in India.⁵⁰

The next constitutional 'advance', the Government of India Act 1919 known as the Montagu–Chelmsford Reforms after their principal authors, Edwin Montagu, the then Secretary of State for India, and Lord Chelmsford, the then Viceroy, occurred under radically transformed circumstances. Indians had fought and died for Britain and the Empire in World War I. What had seemed unthinkable to most party leaders in Britain before the war, that India like Britain's 'white colonies' could be granted dominion status in the Empire, now seemed thinkable. Well before the war ended, Edwin Montagu made his historic statement of 20 August 1917.

The policy of His Majesty's Government, with which the Government of India are in complete accord, is that of the increasing association of Indians in every branch of the administration and the gradual development of self-governing institutions with a view to the progressive realization of responsible government in India as an integral part of the British Empire ...⁵¹

As it turned out, this was the crest of a receding wave. It would take another war, another generation and a communal partition of the country before India became self-governing. But the 1919 reforms that followed on Montagu's announcement of 17 August 1917 did continue and deepen the colonial state's federal features.

The Montagu–Chelmsford reforms created an emasculated form of responsible government that came to be known as 'dyarchy'. Dyarchy was federal in that it shared sovereignty at the provincial level. The reforms 'transferred' a number of subjects to Indian ministers answerable to provincial legislatures⁵² while 'reserving' other subjects for the provincial governor's discretion.⁵³ The provincial legislative councils were enlarged by adding more members elected on the basis of 'community' (a euphemism for Muslims) and organized interests (such as landowners, chambers of commerce, universities).

The Morley–Minto reforms of 1909 addressed the question of how federal arrangements could be used to represent the Muslim minority in the provinces. It did so by establishing separate electorates not only for chambers of commerce and landlords but also for Muslims. In 1919, the Mont-Ford reforms deepened the idea of representation for Muslims by adding weightage, i.e. allocating a higher percentage of seats for Muslims in a provincial legislative council than the community's percentage of the province's population.

The ground for this Mont-Ford reform had been laid in 1916 when the Indian National Congress and the Muslim League signed the Lucknow Pact. The pact was an effort to unify the national movement to end British rule. Among other things, it recognized Hindu and Muslim majority provinces and gave 'weightage' or 'extra' seats to Muslims in Hindu majority provinces (for example, Uttar Pradesh and Bihar) and extra seats to Hindus in Muslim majority provinces (for example, Punjab and Bengal). In retrospect, the Lucknow Pact of 1916 proved to be the highpoint of efforts to manage Hindu Muslim differences via federal arrangements.

The Mont-Ford reforms of 1919 brought to the foreground new ways for federalism to share sovereignty, Muslim territorial representation in 'Muslim majority provinces' and Muslim community representation in reserved seats, separate electorates and 'weightage' in Hindu majority provinces.

The (Motilal) Nehru Report of 1928⁵⁴ and the Simon Commission Report of 1930, both triggered by the Mont-Ford requirement to return within 10 years to the question of constitutional

advance and its goal of responsible government, failed to produce an immediate result. It was not until 1935 that the British parliament enacted new legislation for the government of India. At the same time both contributed to thinking about federalism in India.

Hindu–Muslim dissensions ‘cast their shadow over all of political work’ of those who wrote the Nehru report.⁵⁵ The Nehru report’s authors argued that the way to remove the shadow of Hindu–Muslim dissensions was the ‘grant as far as possible, of cultural autonomy If the fullest religious liberty is given, and cultural autonomy provided for, the communal problem is in effect solved.’⁵⁶ For the Nehru report’s authors, cultural autonomy meant autonomy for Muslim majority provinces. ‘The Muslims’, they wrote, ‘being in a minority in India as whole fear that the [Hindu] majority may harass them, and to meet that difficulty they have made a novel suggestion – that they should at least dominate in some parts of India ... , i.e. Bengal, the Punjab, Sind, Baluchistan, and the Northwest Frontier Province.’⁵⁷ As early as 1928 the Nehru report in an obiter dictum called for using the federal system to share sovereignty.

The Simon Commission reported in 1930. Without an Indian member, threatened and repelled by nationalists and their demands, boycotted in its two visits to India and pre-empted by the Nehru Report, it failed to mention the principal Congress demand, dominion status. Its recommendations were designed to thwart Congress nationalist demands for a voice in the central government. For the Tory imperialists who dominated the Simon Commission, the way to thwart Congress nationalist demands for dominion status was to confine responsible government to the provinces. The commission recommended ending dyarchy and its reservation of key subjects to the governor’s discretion. Provincial governments and their ministers should be made responsible to their legislatures. The commission proposed to strengthen Indian federalism as way to thwart Indian nationalism.

Three roundtable conferences extending from November 1930 to November 1932 tried without success to find common ground for a new Government of India Act. In a statement subsequently approved by both houses of parliament at the close of the second and most important of the roundtable conferences,⁵⁸ Prime Minister Ramsey MacDonald told the delegates that ‘The great idea of an all-India federation still holds the field. The idea of responsible federal government ... remains unchanged.’ However, until the conditions that would make it possible for an all-India Federation to come into being were fulfilled,⁵⁹ ‘We are all agreed that the governors’ provinces of the future are to be responsibly governed units, enjoying the greatest possible measure of freedom from outside interference and dictation in carrying out their own policies in their own sphere.’⁶⁰ This was the provincial sovereignty idea that informed the operation of the Government of India Act 1935, to which we now turn.

The Government of India Act 1935 served as India’s constitution for 12 years until Indian independence on 15 August 1947.⁶¹ In the election held in early 1937, Congress won clear majorities in five⁶² of the 11 governor’s provinces and was able to form governments in three more.⁶³ For over two years, until the outbreak of World War II in September 1939 when Congress ministries resigned office, Congress leaders governed under an act that ‘... committed India to a federal form of government ... The Provinces are for the first time recognized in law as separate entities, exercising executive and legislative powers in their own field ...’ In five provinces, Bengal, Punjab, Assam, Sind and Orissa, non-Congress governments took office in 1937, did not resign in 1939, and governed through much of the war.

The Government of India Act 1935 like Mughal and East India Company rule and British rule after 1858 deepened and extended India’s experience with federalism. When India’s constituent assembly met in 1947 to deliberate on and write India’s 1950 Constitution its commitment

to federalism can be understood in terms of Max Weber's theory of 'cumulative causation',⁶⁴ a perspective later elaborated as historical institutionalism,⁶⁵ a perspective that explains India's choice of a federal state in terms of pre-disposing and re-enforcing events and experiences.

The historically driven commitment to federalism was not without its opponents over time and as independence neared. A principal and weighty opponent was Jawaharlal Nehru, Gandhi's political heir and the most important Congress voice as colonial rule came to a close and independence appeared on the horizon. The (Motilal) Nehru report had recommended dominion status as Congress' political goal. Dominion status implied substantial power for the provinces, safeguards for minority (read Muslim) rights. Jawaharlal Nehru wrote to Gandhi, who supported the Nehru report's commitment to dominion status, that the very thought of dominion status 'suffocated and strangled' him.⁶⁶ He soon succeeded in replacing dominion status with 'full independence'. Nehru wanted majority rule and unified sovereignty, conditions he foresaw as facilitating socialist transformation in independent India.

The divided, shared and layered sovereignty that Nehru rejected as unsuitable for an India committed to industrial development parallels the sovereignty arrangements found in American constitutional doctrine and practice: As explained and justified in the Federalist Papers, the US constitution divides sovereignty vertically by separating the three branches of government – the executive, the legislative and the judiciary – so that they can check and balance each other, and horizontally by dividing power between a union government and state governments to form a federal government.⁶⁷

The British-guided, formal constitutional process in the pre-independence period embraced an expanded and deepened federalism. No doubt the Simon Commission tried to use federalism to slow if not block Nehruvian nationalist demands for immediate and complete independence. But Nehru's anti-federal views were contested within Congress. The (Motilal)Nehru Report in 1928 'accepted a federal set up for India, not grudgingly, as is sometimes portrayed, but rather as "the only solid foundation for responsible government."' [Nehru 1928, 85].⁶⁸ And Congress in the 1931 Gandhi–Irwin pact accepted federation as an 'essential part' of an anticipated dominion status.⁶⁹

Congress' commitment to federalism is not surprising. In 1920, when Gandhi assumed leadership of the Congress soon after his return from South Africa, he laid the foundations for a post-independence federal state by replacing Provincial Congress Committees, based on British provinces, with 20 language-based PCCs. Most British provinces encompassed several linguistic regions. Before Gandhi's constitutional reform, Congress communications were in English, a language that privileged a tiny English-speaking elite thereby excluding native speakers. By using a federal structure to democratize communication within the Congress, Gandhi not only arranged for shared sovereignty among India's linguistic regions but also was able to create a truly national organization that could speak to and mobilize village India.⁷⁰

By the time of the negotiations preceding India's independence, on 15 August 1947, it may have been too late to use a federal sharing of sovereignty to avoid partition along communal lines.⁷¹ Mushirul Hasan tells us that partition was 'unthinkable' a decade earlier.⁷² How did Mohammed Ali Jinnah, the liberal constitutionalist, Congress nationalist and 'ambassador of Hindu-Muslim unity' become, in Lord Wavell, the Viceroy's phrase, a 'Frankenstein monster',⁷³ ready to destroy the world that had created him?

In 1916, Jinnah had negotiated the Hindu–Muslim unity of the Lucknow Pact, a scheme of constitutional reform presented jointly by the Indian National Congress led by Bal Gangadhar Tilak, an early Hindu nationalist, and, Mohammed Ali Jinnah, like his contemporary Mohandas Gandhi, a rising star in the Congress as well as leader of the fledgling Muslim League. Tilak and

Jinnah and their respective organizations shared a common goal, the early departure of the British Raj and its replacement with parliamentary self government. In arrangements soon recognized in the Montagu–Chelmsford reforms of 1919, Congress agreed to share sovereignty with India's Muslim minority by establishing separate electorates for Muslim voters, reserving seats for Muslim legislators and giving 'weightage' to Muslim representation at the center and in the provincial governments of a federal system.

From Jinnah's point of view, Congress progressively reneged on its commitment to share sovereignty with the Muslim minority in a prospective independent Indian state.⁷⁴

The last effort to avoid partition through a federal solution was the Cabinet Mission plan of May 1946. It tried to avoid partition by proposing a multi-layered federal scheme with a weak center and strong provinces. The provinces were to be grouped into three sub-federal groups, 'A' comprising Hindu majority provinces or most of British India; 'B' comprising the Muslim majority provinces of Punjab, Northwest Frontier Province, Baluchistan and Sind, and 'C' comprising the Muslim majority province of Bengal and Assam, which was classified as a Hindu province. The provinces were given a time-bound procedure for opting out of their respective groups.⁷⁵ Lord Wavell, the Viceroy, met with the Indian leaders at Simla in June 1946 seeking agreement to the plan but they were unable to arrive at a negotiated agreement. On 16 May 1946, the Cabinet Mission published a plan of its own to which the Congress and the Muslim League initially agreed. But on 10 July Jawaharlal held a press conference in Bombay at which according to Maulana Azad, a leading Congress nationalist and Congress president in the six preceding years, he made an 'astonishing statement'.⁷⁶ If this meant that the Cabinet Mission plan could be modified. Jawaharlal replied emphatically that the Congress agreed only to participate in the Constituent Assembly and regarded itself free to change or modify the Cabinet Mission Plan as it thought best Jawaharlal's statement came to him [Jinnah] as bomb-shell The Muslim League Council met at Bombay on July 27 After three days of discussion, the Council passed a resolution rejecting the Cabinet mission plan. It also decided to resort to direct action for the achievement of Pakistan.⁷⁷ A federal solution to avert partition had failed.

By February 1947, the British government decided to transfer power to one or more entities by June 1948 and replaced Wavell with Mountbatten as Viceroy. Mountbatten quickly, some say precipitously, concluded that the Cabinet Mission plan would not work, cajoled and intimidated the principal actors to agree to partition. On 3 June, he announced his intention to partition Punjab and Bengal, the two largest Muslim majority provinces, and declared a deadline of 15 August for British departure from India.

By Way of Conclusion

We began this essay by attempting to de-naturalize the master narrative of state formation in the West. It is a teleological narrative that presents the unlimited and indivisible monopoly sovereignty of the modern state as the natural outcome of competition among state forms.⁷⁸ Our effort arose out of efforts to examine processes of state formation historically and comparatively by looking at medieval and early modern Europe beyond Europe to the Indian sub-continent and elsewhere and to re-think theories of sovereignty.⁷⁹

Our efforts led to what, in Thomas Kuhn's terms,⁸⁰ might be called an anomaly, state formation processes and outcomes that did not fit the regnant paradigm associated with the formation of the monopoly sovereignty modern state in Western Europe.

Our response was to attempt an alternate theory of state formation and sovereignty to explain state formation on the Indian sub-continent. The theory depicted federalism as divided, shared and

negotiated sovereignty. Conventionally empires have been regarded as hierarchical and authoritarian. Counter-intuitively, we read empire as an arena of heterogeneity, a state form that encompassed ethnic entities such as power sharing tributary states. As we examined state formation in India historically we identified two versions of the federal process of state formation, the sub-continental empire and the regional kingdom. The sub-continental empire version featured a strong center and weaker *subahs*/provinces/states. Because we understand state formation processes as open-ended we read the Mughal and British Empires in India and independent India as characterized by unstable equilibriums of strong centers and weak states and weak centers and strong states. Thus, when Jawaharlal Nehru found in early 1947 that Lord Mountbatten, the newly appointed Viceroy, had rejected the Cabinet Mission's multi-layered federal state and that India would be partitioned, is said to have remarked 'thank God we are out of that bag at last'.⁸¹

For Nehru partition meant that his vision for independent India, a strong central government capable of planned development was now a possibility.

Nehru succeeded on both counts, moving the equilibrium between the center and the states decisively toward a strong center and a planned economy that achieved primary industrialization in the second and third five-year plans (1957–1967). However, accelerating economic growth proved elusive. The economy leveled off at what Raj Krishna mockingly called the 'Hindu rate of growth' of 3.5 percent. Instead of generating capital for investment in growth, public sector firms lost money. By 1991, India faced a balance of payments crisis that triggered a radical change. The Congress Government of Narasimha Rao and his Finance Minister, Manmohan Singh, launched economic reforms designed to move India from a planned to market economy.

With the center broke state governments took the initiative to secure domestic and international investment in private-sector firms. The result was what we have called a 'federal market economy' that had the effect of shifting the balance of the equilibrium away from the center and towards the states.⁸²

So too did a transformation of the party system.⁸³ In 1989, two years before the launching of economic reform, India's party system, began a rapid transition from a dominant party to a multi-party system and from majority governments to coalition governments. The change had a profound effect on the federal system. State-based parties played an increasingly decisive role in the formation of coalition governments. The equilibrium change wrought by a federal market economy was compounded by the change in the party system.

We have gone into the stories of the struggle between Gandhi and Nehru over dominion status versus complete independence and of Hindu–Muslim differences that led to partition because they bear directly on the theory and practice of shared sovereignty. Gaining dominion status as seemed within the realm of possibility in 1930 would, inter alia, have assured constitutionally guaranteed rights and representation for Muslims, India's largest minority.

What Jinnah, a Congress nationalist, ambassador of Hindu–Muslim unity and leader of the Muslim League, who negotiated the Lucknow Pact with the Congress in 1916, wanted for most of his political life was a seat at the table, a seat that could be assured by constitutionally guaranteed minority rights and representation. He became what the then Viceroy, Lord Wavell, called a Frankenstein monster intent on destroying the world that created him⁸⁴ when it became irrevocably clear that Congress was not prepared to share power with the India's Muslim community.

Jinnah continued to speak, until near the end, of a Muslim nation, not a Muslim state. India is home to many nations, many sub-nationalisms, not least its linguistic states.

India is taken by many to be an anomaly in a world of nation states because it is a multi-national or pluralist state.⁸⁵ But increasingly the world of states is finding that multi-national states, such as Russia and India, provide exemplars for what is possible.⁸⁶ So too does this EU.

So what is the future of federalism as a form of state formation distinctive for the Indian sub-continent? Will the equilibrium move toward the sub-continental empire or the regional kingdom? There are now three states, India, Pakistan and Bangladesh, where there was one in 1947. Might the future witness the formation of more states or might the future witness the formation of a sub-continental sovereignty sharing entity? There is evidence supporting both possibilities.

For example will Pakistan remain a viable state or will it break up? Will the solution to the Kashmir problem be a sovereign entity? Is there a prospect that the states of the Indian sub-continent can once again share sovereignty? SAARC (South Asian Association for Regional Cooperation) may provide the means of doing so. Like the EU, it can provide a framework for a common market, shared security and the re-vitalization of a common cultural heritage.

Notes

1. For more about category formation and contestation see Melvin Richter, *The History of Political and Social Concepts; A Critical Introduction*, New York: Oxford University Press, 1995. For more on the 'politics of categories' see the 'Introduction' to Lloyd I. Rudolph and Susanne Hoeber Rudolph, *The Modernity of Tradition*, Chicago, IL: University of Chicago Press, 1967, 1984, and Susanne Hoeber Rudolph's APSA Presidential address, 'The Imperialism of Categories: Situating Knowledge in a Globalizing World', *Perspectives on Politics*, Vol. 3, No. 5, March 2005, pp. 5–14.
2. For a recent theory of divided, shared and negotiated sovereignty see Daniel H. Deudney, *Bounding Power: Republican Security Theory From The Polis To The Global Village*, Princeton, NJ: Princeton University Press, 2007. An international relation theorist, Deudney locates shared and negotiated sovereignty between hierarchy and anarchy, the polar opposites that neo-realist IR theorists claim exhausts the possibilities of relations among sovereign states. Deudney draws on US federal theory particularly as found in the Federalist Papers to construct his theory of 'republican security.'
3. Hendrik Spruyt, *The Sovereign State and Its Competitors: An Analysis of System Change*, Princeton, NJ: Princeton University Press, 1994. The considerable literature on state formation in western Europe takes the conventional view that the sovereign state proved to be the most efficient way to organize domination. Charles Tilly, while supporting this view, paved the way for Spruyt's account of the contested nature of the formation of modern state sovereignty in *Coercion, Capital and European States, AD 990–1990*. Cambridge, MA: Blackwell, 1990, 1992.
4. Many scholars identify the Treaty of Westphalia in 1648 as marking the creation of the modern state system in international politics.
5. Dissertation submitted to the Department of Political Science, University of Chicago, 2005. Recipient in 2006 of the William Anderson award of the American Political Science Association. The award is given for 'the best dissertation in the general field of federalism or intergovernmental relations'.
6. By Germany he means not just Prussia, but the entire country covered by a political organization called the Holy Roman Empire that included Prussia as one of its subordinate political entities. '1806: The End of the Old Reich', *German History*, Vol. 24, No. 3, 2006.
7. See for example Joel Migdal, 'State Building and the Non-Nation State', *Journal of International Affairs*, Vol. 58, No. 1, 2004, p. 21, and Susanne Hoeber Rudolph, 'Introduction', in Susanne Hoeber Rudolph and James Piscatori, eds, *Transnational Religion and Fading States*, Boulder, CO: Westview Press, 1997.
8. There are many contemporary instances of state failure, most notoriously in the cases of the Soviet Union and Yugoslavia. Civil wars and failed development in Africa have provided many instances of 'state failure'.
9. Joachim Whaley, 'Federal Habits: the Holy Roman Empire and the Continuity of German Federalism', in Maiken Umbach, ed., *German Federalism; Past, Present, and Future*, Basingstoke: Palgrave, 2001. In this vein, see also , *Empire of Difference: the Ottomans in Comparative Perspective*, Cambridge: Cambridge University Press, 2008.
10. '1806: The End of the Old Reich', *German History*, Vol 24, No.3, 2006.

11. Joon Suk Kim, 'Making States Federatively: Different Routes to State Formation in Late Medieval and Early Modern Europe', PhD dissertation, Department of Political Science, University of Chicago, 2005, 33.
12. Philippe C. Schmitter, 'If the Nation-state Were to Wither Away in Europe, What Might Replace It?', in Sverker Gustarvsson and Leif Lewin, eds, *The Future of the Nation-State: Essays on Cultural Pluralism and Political Integration*, London: Routledge, 1996, p. 224. See also John Gerard Ruggie, 'Territoriality at Millennium's End', in his *Constructing World Polity: Essays on International Institutionalization*, London: Routledge, 1998, p. 175.
13. For a version of that story see Lloyd I. Rudolph and John Kurt Jacobsen, 'Historicizing the Modern State' in their edited book *Experiencing the State*, New York: Oxford University Press, 2006, pp. xi–xxix. For a succinct historical overview of state formation in early modern Europe see Eugene Rice and Anthony Grafton, *The Foundations of Early Modern Europe, 1460–1559*, New York: W. W. Norton, 1994. Brian M. Downing's *The Military Revolution and Political Change: The Origins of Democracy and Autocracy in Early Modern Europe*, Princeton, NJ: Princeton University Press, 1992 and Perry Anderson's *Lineages of the Absolutist State*, London: New Left Books, 1974, provide differing accounts of the formation of the absolutist version of the modern state. Downing shows how variations in the circumstances such as geographical location and class structure opened the way for constitutional alternatives to French and Prussian absolutism in Britain and the Netherlands.
14. Here is how Hobbes puts it:

A Common-wealth is said to be *Instituted*, when a *Multitude* of men do agree, and *Convenant, every one, with every one*, that to whatsoever *Man, or Assembly of Men*, shall be given the major part, the *Right to Person* of them all, [that is to say be their *Representative*] every one, as well as he that *Voted for it*, as he that *Voted against it*, shall *authorize* all the *Actions and Judgements*, of that *Man, or Assembly of men*, in the same manner, as it were his own, to the end, to live peaceably among themselves, and be protected against other men.'

Richard Tuck, ed., Thomas Hobbes, *Leviathan*, Cambridge: Cambridge University Press, 1991, p. 121.

15. Hobbes, *Leviathan*, op. cit., p.230, emphasis supplied.
16. *Ibid.*, p. 225.
17. Jean-Jacques Rousseau, *The Social Contract*, trans. Maurice Cranston, New York: Penguin Books, 2006. Book I, p. 19.
18. See Lloyd I. Rudolph, 'Postmodern Gandhi', sections on 'Modern Civilization on Trial: Gandhi and Nehru Contest Development', pp. 21–17, and 'The Fate of Panchayat Raj: What Happened to Sovereignty From Below', pp. 28–31, in Lloyd I. Rudolph and Susanne Hoeber Rudolph, eds, *Postmodern Gandhi and Other Essays: Gandhi in the World and at Home*, Chicago, IL: University of Chicago Press, 2006.
19. See theorists discussed in Dmitrios Karmis and Wayne J. Norman, *Theories of Federalism: A Reader*, New York, Palgrave Macmillan, 2005.
20. See Muzaffar Alam and Sanjay Subrahmanyam, eds, *The Mughal State, 1526–1750*, New York: Oxford University Press, 1998; Stanley J. Tambiah, 'The Galactic Polity in South East Asia', in *Culture, Thought and Social Action: An Anthropological Perspective*, Cambridge, MA: Harvard University Press, 1985, pp. 252–286; Clifford Geertz, *Negara: The Theatre State in Nineteenth Century Bali*, Princeton, NJ: Princeton University Press, 1980.
21. Because of space constraints, we do not analyze other recent efforts to theorize federalism such as Edward L. Rubin and Malcolm M. Feeley, 'Federalisms and Interpretation', *Publius*, Vol. 38, No. 2, Spring 2008, pp. 167–191. We find their view that 'federalism must be understood as a matter of political identity' compatible with our view that federalism can be understood as sharing and negotiating sovereignty. At the same time we share Samuel Beer's concern about their 'thumping disdain for federalism ...[as] an 'incomplete state' prone to self destruction -unless it can somehow transform itself into a unitary regime ...', Samuel Beer, 'Reponses to Rubin and Feeley', *Publius*, p. 192.

- We find Daniel Ziblatt's explanation of a federal outcome in Germany and a unitary outcome in Italy persuasive. The 'institutional continuities shape state making strategies of even the boldest political leaders such as Bismark and Cavour The institutional slate is never wiped clean, even in founding moments', David Ziblatt, *Structuring the State: The Formation of Italy and Germany and the Puzzle of Federalism*, Princeton, NJ: Princeton University Press, 2006, p. xi.
22. In the EU subsidiarity has come to mean negotiating the regulation or use of authority by various levels of governance, from states to regions and local governments, within an EU where there is no unitary sovereign. See Andreas Follesdal, 'Subsidiarity', *Journal of Political Philosophy*, Vol. 6, No. 2, 1998, pp. 231–259.
 23. The concept of empire has accumulated a variety of baggage in recent years. It makes a lot of difference whether the model is the Roman empire, the Holy Roman empire, the Ottoman empire, the Czar's empire, the American 'empire' or, as in this case, the Mughal and British empires. For comparisons among empires see Karen Barkey, *Empire of Difference: The Ottomans in Comparative Perspective*, Cambridge: Cambridge University Press, 2008. Earlier, Susanne Rudolph compared empires in the context of examining state formation in Asia. See her presidential address to the Association of Asian Studies, 'State Formation in Asia: Prolegomenon to a Comparative Study', *Journal of Asian Studies*, Vol. 46, No. 4, November 1987, pp. 731–745. For Ronald Suny, a scholar of the Soviet empire, the term empire invokes hierarchy and authoritarian rule, for scholars of India such as us it invokes the parcelled sovereignty of tributary states in Mughal and East India company rule. See Ronald Grigor Suny and Terry Martin, eds, *A State of Nations: Empire and Nation-making in the Age of Lenin and Stalin*, New York: Oxford University Press, 2001.
 24. J.P. Nettl, 'The State as Conceptual Variable', *World Politics*, Vol. 20, July 1968, pp. 559–582, p. 590.
 25. *Ibid.*, p. 590.
 26. Reinhard Bendix, *Kings or People; Power and the Mandate to Rule*, Berkeley, CA: University of California Press, 1978.
 27. For summary accounts see Hermann Kulke and Dietmar Rothermund, *A History of India*, London: Routledge, 1999; Romila Thapar, *A History of India*, Harmondsworth: Penguin, 1966.
 28. *The Crisis of Empire in Mughal North India*, Delhi: Oxford University Press, 1983.
 29. See his *Memoir of a map of Hindoostan: or the Mogul Empire: with an introduction, illustrative of the geography and present division of that country*. London, printed by M. Brown, 1788.
 30. P. Saran, *The Provincial Government of the Mughals, 1526–1658*, 2nd edn, London: Asia Publishing House, 2002, p.36.
 31. Saran, *The Provincial Government*, op. cit., p. 63. Chris Bayly speaks of 'the persistence of an administrative culture which was used to dealing with large political units ... a whole literature and system of education kept the culture alive. Administrative treatises continued to divide India into its Mughal provinces...', C.A. Bayly, *Rulers, Townsmen and Bazaars; North Indian Society in the Age of British Expansion, 1770–1780*, Cambridge: Cambridge University Press, 1983, p. 200.
 32. For a recent overview of a much written about subject see John Keay, *The Honourable Company: A History of the English East India Company*, New York: Macmillan, 1991.
 33. Like the French Revolution and the American Civil War, the causes and consequences of the 1857 Mutiny and Rebellion have been and remain subject to dispute among scholars. For a recent review of its history and historiography see *Biblio: A Review of Books, A special issue on the Uprising of 1857: 150 years later*, Vol. XII, Nos 3–4, March–April 2007, particularly the article by Ronojoy Sen, 'Tilting at windmills: Indian historians and the contestation over 1857', pp. 5–6.
 34. For a recent account of the how and why the Company interacted with the Nizams of Hyderabad see William Dalrymple, *The White Mughals: Love and Betrayal in Eighteenth Century India*, New Delhi: Penguin, 2002.
 35. Mysore rulers Haider Ali and his son Tipu Sultan conducted successful wars against the Bombay and Madras presidency armies until the battle of Seringapatam in 1799 when Tipu Sultan, now in league with the French, was defeated and killed by Company forces under the command of Arthur Wellesley (later the Duke of Wellington) and Mysore was reduced to a 'protected state'. See Philip Mason, *A Matter of Honour; An Account of the Indian Army; Its Officers and Men*, New York: Holt, Rinehart and Winston, 1974, pp. 132–135.

36. For a detailed account see Keay, *The Honourable Company*, op. cit.
37. The Regulating Act 1773 appeared to centralize Company rule by nominally transferring financial, military and political control from the Company to the British government and mandating the Governor General to superintend and control the Presidencies. But while ‘the Provinces ... were legally no more than agents of the Central Government’, the formal circumstances were countered by on the ground realities. The vast distances between Calcutta, the seat of the Governor General on the one hand and Bombay or Madras on the other, let alone between the Provinces and the Secretary of State for India in London, often obliged local governments to make decisions free of direction. And the enormous volume of business too led the relatively small bureaucracy which constituted the center to transfer much policy and administration to provincial hands. Reginald Coupland, *The Indian Problem*, New York: Oxford University Press, 1944, pp. 10–11.
The nominally centralizing 1793 and 1794 Acts did not prevent the Madras presidency from waging war with Mysore or the French, wars which expanded the presidency’s territory along the coast, in the Deccan and in Karnataka so that the Madras Presidency came to include most of peninsular India.
38. The continued expansion of British rule led to the formation of more territorial units. By 1919, there were 14 provinces of different degrees of importance and autonomy. Akbar had had 15 provinces. Coupland, *The Indian Problem*, op. cit., p. 8.
39. ‘The amalgamation of the three Presidency Armies,’ Philip Mason writes, ‘had taken place step by step, the most important date being 1895, when the Commanders-in-Chief for Bombay and Madras disappeared’, Mason, *A Matter of Honour*, op. cit., p. 343.
40. The Bengal presidency was distinct from Madras and Bombay by virtue of its land holding and revenue arrangement, the ‘permanent settlement’. Introduced by Governor-General Lord Cornwallis in 1793, it aimed to create a Bengal body of hereditary landlords who would resemble England’s 18th-century ‘public spirited’ landed aristocrats and gentry. The result in the medium term was to saddle Bengal’s peasantry with irremovable and unaccountable *zamindars*. In the long run it was to create a distinctively Bengali class, the *badralok*, rentiers many of whose sons became nationalist and revolutionary intellectuals.
41. Munro is probably best known for having introduced a locally inspired *ryotwari* land holding and revenue system that established peasant proprietorship. For Munro’s career, governorship and policies, including how the *ryotwari* system came into being see Burton Stein, *Thomas Munro: The Origins of the Colonial State and His Vision of Empire*, New York: Oxford University Press, 1989, for *ryotwari*, see pp. 99–117.
42. For an overview of the larger than life East India Company administrators who left their imprint on India’s regions see Philip Woodruff, *The Men Who Ruled India*, Vol. I. *The Founders*, London: Jonathon Cape, 1953, 1957. Philip Mason, an ICS officer who, like many that he wrote about, was a distinguished man of letters, wrote the two volumes of the *Men Who Ruled India*, *The Founders* and *The Guardians*, under the *nom de plume*, Philip Woodruff.
43. Stein, *Munro*, op. cit., p. 349.
44. The Orientalists were led by the scholar-judge Sir William Jones, founder in 1784 of Asiatic Society of Bengal. He and a galaxy of like-minded scholar administrators learned Sanskrit and Persian, located and translated texts such as the *Bhagavad Gita* and used them to introduce Indian civilization to the Western world. The Utilitarian and Evangelical social engineers were led by Thomas Babington Macaulay, Charles Grant and Alexander Duff who mocked the idea of Indian civilization, found its religion depraved, and replaced Indian languages with English in higher education. See Lloyd I. Rudolph, ‘Tod vs Mill: Clashing Perspectives on British Rule in India and Indian Civilization’, in Giles Tillotson, ed., *James Tod’s Rajasthan*, Mumbai: Marg Publications, 2007, pp. 122–133.
45. *Montagu–Chelmsford Report*, 1918 [Cd. 9109], p. 60, as quoted in Coupland, *The Indian Problem*, Vol. I, op. cit., p. 21.
46. *Ibid.*, p. 21.
47. *Ibid.*, p. 22.
48. As quoted in *ibid.*, p. 22.
49. Equally significant as incrementally strengthening federal state formation in India was the 1909 Act’s creation of separate electorates for Muslims.
50. Coupland, *The Indian Problem*, Vol. I, op. cit., pp. 44–45.
51. *Ibid.*, p. 52.

52. Subjects included local government, agriculture, education, public health, medicine, public works and land tenure. Principal source of revenue for the provinces were land revenue and sates tax.
53. Subject 'reserved' at the provincial level of for the Governor included revenue, police and famine relief. Subjects such as defence, communications, foreign relations, criminal law and revenue sources such as income tax and customs were retained by the center. Asok Chanda, *Federalism in India*, London: Allen and Unwin, 1965, p. 16.
54. The Nehru report was named after Motilal Nehru, a leading member of the Indian National Congress, confidant of Mahatma Gandhi and father of Jawaharlal Nehru. He chaired a committee established by the All-Parties Conference attended by 29 political organizations in February 1928 that was asked to report on the principles of a constitution for an independent India. The report's recommendation, that India be granted Dominion status, was backed by Gandhi and opposed by Jawaharlal Nehru. For the story of this clash and its consequences see Lloyd I. Rudolph, 'The Road Not Taken: The Modernist Roots of Partition,' in Rudolph and Rudolph, *Postmodern Gandhi*, op. cit., pp. 60–91.
55. All Parties Conference, 1928, *Report of the Committee appointed by the conference to determine the principles of the Constitution for India*. Allahabad, 1928, as quoted in Coupland, *The Indian Problem*, Vol. I, op. cit., p. 25.
56. All Parties Conference, 1928, *Report*, as quoted in *ibid.*, p.89.
57. The Report found that the Hindus 'although in a great majority all over India, are in a minority ... in the Muslim majority provinces'. 'In spite of their all-India majority they are afraid of Muslims in those Provinces', 'We cannot', the Report continued, 'have one community domineering over another. We may not be able to prevent this entirely, but the object we should aim at is not to give dominion to one over another but to prevent the harassment and exploitation of any individual or group by another..' All Parties Conference, *Report*, as quoted in *ibid.*, p. 89.
58. The Second Round Table Conference from September to December 1931 was the most important of the three because it was the one that Mohandas Gandhi attended as the Congress's 'sole spokesman'.
59. The most important condition was for the rulers of India's princely states to mutually agree to the terms of their representation in a Central Legislature. See note 60 for why an All-India Federation never came into existence.
60. Indian Round Table Conference [Second Session], *Proceedings of the Conference*, p. 416, as quoted in Coupland, *The Indian Problem*, Vol.1, op. cit., p. 127.
61. The Act came into force on 1 April 1937, except for Part II which deals with the princely states joining the federation. The 'Federation of India' can only come into operation when an address to the crown by parliament asks for a proclamation to that effect, and the proclamation cannot be issued until a sufficient number of states [1] occupy 52 of the 104 seats allotted to the states in the upper house of the Federal Legislature and [2] make up half of the total population of all the states, have acceded to the federation. See Coupland, *The Indian Problem*, Vol. I, op. cit., p. 137. Neither of these two conditions obtained up to the time of Indian independence so, in a technical sense, the federation of India never came into existence.
62. Madras, the United Provinces, the Central Provinces, Bihar and Orissa. It could form government in Bombay, Assam and the Northwest Frontier Province. Coupland, *The Indian Problem*, Vol. II, op. cit., p.16.
63. *Ibid.*, Ch. III. 'The Provincial Elections' and Ch. IV. 'Office-Acceptance', pp. 11–21.
64. In his essay on 'Objective possibility and adequate causation in historical explanation', Weber writes that in throwing dice, abstractly a matter of chance as to which number of eyes are uppermost, 'where the center gravity of the dice is displaced, there is a "favorable chance" for a certain side of these "loaded" dice to come out uppermost, whatever other concrete determinants are also present'. Max Weber, *The Methodology of the Social Sciences*, trans. and ed. Edwards Shils and Henry A. Finch, New York: The Free Press, 1949, pp 182–184. S.M. Lipset glossed Weber's analogy to loaded dice this way: '... differences in national patterns often reflect key historical events which set one process in motion in one country, and a second process in another'. A pre-disposing event or series of events 'gathers momentum' by inter alia creating 'social supports to ensure its continued existence'. 'Some Social Requisites of Democracy ...', *American Political Science Review*, Vol. 53, No. 1, March 1959. Lloyd Rudolph first

characterized Weber's theory as 'cumulative causation' in 'The Democratic Incarnation of Caste in India', *American Political Science Review*, Vol. 59, No. 4, December 1965, p. 987, note 50.

65. For a recent overview of historical institutionalism see Paul Pierson and Theda Skocpol, 'Historical Institutionalism in Contemporary Political Science', in Ira Katznelson and Helen V. Milner, eds, *Political Science: State of the Discipline*, New York: W. W. Norton, 2002, pp. 693–721. Pierson and Skocpol highlight three features in characterizing historical institutionalism, 'substantive agendas' such as case studies, 'temporal arguments', that is, locating analyses in time, place and circumstance, and 'attention to contexts and configurations', p. 696. See also Kathleen Thelen, 'Historical Institutionalism in Comparative Politics', *Annual Review of Political Science*, Vol. 2, June 1999, pp. 369–404.
66. An analysis of the exchange of letters between Gandhi and Nehru over dominion status can be found in Chapter 2, 'The Road Not Taken,' in Rudolph and Rudolph, *Postmodern Gandhi and Other Essays*, op. cit., pp. 64–71. For the text of the letters see *The Collected Works of Mahatma Gandhi*, New Delhi: Publications Division, Ministry of Information and Broadcasting, New Delhi, Vol. 41, pp. 79–80.
67. The obvious place to begin interpreting and explaining American federalism is the Federalist Papers. See particularly Federalist 51 where Madison argues that 'Ambition must be made to counteract ambition. The interest of the man must be connected to the constitutional rights of the place.' See *The Federalist Papers: James Madison, Alexander Hamilton, and John Jay*, ed. Isaac Kramnick, Harmondsworth: Penguin, 1987.

In recent times, Morton Grodzins characterized the distribution of sovereignty in American federalism in terms of a marble cake whose different layers shared functions. His marble cake metaphor challenged the then dominant metaphor of a layer cake with discrete functions allotted to particular layers. See Morton Grodzins and Others, *A Nation of States: Essays on the American Federal System*, Chicago, IL: Rand McNally, 1963.
68. Adeney, *Federalism*. P. 56. Adeney continues by saying that '... those authors who uncritically categorize the Nehru Report as unitary have only selectively read the report.'
69. Katherine Adeney, *Federalism and Ethnic Conflict in India and Pakistan*, New York: Palgrave Macmillan, 2007, p. 36.
70. For more on Gandhi's 1920 Congress constitution and its consequences for federalism see Susanne Hoerber Rudolph and Lloyd I. Rudolph, *Gandhi: the Traditional Roots of Charisma*, Chicago, IL: University of Chicago Press, 1983, p. 85ff. See also Adeney, *Federalism*, op. cit., where she argues that 'The systematic restructuring of the Congress's organization coincided with Gandhi's rise to prominence in the Congress In 1920 he cited it as one of the four principles that he held dear. Linguistic reorganization of its internal structure coincided with Congress becoming a more democratic and active organization.', pp. 55–56.
71. Blame for the failure in 1946 of the Cabinet Mission's federal solution has been attributed to many. Maulana Azad, comrade in arms to Jawaharlal Nehru and other Congress leaders and Congress' pre-eminent nationalist Muslim blames Nehru for interpreting the Cabinet Mission's plan for a united India in a way that gave Jinnah the chance to withdraw the Muslim League's acceptance of it. See Maulana Abul Kalam Azad, *India Wins Freedom: The Complete Version*, New Delhi: Orient Longman, 1989, pp. 162, 164, 170.
72. Mushirul Hasan, 'Introduction', in Mushirul Hasan, ed., *India's Partition: Process, Strategy and Mobilization*, Delhi: Oxford University Press, 1993, 1994, 1996, p. 6.
73. See footnote 17 Path/PMG.
74. High points in this unfolding drama of decreasing trust were the rejection in 1928 by the authors of the Nehru Report of Jinnah's 'six points' designed to make the Report acceptable to the League and Congress' failure, after its strong showing and the League's miserable showing in the 1937 provincial elections, to include the League in coalition governments, not least the one in Uttar Pradesh. As Ayesha Jalal put it, 'there seemed little point in paying much heed to the League – an assessment which seemed reasonable enough in the first flush of victory in 1937, but one which was to prove to be one of the gravest miscalculations by the Congress leadership in its long history', Ayasha Jalal, *The Sole Spokesman: Jinnah's Early Politics*, Cambridge: Cambridge University Press, 1985, p. 38.

According to Ian Wells 'Jinnah saw himself [in 1928] as a nationalist and continued to harbour a dream to unite the Hindu and Muslim communities to strive for a common goal ; The key to this agreement he

- saw as the recognition of the Hindu–Muslim question ‘as a national problem [which we read as a sovereignty sharing problem] and not a communal dispute.’ Emphasis supplied, Ian Bryant Wells, *Ambassador of Hindu–Muslim Unity: Jinnah’s Early Politics*, New Delhi: Permanent Black, 2005, p. 184.
75. Sanjib Baruah says that the cabinet mission plan that it was a moment in India’s recent history ‘when the prospects for greater federalism seemed good ... the Constituent Assembly as late as 1946, when partition was not a fait accompli ... has taken for granted that a strong federation is the only form of postcolonial polity that could work’, Sanjib Baruah, *India Against Itself: Assam and the Politic of Nationality*, Philadelphia, PA: University of Pennsylvania Press, 1999, pp. 210–211.
 76. It was, according to Azad ‘one of those unfortunate events which change the course of history’. ‘Some press representatives asked him whether, with the passing of the Resolution by the AICC [All-India Congress Committee], the Congress had accepted the [cabinet mission] plan in toto [and]’
 77. Maulana Abdul Kalam Azad, *India Wins Freedom*, New Delhi: Orient Longman, 1988, pp. 164–166 [released after 30 years, the complete version].
 78. For an account of this narrative see Lloyd I. Rudolph and John Kurt Jacobsen, ‘Historicizing the Modern State’, in Lloyd I. Rudolph and John Kurt Jacobsen, eds, *Experiencing the State*, Oxford: Oxford University Press, 2006. ‘We try to avoid naturalizing the term ‘state’ by historicizing the term. By locating states in time, place, and circumstance ... we can be contingent and evocative rather than definitive and essentializing’, p. vi.
 79. For many years at the University of Chicago we gave two graduate seminars, State Formation I: Narratives and Metaphors of Stateness, and State Formation II: Rethinking Sovereignty.
 80. Thomas Kuhn, *The Structure of Scientific Revolutions*, Chicago, IL: University of Chicago Press, 1962.
 81. According to Maulana Azad, a leading nationalist, a Muslim, and Congress President in the six years preceding partition, Nehru played a critical role in making partition happen. ‘Now happened one of those unfortunate events which change the course of history. On 10 July, Jawaharlal held a press conference in Bombay in which he made an astonishing statement. Some press representatives asked him whether, with the passing of the Resolution by the AICC, the Congress had accepted the [Cabinet Mission] Plan in toto [and] if this meant that the Cabinet Mission Plan could be modified. Jawaharlal replied emphatically that the Congress agreed only to participate in the Constituent Assembly and regarded itself free to change or modify the Cabinet Mission Plan as thought best. Jawaharlal’s statement came to him [Jinnah] as a bombshell The Muslim League Council met at Bombay on 27 July [1946] After three days of discussion, the Council passed resolution rejecting the Cabinet Mission Plan. It also decided to resort to direct action for the achievement of Pakistan.’
 82. For details and the dynamics of the shifting equilibrium see Lloyd I. Rudolph and Susanne Hoeber Rudolph, ‘The Old and the New Federalism in Independent India’, in Paul Brass, ed., *Routledge Handbook of South Asia Politics*, London: Routledge, 2010, pp. 147–161. For the shift from a planned to a market economy and the theory and practice of a federal market economy see Lloyd I. Rudolph and Susanne Hoeber Rudolph, ‘The Iconization of Chandrababu: Sharing Sovereignty in India’s Federal Market Economy’, *Economic Political Weekly* [Bombay], 5 May 2001, pp. 1541–1552.
 83. For, inter alia, the transformation of the party system in a federal direction see Lloyd I. Rudolph and Susanne Hoeber Rudolph, ‘Redoing the Constitutional Design: From an Interventionist to a Regulatory State’, in Atul Kohli, ed., *The Success of Indian Democracy*, Cambridge: Cambridge University Press, 2001, pp. 127–162.
 84. Sucheta Mahajan, *Independence and Partition: The Erosion of Colonial Power in India*, New Delhi, Thousand Oaks, London: Sage Publications, 2000, p. 385.
 85. A multi-national state is a state that shares sovereignty among a variety of actors. India’s federal system, particularly its linguistic states, is a manifestation of a multi-national state that shares and bargains about sovereignty.
 86. More particularly on 30 June 1994, President Boris Yeltsin for Russia and Prime Minister P. V. Narasimha Rao for India signed ‘The Moscow Declaration on the Protection of the Interests of Pluralistic States’ in the St Vladimir Hall of the Kremlin. According to *Frontline* of 29 July 1994 ‘.... India and Russia have ... formulated an unprecedented and principled defence of their common interests as multi-ethnic, multi-religious and multi-linguistic countries ...’

Biographical Notes

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