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INTRODUCTION

Devesh Kapur, Pratap Bhanu Mehta, and Milan Vaishnav

Over the past quarter century, India has witnessed multiple transformations that have fundamentally reshaped its economy, foreign policy, politics, and society. Nearly a quarter-century after liberalization, the Indian economy is today more market-oriented and integrated with the world economy. These economic changes, along with the demise of the Soviet Union, have also reoriented India's external posture to a deeper engagement with the United States (US) and Japan. With respect to politics, an era of Congress Party-dominance in New Delhi as well as in the states first gave way to an era of coalition politics at the centre. The coming to power of the Bharatiya Janata Party (BJP) government in 2014 may mark yet another profound shift in Indian politics: it has positioned the BJP as a potential centre of gravity for Indian politics. The rigidities of social hierarchies in Indian society persist, but are showing signs of erosion. Many (but not all) hitherto marginalized social groups have acquired at least some degree of voice and new social alliances are challenging old social permutations.

However, despite the strides India has made in these domains, its public institutions have not undergone a commensurate transformation. Indeed, India's multiple transformations are increasingly buffeted by strong headwinds of deep institutional malaise. The integrity and responsiveness of the Indian state to the multiple challenges facing the country—ranging from its rapid urbanization to low agriculture









productivity, from security threats to weak human capital, and from widespread corruption to environmental degradation—will fundamentally determine India's future. While the broad outlines of India's governance challenge are well known, there are few analytical studies on their institutional underpinnings. And although much work has been done on the juridical and normative frameworks in this regard, studies on how institutions actually *work* (or not work, as is often the case) are few and far between.

The principal goal of this book is to examine the institutional foundations of the Indian state and the organizational and institutional context in which it operates. It is our hope that this understanding will help build a more capable Indian state suited for the unique challenges of the twenty-first century. By the 'Indian state', we are referring to the country's core federal institutions, as opposed to its sub-national 'state' entities.

The 'institutionalist' focus of the social sciences in recent decades, most commonly associated with the work of Nobel laureate Douglass North, has been the primary lens to understand the mechanisms by which institutions produce specific outcomes.\(^1\) This focus has meant that institutions are largely treated as a bundle of rules that shape incentives in contexts that are exogenous to them. But institutions are also complex organizations with internal norms, cultures, financial wherewithal, patterns of hiring and firing, and leadership selection. The neglect of institutions qua organizations has meant that the inner workings of specific institutions are for the most part a black box, an outcome variable as well as a causal variable.

One Decade On

To address this lacuna, more than a decade ago, two editors of the present volume (Kapur and Mehta) organized a conference on 'Public Institutions in India', focusing on the key federal institutions of the Indian Republic. The resulting volume, *Public Institutions in India*:





¹ According to North, institutions are 'the rules of the game in a society or, more formally, the humanly devised constraints that shape human interaction'. Douglass C. North, *Institutions, Institutional Change and Economic Performance* (New York: Cambridge University Press, 1990).



Performance and Design, made institutions the object of explanation, with a focus on the ways in which the micro-incentives within institutions helped explain certain features of the institution itself.² While that volume did well and has undergone multiple printings, India's public institutions, sadly, fared less well. In the interim period, the travails of many public institutions have been all too manifest. It is hard to think which of India's critical public institutions—be it Parliament. the judiciary, bureaucracy, police and other investigative agencies, or the myriad regulatory agencies—are on a path to regeneration. Equally worrying, as one of us has argued, the challenges of development that India faces, 'from urbanisation to the environment, technology to education, require institutions to mediate complex forms of knowledge and elicit widespread social acceptance. The biggest question mark over India is the ability of its institutions to do just that. It could be argued that in significant ways, the quality-of-life gains of growth are being severely constrained by this deep mismatch between institutional design, politics and developmental needs.'3

This, along with considerable changes unfolding in India's political economy, motivated us to go back to the drawing board in order to take a fresh look at India's key public institutions. In July 2013, we organized a successor conference, titled 'Building an Indian State for the 21st Century'. The cumulative result of this initiative are the chapters contained in the present volume, which not only help us understand the variation in institutional performance of the Indian state, but also provide a window to the evolution of the state itself and its capacity to adapt to a rapidly changing economic, political, and social environment.

It is our contention that improving the capacity of India's public institutions is the single biggest challenge that India faces in the twenty-first century, bar none. If India can successfully rejuvenate its core public sector institutions, it will go a long way towards realizing its developmental objectives at home and ambitions abroad. If, however, the gap between popular aspirations and the quality of governance is







² Devesh Kapur and Pratap Bhanu Mehta, eds, *Public Institutions in India: Performance and Design* (New Delhi: Oxford University Press, 2005).

³ Pratap Bhanu Mehta, 'The Coming Storm', *Indian Express*, 19 December 2015.



not remedied, this mismatch will imperil the substantial transformations India has experienced in other domains.

There is no better example than the economy. If the dizzying transformation of the Chinese economy has been the defining story of economic development in the last three-and-a-half decades, economic changes in India—while considerably less dramatic—have also been transformative. However, India's recent success masks deep underlying challenges whose import will only multiply in the foreseeable future. While it has been argued that in many ways India's improved economic performance has been *despite*, not because of, the state—epitomized by epigrams such 'India grows at night while the government sleeps'—continued welfare gains, better distributional outcomes, and the resilience and sustainability of rapid economic growth are in considerable doubt in the absence of better-performing public institutions.⁴

To get a sense of the looming challenges, consider this. In the two decades after the onset of economic liberalization, India added 364 million people to its population—more than the stock at the time of independence, which itself was accumulated over millennia. India's democratic success and this 'demographic dividend' mean that tens of millions of young people will be joining India's workforce with aspirations that previous generations could not even dream of, but without the jobs commensurate with their skills and aspirations. The ranks of those who live in India's urban cities and townships are rising at a rapid clip, so swift that even the government's own agencies have difficulty adequately measuring India's changing demographics.⁵

A booming population and growing economy are stressing natural resources, and contestation over land, energy, and water are only going to become more severe. If the pessimistic predictions of the effects of climate change on India come to pass, the prognosis is even grimmer. With about a million people entering the working-age population every month—a group that will be increasingly urban, interconnected,





⁴ Gurchuran Das, *India Grows at Night: A Liberal Case for a Strong State* (New Delhi: Penguin, 2012).

⁵ The World Bank estimates that India's urban population will swell by 250 million between 2014 and 2030. See World Bank, *Urbanization beyond Municipal Boundaries: Nurturing Metropolitan Economies and Connecting Peri-Urban Areas in India* (Washington, DC: World Bank, 2013).



and informed—providing capable and responsive governance to manage these new expectations will be no mean task. 6

Capacity Gaps

Even a casual observer of the Indian state would be struck by its limitations. The most obvious manifestation of this is its relatively small size. Contrary to popular belief, the Indian state is one of the smallest among major nations on a per capita basis. While India's population increased from 846 million to 1.2 billion between 1991 and 2011, total public sector employment actually decreased from 19.1 to 17.9 million. Over this period, the absolute size of the elite Indian Administrative Service (IAS) dropped by 10 per cent; by 2010, the total strength of the IAS and the Indian Police Service (IPS) was less than 11,000 while the vacancy rate stood at 28 per cent. In foreign affairs, the strength of the Indian diplomatic corps is less than that of Sweden's. India's judicial system presently has a backlog of more than 31 million cases. Government estimates suggest that as many as 10 per cent of all cases have been pending for a decade or more.

Even in the high-stakes realm of national security, there is a pattern of endemic weakness. The Indian Army is facing a serious shortage of officers—more than 9,000 in 2015, when it recruited 1,900 and retired close to 1,000. Despite major internal security concerns, 8,000 posts are lying vacant in the Intelligence Bureau while eight of the mere ten Assistant Commissioner posts for the Maharashtra State Anti-Terrorism Squad remain vacant—this after a deadly, humiliating terrorist attack on Mumbai against which the Indian state's feeble response was manifest. Compounding the fact that India has one of the lowest per capita police rates among major countries (1.3 constables per 1,000 citizens), official estimates of police vacancies stand around 23 per cent (0.5 million of 2.2 million posts vacant).⁷





⁶ As of 2015, the Ministry of Labour estimates that 12.8 million Indians are entering the labour force each year. See Ministry of Labour and Employment, *Annual Report*, 2014–2015 (New Delhi: Government of India, 2015).

⁷ Praveen Swami, 'India's Spy Agencies More Toothless than Ever', *Indian Express*, 1 December 2014; Mateen Hafeez, 'Shortage of Manpower Hounds ATS', *Times of India*, 11 July 2015. Law and order is a state subject under the Indian Constitution and, hence, states exhibit dramatic variation in terms of



But while the state might be undermanned in terms of adequate personnel, it is most certainly as over-bureaucratized as it is understaffed. Consider, for example, the well-known indicators compiled by the World Bank that capture the ease of doing business in nearly every country in the world. According to the 2016 edition of the 'Doing Business' indicators, India ranks 130th out of 189 countries in the overall ease of doing business, 155th in ease of starting a business, 178th in enforcing contracts, and 183rd in getting a construction permit—a sad testimony to the state of the Indian state, especially for a country that is a member of the Group of 20 (G-20) and which aspires to be a global power.⁸

Unfortunately, all this makes painfully evident that the Indian state is struggling to perform even the most basic functions of a sovereign state. While much of the attention on the manifold shortcomings of the Indian state has focused on high levels of corruption and venality in public life, an equally compelling limitation is the lack of competence, both at the policy design and formulation level, and the even larger challenge in effectively implementing these policies. The latter, of course, is much more the responsibility of state governments, an issue which is not the focus of this volume.

This 'state capacity'—the ability of the state to effectively design and implement public policies—varies greatly across India. The Indian state is not failing but is seen to be only too often 'flailing'. It can successfully manage highly complex tasks, but fails in executing relatively simple ones. On the one hand, India can organize elections for 850 million eligible voters, conduct a census for 1.2 billion people, and run a highly effective space programme. Yet, on the other hand, its





performance and personnel. With regard to vacancy rates, for instance, 60 per cent of the police force in Uttar Pradesh stands vacant while only 4 per cent of positions in Maharashtra are unfilled. See National Crime Records Bureau, Ministry of Home Affairs, *Crime in India 2013* (New Delhi: Government of India, 2014).

⁸ World Bank, *Doing Business 2016: Measuring Regulatory Quality and Efficiency* (Washington, DC: World Bank, 2015).

⁹ Lant Pritchett, 'A Review of Edward Luce's *In Spite of the Gods: The Strange Rise of Modern India'*, *Journal of Economic Literature* 47, no. 3 (September 2009): 771–80.



record in providing basic public services, from health to education and water to sanitation, ranges from modest to dismal. The persistence of a stubborn Maoist insurgency and the sporadic resurgence of communal violence in certain pockets speak to its patchy law and order prowess, while chronic power shortages are a stark testimony to the quality of its regulatory institutions.

The underlying institutional weaknesses of public institutions in India stand in contrast to relatively dynamic private and civil society organizations. According to a 2012 government report, India was home to 144,000 registered non-profit societies as of 1970; by 2008, that number had grown by a factor of nearly eight (1.14 million). ¹⁰ In 1957, fewer than 30,000 companies with a paid-up capital of barely 1,000 crore rupees (1 crore is equal to 10 million Indian rupees; 1 lakh is equal to 100,000 rupees) were operational in India. Fast-forward to 2014, and India boasts nearly 950,000 firms with a paid-up capital of 21 lakh crore. 11 Undoubtedly, the expansion and growth of India's private sector and vibrant civil society will substitute for some of the shortcomings of the public sector in the foreseeable future. Nevertheless, there is a wide range of core functions, from regulation to security, from social inclusion to public goods provision, where the state is—and will be—indispensable. This is particularly true for India's vulnerable population—such as its 265 million-odd poor or members of historically marginalized minority groups—who rely on public assistance to meet their most basic needs. 12 These vulnerable populations, unlike India's middle and upper classes, do not have a viable 'exit' option from the public sector and its myriad deficiencies. 13

In turn, the ability of the Indian state to adequately respond to the multiple challenges facing the country will have a broader regional





¹⁰ Central Statistics Organisation, Ministry of Statistics and Programme Implementation, Final Report on Non Profit Institutions in India: A Profile and Satellite Accounts in the Framework of System of National Accounts (New Delhi: Government of India, 2012).

¹¹ Ministry of Corporate Affairs, 58th Annual Report on the Working and Administration of the Companies Act, 1956 (New Delhi: Government of India, 2014).

¹² The poverty figures are from 2011 and come from the World Bank, which uses a poverty line of \$1.90 purchasing power parity (PPP).

¹³ Devesh Kapur, 'Exit', *Seminar* 677 (January 2016): 110–14.



and global impact. The momentous shifts in the locus of global economic power towards Asia mean that a range of key actors—including Australia, Japan, USA, and the Association of Southeast Asian Nations (ASEAN)— seeks to partner with India on a broad spectrum of issues to add ballast to regional stability and confront global challenges such as climate change and terrorism. However, India's ability to be an effective partner and take on a leadership role in all of these realms rests on its capacity to generate inclusive economic growth while maintaining political stability. This is unlikely to occur if its governance weaknesses persist.

Analytical Framework

While the broad outlines of India's governance challenge are well known, there are few in-depth studies on these issues. Few subjects elicit more boredom in high-powered academia than the nuts-and-bolts of public administration. Even more unfortunately, public administration reform has received even less attention from successive governments, notwithstanding professed statements from the highest level of government and innumerable commission and task force reports dissecting the state's myriad governance failures. Indian intellectuals and activists have always pressed the state to do more, be it through legal or policy mandates. Few, however, have engaged with improving state capacity with the sort of detailed analysis and understanding that this complex subject requires.

Indeed these gaps in understanding are even more pronounced, thanks to the numerous changes that have reshaped India's governance landscape since the launch of our first volume on India's public institutions.¹⁴

First, civil society has become much more active, as evident in its role in passing landmark 'rights based' legislations such as the Right to Information (RTI, 2005), Right to Education (2009), and Right to Food (2013) Acts, and a bill to revise the 1894 Land Acquisition Act (Land Acquisition, Rehabilitation and Resettlement Act, 2013). The rapid growth of non-governmental organizations (NGOs) has provided a buffer against the state's weaknesses and also helped to improve







¹⁴ Kapur and Mehta, eds, *Public Institutions in India: Performance and Design*.



accountability in some cases. For instance, Amitabh Mukhopadhyay's chapter on financial accountability in this volume (Chapter 8) argues that the introduction of social audits by community-based organizations can act as a force multiplier when the government's own auditing agencies are badly stretched. Similarly, the chapter by E. Sridharan and Milan Vaishnav on the Election Commission of India (ECI) (Chapter 10) points to the pivotal role civil society organizations have played in using Public Interest Litigation (PIL) to compel the courts and the ECI to enhance transparency in elections.

Yet, the rise of the civil society and the 'rights agenda' have not been unambiguously positive. All legally enforceable rights require resources and all resources have opportunity costs. 15 These realities are rarely addressed by civil society groups other than at the banal level of the need for more aggregate resources. The absence of a commensurate increase in state capacity has sabotaged these innovative efforts. The RTI Act is one such example. Less than a decade after its establishment, the RTI's ultimate appellate body, the Central Information Commission (CIC), faces a serious backlog of RTI cases with thousands of fresh cases being sent its way each month. In November 2015, it came to light that the agency was so severely overwhelmed that it literally had not opened its mail in months, with more than 10,000 pending requests gathering dust. 16 As Madhav Khosla and Ananth Padmanabhan point out as well in their chapter on the Supreme Court (Chapter 3), the growth of PIL has also taken its toll on the apex court, which spends increasingly less time deciding important questions of a constitutional nature and more on populist posturing.

Furthermore, civil society has not been uniformly transparent or accountable either. While many NGOs that engage in legitimate work are hampered by the weakness of public infrastructure as well as capricious and oversensitive state organizations, there is little transparency in the operations of many civil society organizations, some of which are little more than money laundering operations (often fronting for politicians) with little accountability of their own.





¹⁵ Stephen Holmes and Cass R. Sunstein, *The Cost of Rights: Why Liberty Depends on Taxes* (New York: W. W. Norton & Co., 1999); Devesh Kapur, 'The Wrongs of Rights', *Business Standard*, 7 July 2013.

¹⁶ 'Central Information Commission Has Not Opened 10,000 RTI Envelopes Since August-end', *Economic Times*, 19 November 2015.



Second, Indian politics has become significantly more decentralized as the primacy of national politics has lost ground to regional politics. While the 2014 general election, in which the BJP earned the first single-party majority in three decades, represents a shift back towards centralized power, it is not clear whether this is the harkening of a new trend or merely a temporary hiatus. Indeed, despite the BJP's dominant electoral victory, 37 parties claim representation in the Lok Sabha (the lower house of the parliament) while the Rajya Sabha (the upper house) remains deeply divided. As M.R. Madhavan discusses in his chapter on Parliament (Chapter 2), the rise of coalition politics and the fragmentation of political power have adversely affected the functioning of Parliament, resulting in a greater number of disruptions and fewer sittings, undermining the critical deliberative role of a parliament in any democracy.¹⁷

The regionalization of politics reflects the decline of national parties and a greater salience of states in the federal polity. This trend has empowered regional political leaders who have grown increasingly assertive in countering attempts (real or perceived) by federal authorities to exert undue influence on state prerogatives. State governments, however, are no paragons of virtue. As Nirvikar Singh demonstrates in his chapter on expenditure institutions (Chapter 5), while the Centre has been reluctant to devolve the purse strings to state capitals, states in turn have rejected calls to give more financial autonomy to the third tier of government. However, following the acceptance of the recommendations of the Fourteenth Finance Commission, the Centre has increased the share of central taxes flowing directly to the states from 32 to 42 per cent. This historic shift, although not free of implementation issues, along with the Goods and Services Tax (GST, once it becomes operational), will markedly shift India's fiscal federalism in ways that are likely to significantly remake India's political economy. But, if further fiscal decentralization to the third tier (local governments) does not occur, the Indian body politic will have an expansive middle bulge and weakened head and feet.

Third, economic liberalization, while reducing the state's role in direct production, has simultaneously enhanced its regulatory role.





¹⁷ A broadly similar case is made by Mahendra Prasad Singh, 'The Decline of the Indian Parliament', *India Review* 14, no. 3 (2015): 352–76.



As Navroz Dubash relates in his chapter on regulatory institutions (Chapter 6), the state is not so much receding as changing the locus of its activities. This transition has been an uneasy one. Many regulatory bodies across India suffer from a common set of problems stemming from congenital birth defects reflected in their design: insufficient authority; circumscribed financial autonomy; weak human resources; multiple, overlapping mandates; a lack of legitimacy; and, unsurprisingly, political interference that is both the cause and consequence of their multiple weaknesses. Some regulatory bodies, such as those in the domain of electricity, which were designed to insulate them from politics, have lacked the personnel with the judgement and expertise to operate in an increasingly 'deals-based' environment.

As one of the government's primary economic institutions—with key regulatory functions as well—the Reserve Bank of India (RBI) is widely recognized as one of the country's better-functioning federal institutions. Yet, as Errol D'Souza writes in this volume (Chapter 4), many of the functions the RBI performs—such as debt management—represent a conflict of interest with its core function of overseeing monetary policy. Attempts to shift this function out of the RBI have opened new fissures in the relationship between the central bank and the Ministry of Finance, indicative of the difficulties in undertaking institutional reform even in the better-run institutions.

What Is—and Is Not—Covered

This volume explicitly seeks to build on the work of our previous volume and attempts to fill the gaps in our knowledge of the actual working of the Indian state. In 2002, we sought to provide an analytical and empirical foundation for the study of state capacity in India through a careful analysis of federal institutions—the core institutions of the Indian state—and interactions among them, while situating them in India's broader societal context. The first objective of our earlier work was to use positive analysis to address a critical normative concern: how do we make public institutions more effective to their members and society at large? The second was to provide a much-needed catalyst to researchers, policymakers, and civil society actors to seriously begin thinking through the complex and multidimensional problems of state capacity in India.







In our second attempt at providing such a catalyst, we focus, as before, on the core institutions of the Indian state. We have identified three pillars to guide our inquiry: recruitment of human capital, internal organizational features that motivate performance, and the interaction of agencies with one another and the conditions in which they reinforce or undermine each other. Our aim is to understand the specific political economy operating in each area and within each institution. These three pillars need to be addressed in tandem because each is inexorably linked to the other. For instance, human resources cannot be understood outside their organizational context. Organizational performance, on the other hand, occurs within a complex web of larger institutional dynamics and inter-relationships.

Before introducing readers to greater detail about what is in the present volume, we would like to clarify what they will *not* find in the subsequent pages. For starters, this book is focused on India's core federal institutions. As such, it does not delve deeply into state-level institutions and/or policies that are constitutionally under the jurisdiction of India's federal units. This might strike some readers as anachronistic as much of day-to-day governance takes places in the states, as opposed to New Delhi. The decision to focus on India's core federal institutions was, in part, compelled by analytic coherence; covering state-level institutions, and the large variation in performance that lies therein, is a daunting task for any group of researchers.

But there is a second reason for narrowing our sights: to compare trends over time. The predecessor volume to the present compendium also focused primarily on national-level institutions. Returning to these institutions a decade later allows us to understand what has and has not changed. This book, however, is not simply an update of the previous volume; we also shed new light on institutions, such as the ECI, that were not the explicit focus of chapters in the 2005 book. Finally, this book does not scrutinize India's security institutions. This again is not because of lack of interest; indeed, numerous scholars have raised alarm bells about the institutional and organizational challenges facing India's diplomatic, military, para-military, civil police, and intelligence agencies. Our hope is that other researchers will take up the task of extending our analysis to these institutions in the domain of national security and foreign policy.









In broad terms, the institutional analyses that follow can be roughly grouped into four clusters. The first, institutions of oversight and restraint, focus on three premier arms of state power: the presidency, Parliament, and the Supreme Court. The second cluster comprises economic institutions: the RBI, India's institutions of expenditure governance (namely the erstwhile Planning Commission and the Finance Commission), and new regulatory institutions. The abolition of the Planning Commission in 2014 and the advent of the National Institution for Transforming India (NITI Aavog), a successor entity, provides us with an opportunity to take stock of the lessons learnt from the former's experience in order to extract lessons for the latter. The third cluster involves India's accountability institutions. Our exploration focuses on institutions of internal accountability—such as the Central Vigilance Commission (CVC) and Central Bureau of Investigation (CBI)—as well as the Comptroller and Auditor General (CAG), an important agent of external accountability. The fourth and final cluster delves into the critical institutions of implementation: the civil services, the ECI, and local government institutions—the last representing the frontlines of the state where multiple federal mandates, from rights to centrally sponsored schemes, face their acid test.

Key Themes

Given the extensive reach of the Indian state, it is difficult to adequately capture the richness of diversity of India's institutional scene with a few summary points. Nevertheless, there are significant commonalities we can identify when scanning across the core federal institutions this book examines. We choose to highlight six in particular that are especially salient.

Personnel Failures

The most basic reality of India's public institutions is the acute talent crunch they face. This crunch has a quantitative—in terms of endemic vacancies and personnel shortages—as well as a qualitative dimension, in terms of a paucity of adequately skilled, trained, and equipped personnel.







In terms of quantity, which we have already alluded to above, the November 2015 report of the 7th Pay Commission, which sets salaries for central government employees, provides a set of useful figures. As of January 2014, according to the Commission's findings, the 56 ministries and departments of the Union government had nearly 729,000 vacancies (the gap between the number of sanctioned positions and those actually filled), or a shortfall of 19 per cent. ¹⁸ This disjuncture is, in part, the result of a purposive slowdown in direct recruitment that began in the early 1990s and was intended to slash the size of government payrolls. Furthermore, it does not capture the large shift toward temporary workers contracted by the central government, on which the center spends around 300 crore rupees each month, according to the commission's estimates. Whatever the case may be, the chapters in this volume uniformly highlight debilitating staff shortfalls.

For instance, Mukhopadhyay comments (Chapter 8) on the severe shortfall in qualified government auditors, an outcome he deems the result of powerful staff unions successfully lobbying for expanding internal promotion rather than fresh recruitment—an affliction common to all public institutions, be it the higher judiciary, the civil services, or the RBI. The situation in the CAG is compounded by the fact that, even within the existing bureaucracy, just 17 per cent of the employees are dedicated to conducting performance audits. The outcome of these twin realities, Mukhopadhyay argues, is highly uneven audit appraisals.

Other accountability institutions suffer from similar maladies. As R. Sridharan notes in his chapter (Chapter 7) on internal accountability institutions, although the sanctioned strength of the CVC modestly increased from 288 to 296 officials in 2013, the actual number of positions remained at 230. Even then, the CVC lacks a dedicated investigative agency, instead relying on the already overburdened Chief Vigilance Officers (CVOs) and the highly politicized CBI to follow-up on inquiries and undertake investigations. ¹⁹





 $^{^{18}\,}$ It should, however, be emphasized that we do not have any independent measure of vacancies, just what the government reports.

¹⁹ Indeed, as R. Sridharan notes, the number of sanctioned CBI positions has grown from 5,961 in 2009 to 6,674 in 2013, yet vacancies continue to hover between 12 and 15 per cent.



The issue of shortage of personnel is not simply about aggregate numbers, it is also about their spatial allocation. As K.P. Krishnan and T.V. Somanathan's chapter (Chapter 9) on the IAS amply documents, there are large variations in the size of IAS cadres with respect to total state populations. As a result, the IAS cadre in India's most populous state is more than 40 per cent smaller than it should be, while the corresponding number of officers in Sikkim is 15 per cent larger than it should be, based on population alone. There are also distortions in the extent to which officers are placed on central deputation in New Delhi, which means that many small states have much better representation in central ministries and departments than their larger peers.

Of course, even if shortcomings in the allocation and quantity of personnel were immediately remedied, the issue of competence would remain. Krishnan and Somanathan, in their analysis of the IAS, find this to be an equally troubling infirmity. Changes in the design of official recruitment policies have led to an apparent reduction in the quality of entrants to the IAS, perhaps the result of an increase in the maximum age and number of attempts needed to pass the exam.

In his analysis of India's prime expenditure institutions (Chapter 5), Singh finds a clear lack of specialized expertise in key agencies, especially among those of sufficiently senior rank. This gaping hole would be less noticeable, perhaps, if the largely generalist staff systematically consulted with outside domain experts; lamentably, Singh notes, this is all too infrequent an occurrence, given the present incentives bureaucrats face.

Another place where the lack of domain expertise is particularly striking is in India's regulatory institutions. As Dubash notes, the country's regulatory bodies have become the vanguard of the 'sinecure state', in which prized postings have become routine opportunities for dispensing political patronage. This reality, in turn, has two obvious impacts: first, it ensures that many bureaucrats and judges who vie for







²⁰ Interestingly, an internal exercise carried out by the Ministry of Personnel and all state governments found that out of 1,089 IAS officers who had completed at least 15 years of service (both direct recruits and those who had come up the ranks), only two were deemed unfit and asked to opt for premature retirement. Subhomoy Bhattacharjee, 'Only 2 of 1,089 IAS Officers Inept', *Business Standard*, 22 April 2016.



plum post-retirement positions as regulators have few incentives to take politically unpopular decisions in the final stages of their careers lest they fall out of favour with the government of the day; and second, it stacks the deck with regulators whose credentials are primarily political or personal in nature, rather than professional—further hampering the agencies they oversee.

Legal Ambiguity

Although ambiguities surrounding the legal and constitutional mandates of various federal institutions are not necessarily new, it can be argued that the negative consequences of such muddled mandates have grown. Part of this lacuna can be attributed to constitutional design; for instance, when it comes to the 'third tier' of government, the expenditure responsibilities of local government overlap to a great extent with the subjects enumerated on the state list of the Constitution. As Singh writes, this confusion—coupled with states' reluctance to devolve financial autonomy—results in local governments that are given mandates without commensurate resources (both financial and human) or authority. The engineered failures then become the excuse to recentralize.

The divergent fortunes of the CAG and ECI, two constitutional bodies, also illustrate the importance of clear mandates. Article 324 of the Constitution grants the ECI clear authority over the 'superintendence, direction and control of the preparation of the electoral rolls', while subsequent articles provide the apex body with supreme authority over the conduct of elections, including insulating the agency even from judicial interference while elections are ongoing. This firm constitutional framework was further enhanced by the twin Representation of the People Acts of 1950 and 1951. The result, while far from perfect (as Chapter 10 by E. Sridharan and Vaishnav makes clear), is one of the most autonomous and widely praised election agencies the world over. However, the ECI's role in addressing three severe challenges facing India's electoral democracy—curbing runaway election expenses, regulating the actions of political parties, and mitigating the nexus of crime and politics—demonstrates that institution's need to constantly adapt if it is to retain its vitality.

Like the ECI, the CAG was also underpinned by a constitutional mandate. However, as R. Sridharan points out in Chapter 7, the latter's







mandate was far less robust. Article 149 of the Constitution only states that the duties of the CAG will be prescribed by an act of Parliament with the pre-independence legal foundations guiding the chief auditor in place until then. Unfortunately for the CAG, it took two decades (until 1971) for authorizing legislation to materialize. Thus, in a sense, the CAG's constitutional 'mandate' is actually a misnomer; the Constitution more or less states that Parliament, when it sees fit, will deliver the CAG with a mandate when it chooses to act. Although the CAG is often discussed as having its origins outside of the three major branches (executive, legislative, and judicial), R. Sridharan contends that it is really 'an extended outreach agency of the legislature'. And if the legislature chooses to ignore reports from the CAG, the latter has very little recourse.

In other cases, it is not the Constitution per se that is to credit or to blame, but subsequent action undertaken by the executive and/ or legislative branches. For instance, the government established the CVC in 1964 in response to the Santhanam Committee report, charged with providing advice on how to curb corruption in public life. Yet, the CVC was hamstrung from the outset; it can only take up inquiries on the basis of 'files'. In other words, unless officers have left an incriminating paper trail in official government correspondence, the CVC has no basis to recommend an investigation. Even in such rare cases where a paper trail can be discerned, the CVC must rely on agencies like the CBI to take cases forward. The CBI, in turn, is hamstrung in its own ways. Under the Delhi Special Police Establishment Act, 1946, the CBI must obtain permission of India's states if it wants to carry out an investigation into wrongdoing occurring within states unless, for instance, the central government's equities are directly affected or central employees are implicated. Arguably, the CBI's greatest weakness is its malleability. The apparent ease with which it can be manipulated by the political executive has rendered it a 'handmaiden' of the government and the sobriquet 'Compromised Bureau of Investigation'. The reality is that governments of the day have used CBI corruption investigations to reward and/or punish key politicians from opposition parties depending on the prevailing winds. Unfortunately, this has meant that even when its cases are bonafide, accused parties can scream 'political vendetta' to undermine the case in the public eye.









The 2013 creation of a *Lokpal*, or anti-corruption ombudsman, was meant to address the structural weaknesses of the CBI. Instead, it is likely to end up further muddying the waters. Its creation epitomizes a trend highlighted in our earlier volume, namely the tendency to address institutional weaknesses by setting up new institutions rather than addressing the reasons for failure of existing institutions head-on and reforming them. The result is a multiplicity of institutions, competing for scarce resources and battling for turf, while providing a modicum of an institutional 'safety net'.²¹

While it is too early to tell how this new agency will function, the mandate question appears tricky in this case as well. For instance, while the authorizing legislation empowers the Lokpal with superintendence over the CBI in those cases the latter has referred to it, the Lokpal has limited powers to actually direct the actual course of the investigation itself—rendering these supervisory powers moot.

Economic and political change has also raised new questions about mandates once widely perceived to be clear-cut. The growth in the breadth and depth of capital markets and financial services has, as D'Souza notes in Chapter 4, highlighted the inadequacies and conflicts inherent in the mandate of the RBI, one of the most highly respected public institutions. Indeed, the 2013 report of the Financial Sector Legislative Reforms Commission (FSLRC), a two-year initiative launched by the Ministry of Finance to propose revisions to the sector's legal and regulatory framework, offered a thorough reimagining of the existing architecture. Among the commission's most controversial recommendations were calls to create a unified financial regulator, an independent public debt management agency, and a monetary policy committee (MPC) that will set policy interest rates, with extensive representation selected by the executive.

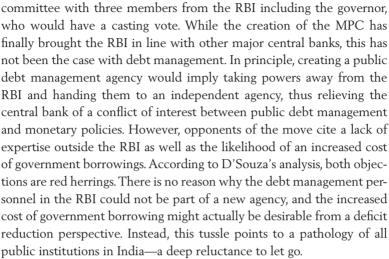
All three have significant implications for the RBI and, unsurprisingly, have proved to be highly contentious. Of the three, the only one where there has been a satisfactory resolution has been the composition of the MPC, where the government conceded and agreed to a six-member





²¹ Devesh Kapur, 'Explaining Democratic Durability and Economic Performance: The Role of India's Institutions', in *Public Institutions in India: Performance and Design*, eds Devesh Kapur and Pratap Bhanu Mehta (New Delhi: Oxford University Press, 2005), 28–76.





Political trends have also raised new concerns about public institutions that have been largely dormant until recent years. James Manor's chapter (Chapter 1) on the presidency is perhaps the most acute example of this. During the first several decades following independence, the Congress Party dominated electoral politics—especially at the centre—obtaining clear parliamentary majorities in every election from 1952 to 1989 (the post-Emergency election in 1977 serving as the lone exception). This meant that the role of the president as head of state (but not government) was relatively circumscribed. In the post-1989 era of coalition politics, however, prevailing conditions have created greater opportunities for the president to assert his (and in one case, her) authority for the purposes of government formation. Paradoxically, as Manor points out, those very opportunities also generate strong reasons not to act, as doing so creates risks that the office considered to be above the partisan fray—gets coloured by everyday politics. For instance, when a general election does not produce a party with a clear majority, it is the president who must exercise discretion in initiating the process of government formation. By norm, the president would turn to the single largest party, but must he or she always do so? Might there be circumstances under which the president turns to, say, the second-largest party because he/she believes it is more likely to produce a sustainable majority? And, either way, should there be clear rules or procedures codified to guide the president? Manor raises







a similar concern regarding the presidential use of 'pocket vetoes', whereby the president either questions advice from the Council of Ministers or fails to act (thereby vetoing the proposed action by deliberate inertia).

Manor's perceptive points raise another issue: the importance of prudent leadership, an attribute that is difficult to quantify. Indeed, if we return to the comparison between the powers enumerated to the ECI versus the CAG, it is clear that leadership—not constitutional foundations alone—matter a great deal in determining performance. Even in the case of the ECI, which has been blessed by relatively robust legal underpinnings, it was not until the tenure of T.N. Seshan in the 1990s that the agency fully came into its own. Beginning in the 1960s, electoral abuse in India began to gain ground as the links between crime and politics grew in the shadow of political fragmentation, institutional weakening, a growing influx of illicit money in elections, and the rise of identity politics. This toxic brew gathered strength in subsequent decades, calling the very legitimacy of the democratic process into question. Seshan, building on his agency's broad constitutional remit and exploiting a fragmented polity, leveraged his bully pulpit role and consolidated the ECI's control over the timing and conduct of elections, especially through the rigid enforcement of the Model Code of Conduct. The ECI's institutional renewal is an instructive example of institutional change as punctuated equilibria, where changes in the external environment can provide space for creative agency and drive institutional change.

Coordination Dilemmas

Another cross-cutting theme revolves around the issue of coordination. This, in turn, can be assessed on two dimensions: horizontal coordination between government agencies and vertical coordination between levels (or tiers) of governance.

As Singh's chapter argues, a central irony with regard to the former is that at the same time ministerial decisionmaking is highly fragmented—pointing to the weakness of another key institution, namely the cabinet—and power within ministries is highly centralized. Take an issue like energy. India currently has separate ministries for coal; environment, forest, and climate change; mines; new and renewable energy;







petroleum and natural gas; and power.²² This fragmentation complicates both policy formulation as well as implementation. Within ministries, however, an excessive concentration of power and responsibility rests with the minister, which can crowd out dissenting voices within the government and ideas emanating from outside. This issue exists on top of routine turf struggles that are endemic to large bureaucracies around the world. Unsurprisingly, India has its fair share of tussles within the bureaucracy over institutional and policy equities—as the previous example from D'Souza's chapter on the RBI illustrates.

As India moves to address new complex challenges such as climate change or national security, the need for better and more creative coordination mechanisms is obvious. The obvious existing mechanisms—the Prime Minister's Office (PMO) and the Cabinet Secretariat—are only as effective as the authority of the prime minister and the quality of personnel manning these bodies, and can very easily become overcentralizing bodies.

The issues plaguing vertical coordination are in a state of flux. One of the Modi government's first acts was to abolish the Planning Commission, which over the years had morphed into both an advisory council as well as a financial conduit for central funds. In its stead, the government established the NITI Aayog, a government thinktank intended to foster greater cooperation between the centre and the states. Two institutions—the Finance Commission (discussed in Nirvikar Singh's contribution, Chapter 5) and the Pay Commission—play a coordinating role, explicit in the first case and implicit in the second. As a constitutional body, the Finance Commission has played a stabilizing role in coordinating fiscal federalism. And while the Pay Commission's recommendations have coordinated salaries horizontally across different central government organizations, they have also established benchmarks that have, in effect, coordinated public sector salaries vertically in the states as well.

With centrally sponsored schemes projected to decline and substantially greater spending by states, the transmission mechanisms from





²² The Modi government has partially addressed this issue by giving one minister of state (Piyush Goyal) responsibilities for the power, coal, and new and renewable energy portfolios. In principle, this should mitigate challenges of horizontal coordination.



the federal government to the local level seem tenuous. The record of decentralization vis-à-vis panchayat and urban local bodies—or the third tier of government—is widely known and highly discouraging. Here, it is states—rather than the centre—that are primarily culpable for the 'stop-start nature of the devolution of functions, funds and functionaries' to local government bodies, as T.R. Raghunandan argues in Chapter 11. Although there is significant variation across states, many state governments have been reluctant to devolve powers to the local level, lest they cede their levers of local control and patronage. Central authorities are partly to blame; over the past decade and a half, a plethora of parallel structures have sprouted up around the proliferating number of centrally sponsored schemes that regularly attach onesize-fits-all strings to key social programmes initiated by New Delhi. A central cause of these vertical coordination failures is the misalignment between the expenditure and revenue stream. While changes brought about by the Fourteenth Finance Commission will likely contribute to greater autonomy at the level of states, local governments will continue to be beholden to their state capitals for transfers. Without significant avenues for resource mobilization, local governments continue to have limited options.

External Accountability

The transparency of government functioning is one area where there has been notable progress in the time that has elapsed since the last volume. Transparency has been an area where the government has responded creatively, thanks to the pressure imposed by strong external actors—namely civil society and the media—that led to the passage of the landmark RTI Act. As alluded to earlier, there are serious concerns about the government's capacity to adequately respond to the demands imposed on it by opening up its activities to external scrutiny.

Globally, regulatory institutions have come under fire for operating in technocratic bubbles relatively free of popular scrutiny and lacking a culture of openness. In India, in several instances, regulatory institutions have been at the forefront of improving the visibility of their deliberations to a broader set of stakeholders beyond the government. As Dubash argues in Chapter 6, opening up administrative hearings and document access to a wide diversity of civil society actors has









infused regulatory bodies—especially in the electricity sector—with a newfound culture of sharing. Dubash finds that some regulators in this domain threw open their documentation to the public even prior to the passage of the RTI Act. Dubash goes so far as to argue that establishing guidelines to enhance accountability and transparency 'may be among the most significant contributions of regulatory agencies to the challenges of infrastructure governance'.

Other agencies of the government, typically those involved in service delivery (such as health or a variety of entitlement transfers), have been nudged by civil society and a growing number of citizens' groups conducting social audits. As Mukhopadhyay discusses, social audits entail citizens investigating the reasons for their own subjugation, which is expected to galvanize social pressure and bureaucratic adjustment to programmatic failings. This expectation is only sometimes realized; empirical research demonstrates that these audits as well as related information dissemination campaigns often suffer from concerns about the very lack of transparency that motivates their existence.²³ An analvsis of social audits carried out under the Mahatma Gandhi National Rural Employment Guarantee Act, 2005 (MGNREGA) found that while audits resulted in a significant decline in complaints related to the non-provision of work, they were 'accompanied by an increase in more sophisticated and harder to detect material-related irregularities'.²⁴ In other words, while audits may be effective in detecting irregularities, they appear to have limited deterrent effect, since information by itself has little effect on sanctions on public officials.

If it is surprising that regulatory institutions, often constructed such that they are relatively insulated from politics, can be relatively open agencies, it is equally counter-intuitive that Parliament—which has a direct popular mandate—lags behind with regard to external-facing accountability. For starters, the practice of 'question hour' is deeply flawed. As Chapter 2 by Madhavan outlines, fewer than 15 per cent





²³ Sandip Sukhtankar and Milan Vaishnav, 'Corruption in India: Bridging Research Evidence and Policy Options', *India Policy Forum* 11 (July 2015): 193–276.

²⁴ Farzana Afridi and Vegard Iversen, 'Social Audits and MGNREGA Delivery: Lessons From Andhra Pradesh', *India Policy Forum* 10 (July 2014): 297–341.



of questions listed are actually answered orally in Parliament. This is largely a function of time constraints, which are felt even more acutely given that so much time allotted for questions is lost due to frequent disruptions. Furthermore, unlike the British Parliament, there exists no separate question time reserved for the prime minister to address concerns brought forward by members of the House. A second issue concerns basic norms of transparency on parliamentary voting; presently, there is no way for ordinary citizens to learn how Members of Parliament (MPs) vote on any given bill or motion. It is difficult to construct an argument for why citizens should not be given ready access to this level of information (with the caveat, of course, that India's anti-defection law typically ensures partisan bloc voting when a party whip is issued).

The parliament's shortcomings with regard to transparency also extend to the Public Accounts Committee (PAC), a select body that audits the expenditure of the Government of India (in conjunction with the CAG). Mukhopadhyay reports that, while there is no established rule forbidding discussion of PAC reports in the House, such a norm does exist. This absence of discussion around audits is further compounded by the fact that all of the PAC's deliberations take place in private, closed off to both the media and ordinary Indians. Indeed, this latter fact applies across the board to all parliamentary committees since their deliberations are held *in camera*.

The Supreme Court, as Khosla and Padmanabhan note in Chapter 3, also has been criticized for a lack of transparency, particularly in regard to judicial appointments. The current collegium system, whereby the five most senior judges (including the Chief Justice of India) control appointments to the Supreme Court and the various High Courts, has come under harsh criticism for being highly opaque. A constitutional amendment establishing a National Judicial Appointments Commission (NJAC) that would replace the collegium passed both houses of Parliament and was ratified by a majority of state legislatures. Nevertheless, the Supreme Court ruled the NJAC unconstitutional on the grounds that it violated the basic structure of the Constitution. While views diverge as to whether the NJAC was the right solution to the problem of appointments, most observers believe that the judiciary's attempts at self-regulation have not fared well.







Internal Accountability

If evidence of improved external accountability represents a positive trend, the same cannot necessarily be said of internal accountability. There are several reasons for this. First, as pointed out above, ministries remain highly over-centralized, with little internal competition for ideas or checks on the power of the top brass. Second, few agencies have successfully adopted outcome-based budgeting or performance evaluation that would link agency objectives to a clear set of measurable metrics. The health ministry, for example, could in theory condition fiscal transfers on measurable progress on reducing infant mortality. Its reluctance to do so is partly a reflection of weak capacity; but it is also a testament to the resistance put up by bureaucrats and politicians to efforts to curb discretionary authority.

In general, the entire design of government programmes is based on inputs and processes to transform those inputs into outputs. In a sense, this was what the entire planning process did. And accountability mechanisms have followed suit, focusing primarily on process and procedures. Unless the design of government programmes puts the onus of accountability on outcome-based measures, it is hard to see why public officials will behave any differently.

When it comes to strengthening internal accountability mechanisms, one straightforward remedy is more effective decentralization. Singh notes in Chapter 5 that India's initial experience with local government in the wake of the 73rd and 74th Amendments to the Constitution tends to support the notion that both accountability and effectiveness increase with decentralization. The empirical evidence on this score is ambiguous, but the additional external accountability created by decentralizing power can, in turn, boost levels of internal accountability.

Political Interference

The ability of politicians to manipulate the workings of core central institutions is perhaps the most disturbing of trends present in nearly all chapters. Some of these tendencies are well known. For decades, scholars have commented upon the ease with which politicians transfer bureaucrats to punish or reward them on the basis of criteria unrelated to their performance. Indeed, Krishnan and Somanathan (Chapter 9)







lament the widespread nature of personally disruptive transfers of IAS officers. What is more troubling is that the issue extends far beyond transfers to a broader set of concerns over postings. For instance, politicians have often resorted to arbitrary demotion, which involves authorities unilaterally downgrading a post without any clear appeal to what is in the public interest, as a 'stick' with which to sanction officers. On the other hand, politicians have also deployed 'carrots' with equal aplomb. The authors cite service extensions and promises of post-retirement employment (typically working with a regulatory or appellate government agency) to reward pliant IAS officers who are due to retire.

The issue is not restricted to the IAS alone. Indeed, D'Souza notes that the terms of the RBI governor and deputy governor have been a source of constant tension between the agency and the Finance Ministry. In the 2005 Kapur and Mehta volume, Deena Khatkhate pointed out that few governors appointed after 1969 successfully completed their full tenure of five years in office.²⁵

The ECI is the rare agency that, thanks to its constitutional mandate, has experienced relatively few instances of overt political interference. Of course, there have been instances in the past when various ruling parties of the day have curbed the authority of the Commission. Although such infractions have grown increasingly rare, E. Sridharan and Vaishnav note (Chapter 10) that this is no excuse for complacency. Indeed, without additional safeguards, a future government could move to 'pack' the Commission with officers it favours or, given the paucity of protections, remove commissioners other than the Chief Election Commissioner (CEC).

In some cases, it is inaction—rather than action—on the part of the government that constitutes interference. Take the example of the CBI. A hotly contested issue, as discussed by R. Sridharan (Chapter 7), is the repeated absence of action on the part of the CBI when politically powerful individuals are accused of wrongdoing. Quite often, this inertia is deliberate; in fact, it might even be instinctual in settings where political reprisals are commonplace. A common feature





²⁵ Deena Khatkhate, 'Reserve Bank of India', in *Public Institutions in India: Performance and Design*, eds Devesh Kapur and Pratap Bhanu Mehta (New Delhi: Oxford University Press, 2005), 320–50.



of India's public institutions (and the public sector in general) is how frequently senior positions remain unfilled despite full ex ante information on when individuals are going to retire. Again, the inertia is often deliberate, as delays mean that possible contenders also retire, clearing the way for the political favourite.

The Larger Picture

The chapters in this volume are rich in describing the micro-dynamics of institutions. But it is important to point out that there are several big-picture transitions at stake in these institutional battles. To put it somewhat schematically, Indian institutions are struggling to accomplish the transition from what one might call 'old order' institutions to 'new order' institutions while maintaining formal continuity. The key elements of this transition are summarized in the following pages.

Transition from Discretion to Accountability and Public Reason

Traditionally, Indian public sector institutions have had wide scope for discretion, which they exercised in numerous ways. They exercised discretion in allocating state resources, prioritizing services, negotiating and renegotiating contracts, and, generally, granting all manner of favours to different groups of citizens. To a certain extent, discretionary power is inevitable in institutions; without it, robots could perform the jobs of public servants. But increasingly, as a result of anti-corruption movements and greater scrutiny by various branches of government such as the judiciary, there is a growing clamour to either reduce discretion or to hold the exercise of discretionary power accountable to norms. But what normative, practical, and legal standards officials should be held accountable to is a matter of deep contestation. Nevertheless, there is no question that the exercise of power cannot hide behind discretionary authorities vested in different offices. In a highly mobilized, mediated society, such sweeping discretion is no longer possible. The exercise of state power has to be publicly justified in terms that all those affected by the exercise of those powers can freely accept. But the struggle between the demands of robust public justification and the temptation to hold onto discretion marks all the institutions scrutinized in the pages that follow.









Transition from Secrecy to Information

In part, wide discretion was sustained by the fact that the practices of the state remained relatively opaque to most citizens. But there has been a dual revolution that has completely upended the knowledge relationship between state and society. On the one hand, legal instruments like RTI have empowered citizens; indeed, many chapters detail the various ways in which RTI has reshaped institutional decision-making. On the other hand, civil society now produces far more knowledge than the state does—and it can use that knowledge to make demands on the state. At the risk of over-simplifying, in the old order, the state could often get away with excessive secrecy. It could also disproportionately control the agenda because the balance of knowledge production was not (yet) so skewed in favour of non-state actors.

Public institutions can no longer govern on the presumption that their decisions will remain secret for too long. And they can no longer govern on the presumption that they can control the knowledge agenda, and therefore control what institutions should do. Many Indian institutions are struggling to adapt to this new knowledge order, where the state has to be more open—both from the inside-out (it will be hard to keep secrets) and from the outside-in (knowledge produced outside will set the agenda to an ever greater extent). Institutions will also have to develop the capacity to mediate between contending modes of knowledge.

Transition from Low-Capacity to High-Capacity State

Many of the authors in this volume agree that India has historically been a low-capacity state. 'Capacity' in this context does not simply refer to the intrinsic capabilities of the state; it also relates to the state's capabilities in responding to demands put on the state by the citizenry. On the demand side, the pressures on the state have increased manifold, as a result of social mobilization, the 'rights' revolution, economic transformation, globalization, and the nature and gravity of collective risks posed by phenomena such as climate change. These are familiar facts, and they impact all institutions. Almost all the chapters in this volume touch upon one fundamental question: can Indian institutions be transformed into high-capacity institutions?







Transition from Centralization to Decentralization

A more mobilized citizenry demands inclusive governance. But the central question of what functions should be performed at what level of government has never been easy to settle in India. This question applies not simply between levels of government, as many of the chapters that discuss federalism amply demonstrate, but it also applies within institutions—what is the appropriate degree of delegation versus centralization in a hierarchical organization? India has historically been an immensely centralized state. Today, there is no question that there is greater political consensus in favour of decentralization than ever before. To be sure, the drive towards decentralization has been more episodic than linear; nevertheless, the trend towards greater devolution is unmistakable.

But the contemporary decentralization debate now comes with two new twists. First, what is the relationship between political, administrative, and fiscal decentralization? Under the compulsion of coalition government. India's states have become more important. The slogan of 'cooperative federalism', promoted by the Modi government, further promises to grant the states enhanced room for experimentation. But can this kind of fiscal and administrative decentralization really work if political party structures actually become more centralized? What would administrative decentralization mean in a context where chief ministers are more dependent on the centre for their political power? Conversely, chief ministers can be politically independent, but stymied by fiscal centralization.²⁶ Or perhaps most worryingly, what does administrative decentralization mean when chief ministers act in a highly personalized, Bonapartist manner? The same questions apply to decentralization to local government. But the broad contest over decentralization, and the fact that fiscal, administrative, and political inclusiveness do not go in tandem, pose immense challenges for inclusion.

The second twist is the degree of centralization within institutions. Do chief justices have inordinate power within the judiciary?







 $^{^{26}}$ For instance, the proposed GST might reduce states' discretion with respect to taxation authorities.



Does the PMO's control over the rest of government run the risk of over-centralization, thereby distorting the relationship between civil servants and the political executive? Regardless of how one answers these specific queries, there is no question that, within institutions, many actors are trying to hold onto more centralized power while the demands of democracy require more devolved institutional architecture where the roles and autonomy of each level of the hierarchy are more clearly secured.

Transition from Upward to Downward Accountability

In historical practice, the Indian state was often institutionalized in terms of upward vertical accountability, or the idea that officials will be held accountable to and by their superiors, not by either the public or by independently defined standards of performance. One of the subtler shifts in institutional discourse has been the demand to institute more downward accountability. This is the idea that state officials should satisfy some independent standards of performance, or what they do for citizens, rather than simply for their superiors in a hierarchical order. Institutions are struggling to initiate new practices of performance evaluation that are more citizen-focused and outward-looking.

In a way, these different elements have been linked; wide discretion, low capacity, high centralization, secrecy, and upward vertical accountability created a self-reinforcing loop of a low-performing state. Can India transition to a new equilibrium—a virtuous cycle of an accountable, high-capacity, decentralized, information-based state that is responsive to citizens rather than superiors? In their own ways and at their own pace, all of the institutions covered in this volume are struggling with this dilemma.

The following chapters in this book lay bare the notion that India's core federal institutions are badly in need of an overhaul. The story is not uniformly negative, however, and bright spots do exist. Compared to its developing country peers—not to mention several advanced democracies—India's highly respected elections body consistently delivers high-quality polls, especially in more recent years. The RBI, which does face









internal capacity issues, not to mention a spate of newfound external challenges, has emerged as a highly credible voice on issues of monetary policy, banking, and finance. Even from within the ranks of the much-beleaguered bureaucracy, one can identify talent that is comparable to the best anywhere in the world.

Institutional change is always difficult, no matter what context. And indeed, that should be the case. Institutions are 'sticky' and, hence, change is inevitably gradual in the absence of major exogenous shocks. At the same time, institutions are always 'incomplete' in the sense that their design reflects conditions and an external environment at the time they were created. Consequently, there will always be a tension stemming from the need for change to reflect the changing external environment and institutional 'stickiness'. But institutions are always vulnerable and their stability cannot be taken for granted.²⁷

The challenge for policymakers is to take whatever 'pockets of efficiency' do exist, to borrow a term from the sociologist Peter Evans, and find ways of expanding their coverage. ²⁸ There are a number of low-cost, relatively easy-to-implement policy solutions that can do just this. For instance, removing the ease with which politicians can interfere in the postings and transfers of IAS officers can go a long way towards improving performance. If the Supreme Court were to insist on strict limits on courts granting adjournments, it would reduce delays in trial proceedings. Not all fixes are so easy; indeed, many require revisiting first principles of legal and institutional design. There is no magic wand, for instance, that can be waved to get the CBI's house in order.

In India, to borrow a phrase from former minister and noted journalist Arun Shourie, when all is said and done, much more is usually said than done. However, the silver lining is that there are ongoing experiments which, if they bear fruit, can be the basis for a new push to reform India's public institutions. Technocratic solutions, while they have their place, also have their limitations. Active coalitions are required to underpin institutional stability, and change will emerge







²⁷ James Mahoney and Kathleen A. Thelen, *Explaining Institutional Change: Ambiguity, Agency, and Power* (New York: Cambridge University Press, 2010).

²⁸ Peter Evans, *Embedded Autonomy: States and Industrial Transformation* (Princeton, NJ: Princeton University Press, 1995).



from coalitional shifts. For effective institutions to emerge, there will have to be a political consensus around what it takes to build such a state. Is there a possibility of such a consensus? Historically, it is difficult to build high-capacity states without a commitment to raising one's tax-to-gross domestic product (GDP) ratio. After adjusting for its low per capita income, India is not a significant outlier when it comes to tax revenue as a share of its overall economy. Nevertheless, compared to its fellow long-standing democracies, India has consistently under-performed, most notably when one focuses on direct taxation (such as income tax).²⁹ As such, India is in danger of being locked into a vicious circle: a low-performing state also reduces citizens' appetite to finance the state. But if citizens do not pay, the capacity constraints will only grow further. It is a sobering lesson of history that the popular appetite for taxation increases only in times of crisis or war—neither of which are outcomes to be wished for.

In the Indian case, these coalitions are likely to emerge from civil society selectively aligning with specific political parties and elements of the bureaucracy. But as India's challenges mount, the need for institutional reform is vital if the country is to build and sustain an Indian state for the twenty-first century. It is not a matter of choice, but of survival.





²⁹ Ministry of Finance, *Economic Survey 2016–17* (New Delhi: Government of India, 2016), Chapter 7.