

Bridling Central Tyranny in India

How Regional Parties Restrain the Federal Government

ABSTRACT

Successive national governments in India have invoked an emergency constitutional provision to impose direct central rule in states over 100 times since 1950. However, such central government usurpation of state governance has declined since the mid-1990s. This essay demonstrates how India's regional parties, by entering into opportunistic alliances with national parties and joining coalition central governments, have become effective barriers against central dominance. It also identifies the specific dynamics through which this effective veto power is exercised.

KEYWORDS: India, federalism, regional parties, Article 356, President's Rule

ARTICLE 356 OF THE INDIAN CONSTITUTION empowers the central government in New Delhi to suspend normal governance in any federating state and impose its own rule. Although this emergency constitutional provision was intended to be used in exceptional cases, successive central governments have invoked the article frequently—over 100 times since the Constitution was adopted in 1950—and often arbitrarily, to impose central rule in various states. The central governments often did so for political reasons, usually to dismiss opposition-ruled state governments or to prevent the opposition from forming state governments after the elections. This subverted democratic and federal principles that India affirmed and aspired. However, the frequency with which India's federal government has invoked the emergency provision has declined since the mid-1990s. For instance, in the 15 years from 1994 to 2009, there were only 11 such instances, whereas the 15 years before 1994 had witnessed 40. What has led to this decline? What factors have prevailed on the central government since the mid-1990s to stop it from imposing its rule in India's states?

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This essay relates this seeming federal restraint in invoking Article 356 to the rise of regional parties in India.¹ It posits that since the mid-1990s, regional parties have been able to bridle the central government in New Delhi both by increasing their presence in the federal cabinet and the Parliament, and by entering into opportunistic alliances with national parties. By entering the federal cabinet and the Parliament, the regional parties have brought into the central government a political orientation that was absent in the center until the mid-1990s. This political orientation has led to the fragmentation of these institutions, and introduced internal and external constraints on the central government that check the arbitrary dismissal of state governments. The opportunistic alliances have placed an additional layer of political constraints on the central government. Further, the rise of regional parties has facilitated a reassessment of Article 356 and enabled existing institutional safeguards such as the judiciary and the Indian president to restrain federal usurpation of state governance in ways these institutions were unable to do prior to the 1990s.

This thesis about how the regional parties restrain India's central government is developed and presented in three sections. First, the essay presents the pattern of central rule in Indian states. In particular, it shows how the frequent central government's usurpation of state governance has declined since the mid-1990s. The second section shows how explanations usually given for the dwindling imposition of Article 356—the decline of the Congress Party and the rise of coalition central governments—are inadequate. In the third section, the argument about regional parties and their restraining influence on the central government since the mid-1990s is presented. The section describes how regional parties have fragmented the center to restrain the government, and how the opportunistic electoral alliances joined by regional parties strengthen this restraint. The analysis shows how existing discussions of coalition governments have overlooked the crucial difference between coalitions that national parties dominated and those that survived on the support of regional parties. This section also describes how the rise of regional parties has facilitated a reassessment of national politics in India and helped restore existing institutional safeguards against the central government's transgressions. In the concluding section, the essay points to the broader significance of the findings, especially their importance in a parliamentary system.

1. Regional parties are those that win seats to the Lok Sabha from one or two states; by contrast, national parties win seats in at least three states. Lok Sabha is the lower house of the Indian Parliament.

THE PATTERN OF CENTRAL RULE IN INDIAN STATES

The Indian Constitution has strong centralizing features. Article 356 empowers the central government to dismiss elected state governments and impose direct rule in the states. The framers of the Constitution had hoped that this emergency provision would be used as a last resort, invoked only if the “constitutional machinery” in a state had failed.² To prevent the article’s arbitrary use, several institutional safeguards were set in place. First, the president of India, who makes the official proclamation of central rule in the states, can return the central cabinet’s recommendation for the imposition of central rule back to the cabinet for reconsideration if he or she finds the invocation of the emergency provision unreasonable.³ Such a presidential response is seen in India as politically embarrassing to the central government—it signals to the wider public that federal officials are misusing constitutional provisions.⁴ Second, the government, having secured presidential assent, must get the proclamation of central rule passed in both houses of Parliament within two months, failing which the proclamation ceases to be effective. This provision gives parliamentarians an opportunity to question the government’s decision and, if they find it arbitrary, vote down the proclamation. Finally, a government decision to impose central rule in any state can be challenged in the courts.

None of these safeguards, however, prevented successive central governments from imposing Article 356 in the states 103 times over nearly six decades.⁵ In a large number of these cases, invocation of the emergency provision was arbitrary.⁶ Curiously, these central government transgressions have declined

2. Bhimrao Ambedkar, chairman of the Constitution Drafting Committee, hoped that this power would “never be called into operation and that [its use] would remain a dead letter.” See government of India, *Constituent Assembly Debates, Vol. IX* (New Delhi: Lok Sabha Secretariat, 1949), p. 177.

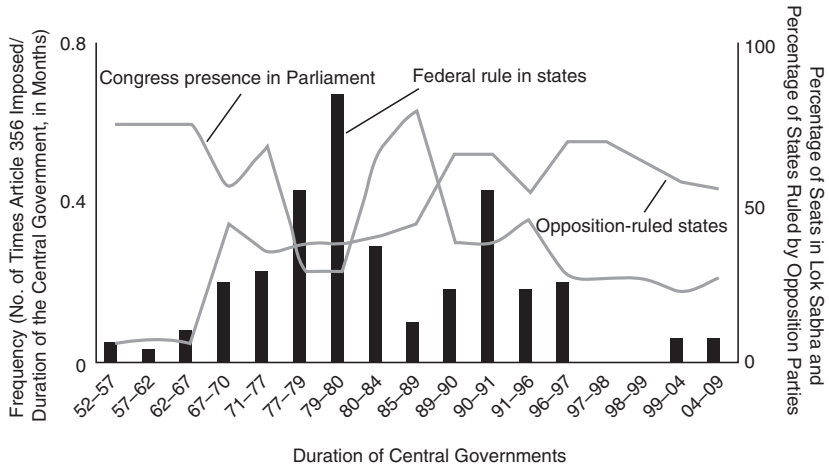
3. This safeguard was introduced in 1978. The president, however, cannot overrule a cabinet recommendation. Further, if the cabinet sends the president the recommendation a second time, the president is obliged to assent to it. The president can return a recommendation only once. In a parliamentary system like India’s, although it is the president who proclaims the imposition of federal rule, the prime minister and the federal cabinet exercise effective executive power.

4. Therefore, it takes the form of a “suspensory veto,” according to Lloyd I. Rudolph and Susanne H. Rudolph, “Redoing the Constitutional Design: From an Interventionist to a Regulatory State,” in Atul Kohli, ed., *The Success of India’s Democracy* (New York: Cambridge University Press, 2001), p. 143.

5. Data on the invocation of Article 356 in states for the period 1952–2009 was collected from Lok Sabha records and newspaper reports. This study excluded the cases where the proclamation of central rule was renewed in a state already under central rule. Such cases are treated as one instance instead of two. The study also excluded the instances of central rule in the Union Territories.

6. A government commission in the mid-1980s noted that out of the 75 cases until then, only 26 were just; in most other cases, the central government intervened either to prevent a party from

FIGURE 1. Imposition of Article 356 in the States



SOURCE: By the author, compiled from Lok Sabha records, Election Commission of India, and newspaper reports.

NOTES: The left vertical axis represents the frequency with which Article 356 was imposed, calculated by dividing the number of times a central government imposed its rule in states by the number of months the central government was in power. The right vertical axis represents in percentage the number of seats in the Lok Sabha (i.e., “Congress presence in Parliament”) and the percentage of states ruled by opposition parties (i.e., “Opposition-ruled States”). The horizontal lists the terms of various central governments.

since the mid-1990s. Figure 1 shows the frequency of federal rule in Indian states during 17 central governments since 1952.⁷ It reveals that until the mid-1990s, the institutional safeguards against the central government’s usurpation of state governance—i.e., the president, the federal legislature, and the courts—had failed. However, from the mid-1990s, we see a sharp decline in the imposition of direct central rule in Indian states.

Intriguingly, the most opportune condition for the central government to intervene, political instability in a given state, has since the mid-1990s increased, not declined, while coinciding with the decrease in federal rule.⁸ In

forming the government or dismissed the government even when it commanded majority support. See government of India, *Sarkaria Commission Report on Centre-State Relations* (New Delhi: Government of India, 1988), p. 177.

7. The frequency—the number of times a central government imposed its rule in states divided by the number of months the central government was in power—is used to make comparisons meaningful. Some central governments lasted their full five-year term; others fell within a few months. A. B. Vajpayee’s 13-day-long government in May 1996 is excluded from the study.

8. The most visible manifestation of political instability in a state is when the election there does not give any party a clear majority to form the state government. Central rule is then imposed, under

38% of the 69 state elections held between 1996 and 2009, no political party or pre-electoral coalition was able to secure an outright majority, whereas only 22% of elections held prior to 1996 yielded such a result. Despite the most inviting circumstances for direct central rule in states, successive central governments since the mid-1990s have exercised restraint.

What has brought about this restraint? What accounts for the decline in the instances of central rule in Indian states since the mid-1990s?

EXISTING EXPLANATIONS FOR DIMINISHED USE OF ARTICLE 356

Three significant arguments are usually offered as explanations for the decline in the instances of central usurpation of state governance: the decline of the Congress Party's dominance, the emergence of coalition central governments, and the assertion of institutional safeguards such as the courts and the president. Although these arguments offer us insights into the politics associated with the imposition of Article 356 and explain parts of the pattern, the picture they present, as we shall see shortly, is incomplete.

The Dominant Party Thesis

In a parliamentary system like India's, a dominant national party like the Congress Party, which formed central governments uninterrupted until 1977, can fuse the different branches of government, overwhelm institutional restraints, and centralize power. In India, this tendency is amplified by discretionary emergency powers vested in the central government such as Article 356. The Congress Party was, therefore, in a position to abuse these powers, able to dismiss opposition-ruled state governments or to dissolve state assemblies when opposition parties were poised to form state governments. Some have argued that the Congress Party did abuse Article 356 in order to systematically destabilize and remove opposition state governments, and deny them chances to form governments.⁹

The dominant party thesis explains well the instances of central rule in the states from 1952–77, the period of Congress dominance. This period can be

the justification that no party could offer stable governance. Since 1952, political instability has been the reasoning used to impose central rule in half the cases.

9. See Paul R. Brass, *The Politics of India since Independence* (New York: Cambridge University Press, 1990); Sumitra K. Jain, *Party Politics and Centre-State Relations in India* (New Delhi: Abhinav Publications, 1994).

divided into two phases. The first is an early phase of hegemonic dominance (1952–67), when the party formed governments in New Delhi and in almost all the states. Because opposition parties governed very few states in this phase, the frequency of central rule in the states between 1952 and 1967 is low—once every 18 months. A later phase of contested dominance (1967–77), when Congress formed the central government and opposition parties governed a number of states, saw an increase in direct central rule—once every four months. The dominant party thesis explains well the invocation of Article 356 during both phases of the Congress-dominant period.

What limits the persuasiveness of the dominant party thesis is that the instances of central government transgressions did not subside when Congress lost its unrivalled position in New Delhi. In fact, Article 356 was invoked with frequent regularity for almost two decades after Congress lost the general election in 1977. The other parties that subsequently formed central governments also dismissed states governed by opposition parties. Morarji Desai's Janata Party (People's Party)-led coalition and its subsequent coalition iteration led by Charan Singh that formed the central government for 22 months in the late 1970s dismissed 12 state governments. Further, in over 40% of the cases of direct central rule in states, neither the Congress Party nor any other party had a parliamentary majority. The dominant party thesis cannot adequately explain why Article 356 continued to be imposed in states even when no party had majority in Parliament.

Adding to the puzzle is the increase in the number of states governed by opposition parties. If central governments, under the Congress Party and others, used the emergency powers to dismiss opposition-governed states, such dismissals should increase when opposition parties govern more states. This, however, has not happened since the mid-1990s despite more states now being governed by parties opposed to the party in power in New Delhi. From the mid-1990s, opposition parties have governed more than half of India's states (see Figure 1 above).

The Coalition Government Thesis

A widely held influential view is that the emergence of coalition governments in New Delhi since 1989 can explain the decline in central government usurpation of state governance.¹⁰ For example, Mahendra Singh argues that

10. Rudolph and Rudolph, "Redoing the Constitutional Design," pp. 141–54. See also Mahendra P. Singh, "Towards a More Federalized Parliamentary System in India: Explaining Functional Change," *Pacific Affairs* 74 (December 2001), pp. 553–68.

central governments formed by multi-party coalitions are qualitatively different from those led by a single party because in “a multi-party system, prime ministers have to contend with the constraints of coalition and/or minority governments.”¹¹

Although the insight that coalition governments constrain the prime minister is significant, careful examination of such arrangements reveals that this is not a consistent outcome. In fact, there is little evidence to suggest that coalition governments were held back from imposing Article 356 in states prior to the mid-1990s. For example, in 1990–91, the Chandra Shekhar-led coalition government imposed direct central rule in four states in the seven months the government was in power. Again, in 1990, the National Front coalition of Vishwanath Pratap Singh imposed Article 356 in two states in its 11 months.¹² A survey of all coalition governments in fact reveals that the constraints on the parliamentary executive posited by the coalition government thesis have been effective only *since* the mid-1990s. Prior coalition governments—under Morarji Desai (1977–79), Charan Singh (1979–80), V. P. Singh (1989–90), and Chandra Shekhar (1990–91)—imposed direct central rule in the states nearly as frequently as did single-party central governments. Central rule was imposed in a state every six months under single-party central governments, and every seven months under coalition governments until the mid-1990s.

The Assertion of the Institutional Safeguards Thesis

Often linked to the coalition government thesis is an argument about the assertion of institutional checks and balances. Lloyd Rudolph and Susanne Hoeber Rudolph, for instance, argue that the emergence of coalition governments marked India’s shift from an “interventionist” to a “regulatory state.” In it, they say, a less capable, more constrained parliamentary executive created conditions allowing existing institutional safeguards against central transgressions, such as the courts and the president, to assert themselves and act independently.¹³

Institutional safeguards unmistakably gained vitality in the 1990s. For instance, in 1994, the Supreme Court of India in the *S. R. Bommai v. Union*

11. *Ibid.*, p. 558.

12. Mahendra Singh has sought to explain this divergence between the expectation of the coalition government thesis and the reality of coalition federal governments, asserting that “the rules of the game of coalition and/or minority governments were not learnt. . . .” *Ibid.*, p. 557. The present essay, however, points to other substantial reasons for this.

13. Rudolph and Rudolph, “Redoing the Constitutional Design,” pp. 141–54.

of *India* case laid down restrictions on central imposition of Article 356.¹⁴ In the mid-1990s, the Indian presidents too started sending back for reconsideration cabinet recommendations for the imposition of Article 356 in the states. However, it would be misleading to attribute these institutional assertions to the emergence of coalition governments. As we shall see shortly, not all coalition governments created conditions for these institutions to assert themselves. In fact, evidence suggests that institutional safeguards—the Parliament, the courts, and the president—failed to check the arbitrary use of Article 356 prior to the mid-1990s, both during single-party and coalition federal governments.

The legislature in parliamentary systems such as India, unlike those in presidential systems, is a feeble institution to check the power of the federal executive. The prime minister and the cabinet, which constitute the executive, are also members of the legislature and are appointed by a majority of its members. The executive stays in office, commanding the support of the majority in the legislature. Political parties reinforce this fusion between the executive and the legislature. Legislators are unlikely to challenge the executive if they share party ties. Besides partisan ties, political parties also use party whips,¹⁵ candidate selection, and campaign finance to discipline legislators to support the executive. It is therefore unrealistic to rely on a government-controlled majority in the legislature to serve as an effective safeguard against that same government. Consequently, no Indian cabinet decision to impose central rule in the states met with legislative disapproval until the mid-1990s.

Prior to that time, the judiciary too supported the central government's decision to impose its rule in the states every time it was challenged in the courts. For example, the Kerala High Court supported the central government's proclamation of direct rule in Kerala immediately after the 1965 state election, even before the state assembly could meet to form a government. The court noted that "[i]f the Parliament in its supreme wisdom, is not impressed with the constitutionality, the legality or even the propriety of the proclamation, it will not give its approval to it. It requires no exposition by

14. *S. R. Bommai v. Union of India* (1994) 3 SC 1. See Ajit Mazoomdar, "The Supreme Court and the President's Rule," in Balveer Arora and Douglas V. Verney, eds., *Multiple Identities in a Single State: Indian Federalism in Comparative Perspective* (New Delhi: Konark Publishers, 1995), pp. 160–68.

15. Party whips are officials who ensure party discipline. Whips issue instructions to party members on how to vote in Parliament.

this Court for such an action on part of the Parliament.”¹⁶ The judiciary came to similar conclusions on at least four other occasions, upholding the centralizing tendencies of various central governments.¹⁷ This judicial support for the central government continued even during coalition governments until the mid-1990s. When the Desai government’s decision to dismiss nine Congress state governments was challenged in the Supreme Court,¹⁸ the Court endorsed the central government’s decision.¹⁹ In fact, not until 1996 did a court in India revoke the central government’s invocation of Article 356.²⁰

Another institutional safeguard against the centralizing tendencies of the central government, the president, concurred with the imposition of Article 356 in every instance prior to the mid-1990s, even when the president had disagreements with the cabinet recommendation for imposing Article 356. For instance, when the Janata Party-led coalition government (1977–79) dismissed Congress state governments en masse, the acting president, Basappa Danappa Jatti—a Congress nominee—hesitated to sign the proclamation. But the government prevailed on him to endorse the cabinet decision.²¹ This trend continued even during the coalition governments in the early 1990s. For example, in 1990 the president, Ramaswamy Venkataraman, on the recommendation of the V. P. Singh government, proclaimed direct central rule in Karnataka State, despite finding no evidence in the governor’s report suggesting that state governance could not be carried out in accordance with constitutional provisions.²² A year later, in 1991, the president acceded to the Chandra Shekhar-led coalition government’s decision to dismiss the Tamil Nadu government, even when

16. See K. Suryaprasad, *Article 356 of the Constitution of India: Promise and Performance* (New Delhi: Kanishka Publishers, 2001), p. 209.

17. *Ibid.*, pp. 210–16.

18. Desai’s government, which defeated the Congress Party in the 1977 national election, contended that the Congress defeat at the federal level indicated that people had lost confidence in the Congress state governments as well.

19. Suryaprasad, *Article 356 of the Constitution of India*, pp. 214–16.

20. In 1996, the Allahabad High Court ruled the imposition of central rule in Uttar Pradesh unconstitutional and, for the first time, ordered resumption of the state assembly.

21. Shanti Bhushan, the law minister in the Janata government, later recounted how he prevailed on the president to sign on the cabinet recommendation. See Shanti Bhushan, “What Are the Indian President’s Powers?” *The Hindu*, June 6, 2006, <<http://www.hinduonnet.com/2006/06/06/stories/2006060602660900.htm>>, accessed July 20, 2009.

22. Ramaswamy Venkataraman, then president, noted the events in his presidential memoirs. See *idem*, *My Presidential Years* (New Delhi: HarperCollins, 1994), pp. 418–21. The governor is a central government appointee in the states, whose reports usually form the basis on which the central government decides to impose Article 356.

the governor had not recommended its dismissal. Ramaswamy Venkataraman, then president, later noted, “. . . it is my firm conviction that the President was not an appellate or statutory authority over the Prime Minister and it was my duty to act on the advice of the Cabinet so long as the proposed action was not violative of the provisions of the Constitution. In my view it was for the Parliament to go into the merits of the decision.”²³

It is understandable that during the Congress-dominant period, a legislature controlled by the dominant party or a president nominated by it would be a feeble safeguard against the federal executive.²⁴ But why had the constraints on the parliamentary executive not been effective against coalition governments prior to the mid-1990s in a way that the coalition government thesis posits? What has changed since then that could explain the decline in the imposition of direct central rule in the states? What has restrained the central government since the mid-1990s?

REGIONAL PARTIES AND FEDERAL RESTRAINT

The nature of coalition central governments and the crucial role regional parties have come to play in them since the mid-1990s can explain why the constraints on the executive that were ineffective in coalition governments prior to the mid-1990s have performed well since then. The coalition governments prior to the mid-1990s were dominated by national parties and did not rely on regional parties for survival.²⁵ In contrast, every central government since the mid-1990s was formed and survived in office with the crucial support of regional parties.

Two aspects of the regional parties' coalition role have helped to restrain central usurpation of state governance in India. First, their entry into the central government reoriented it politically, spurring its fragmentation in ways unprecedented in Indian politics. This has created internal and external constraints on the central government. Second, regional parties have tended to form opportunistic

23. *Ibid.*, p. 466.

24. In a period when the Congress Party is closely associated with the unity of the country and stability of governments, it is also not surprising to find the courts always siding with Congress central governments.

25. The coalition governments prior to the mid-1990s had regional parties in them, but stayed in office with the crucial support of other national parties. The Morarji Desai-led Janata coalition had Jan Sangh members in government and was supported by the Communist Party of India-Marxist (CPI[M]). The Charan Singh government survived with the support of the Congress Party. The Communist parties and the Bharatiya Janata Party (Indian People's Party, BJP) supported V. P. Singh's National Front government. Similarly, the Chandra Shekhar-led government survived in office as long as Congress supported it. Chandra Shekhar's Janata Dal faction had 60 members, and the Congress 211 members.

political alliances with national parties that have forced the latter to be cautious in imposing direct central rule in the states. These factors distinguish coalition governments prior to and since the mid-1990s in fundamental ways.

Stated a different way, focusing on coalition governments alone is insufficient to explain the decline in the instances of direct central rule in the states; the explanation needs to include the nature of the coalition governments—their key players, the political orientation they represent, and the role they play in government. How regional parties changed the nature of coalitions since the mid-1990s to check the center's use of Article 356 is what this essay turns to next.

Regional Parties in the Central Government

Through the 1990s, Indian politics witnessed the birth of new regional parties, initially with the formation of the Samajwadi Party (Socialist Party, SP, in 1992) and the Samata Party (Equality Party in 1994). This trend peaked in 1997 with the formation of the Biju Janata Dal (People's Party [Biju Faction], BJD), Rashtriya Janata Dal (National People's Party, RJD), and the Trinamool Congress (Grassroots Congress). By 1997, the regional parties had come to occupy a quarter or more of the seats in the Lok Sabha.²⁶ This increase came at the expense of national parties. Significantly, no national party since then has won more than 35% of the seats in the Lok Sabha, making every subsequent central government dependent on the support of several regional parties. Although the regional parties have increased their presence in both houses of Parliament, no single regional party has been able to secure more than 5% of the seats in the Lok Sabha. This has led to the fragmentation of the federal legislature. This fragmentation has forced the largest national party in the central government to build legislative coalitions, often involving several regional parties, to get any legislation passed including proclamations imposing direct central rule in states. As we shall see shortly, the latter has not been an easy task for central governments since the mid-1990s.

The regional parties have not just increased their presence in Parliament, but they have also been part of central cabinets since the mid-1990s. Every central cabinet since then has had ministers from five to 10 parties. This has led to increased political fragmentation of the central cabinet. Consequently, any significant cabinet decision, including the central government's takeover of governance

26. The regional parties had been increasing their presence in Indian politics since the 1980s. Until then, these parties secured less than 10% of the seats in the Lok Sabha.

in a state, has required the agreement of all the parties in the cabinet. And the regional parties have been able to veto decisions that they disapproved.

The Orientation of Regional Parties and the Fragmentation of the Central Government

Fundamental to understanding how regional parties have been effective veto players within the central government, checking it from imposing Article 356 frequently since the mid-1990s, is the political orientation of regional parties.²⁷ They have brought into the central cabinet and Parliament a political orientation that is centrifugal and favors greater autonomy for the states. This orientation has made it difficult for central cabinets and coalitions to forge agreements for the central takeover of governance in the states. The absence of this political orientation in coalitions that the national parties dominated helps us understand why the constraints posited by the coalition government thesis were ineffective in coalition governments prior to the 1990s.

The distinctions between the national and regional parties and their divergent political orientations are apparent from the structure of political competition in India. Regional political parties are electorally competitive in only one or two states. Even when some of these parties such as the Bahujan Samaj Party (Majority People's Party, BSP) and the SP have aspired to be national parties by contesting elections in several states, they have won seats only in one or two. This electoral confinement means that no regional party can form the central government on its own. These parties have, therefore, tended to focus their attention and resources on winning state elections and forming governments in the states. Consequently, regional parties have striven to carve out political space in the states by seeking greater autonomy from the central government. The politics of regional parties thus is marked by centrifugal trends. In contrast, the national parties are focused on forming the central government and have competed and won elections across the country.

This difference in political orientation between the national and regional parties in India manifests itself in various ways. First, leaders of regional parties have preferred to become chief ministers of states, even when positions in national politics were available, thus indicating their commitment to state politics. Leaders of some regional parties such as Omar Abdullah of

27. On the general theory of veto players, see George Tsebelis, *Veto Players: How Institutions Work* (Princeton, N. J.: Princeton University Press, 2002).

the National Conference (Jammu and Kashmir), Navin Patnaik of the BJD (Orissa), and Kumari Mayawati of the BSP (Uttar Pradesh) have become central ministers or parliamentarians when the opposition formed the government in their states. But these moves to New Delhi have been temporary. When their parties regained power in the states, these leaders resigned from the central cabinet or Parliament to become chief ministers. Other regional leaders like Muthuvel Karunanidhi and Jayaram Jayalithaa (Tamil Nadu), Chandrababu Naidu (Andhra Pradesh), and Prafulla Kumar Mohanta (Assam) have preferred to stay in state politics even when they were out of power in their states and positions in the central government were available to them. No leader from a regional party has taken up a position in the central cabinet or Parliament when the post of chief minister in his or her state was available. In contrast, the leaders of national parties such as the Congress, the BJP, or the Communists have not competed in state elections or taken position in the states.²⁸

Second, signaling their focus on national politics, all national parties have chosen to establish their headquarters in New Delhi, while most regional parties have located their headquarters in state capitals.²⁹ Third, further indications of the orientation of political parties come from the bargaining between the national and regional parties over seats when they have entered into electoral alliances. National parties have been willing to concede more seats to their regional allies in the state elections in exchange for a better ratio of seats in the national elections. Regional parties have complemented this: they have been willing to settle on a bargain that gives them a smaller share of seats in the national elections than in the state elections. For example, the BJP had an electoral alliance with the Shiv Sena (Army of Shiv) in Maharashtra in 2004. According to their seat-sharing agreement, the BJP contested more seats, 55%, in the national elections, giving the remaining seats to the Shiv Sena. In return, the BJP contested only 39% of the seats for the state election the same year, ceding the larger share to its regional ally. The Congress Party

28. Chief ministers of national parties are represented in the central committees of their parties. But they have not taken up leadership positions of the party at the national level. Elamkulam Manakkal Sankaran Namboodiripad and Pamulaparti Venkata Narasimha Rao, once chief ministers of Kerala and Andhra Pradesh, respectively, did not return to take up state-level positions after assuming the national leadership of the CPI(M) and the Congress Party.

29. A small number of regional parties with national ambitions such as the BSP have their headquarters in New Delhi and contest elections in almost all the states. But these parties win seats only from a state or two.

too has agreed to such seat-sharing formulae. In 2004, the party contested 80% of the seats in Kerala for Parliament, conceding the remaining ones to its regional allies, the Muslim League and the Kerala Congress. But two years later, Congress conceded 45% of state assembly seats to its regional allies.

As noted above, this divergence in political orientation is fundamental to explaining why earlier coalitions, all dominated by national parties, failed to restrain the parliamentary executive. In coalition governments since the mid-1990s, the centrifugal political orientation that the regional parties have espoused and represented has enabled them to act as effective veto players within the central cabinet and Parliament to thwart central takeovers of state governance in ways that the national parties have been unable to do.

In coalition governments prior to the 1990s, the national parties show remarkable unity in the impositions of central rule in the states. When a national party wanted to dismiss a state government, the other national parties in the alliance went along. For example, we witness no restraint from within Morarji Desai's Janata Party-led government when it decided to dismiss nine Congress-run state governments in 1977. In 1990, when V. P. Singh's National Front government imposed Article 356 in Karnataka despite the Congress majority in the state assembly, the national parties that supported the National Front did not intervene.³⁰ Similarly, in 1991 the Chandra Shekhar government dismissed the Asom Gana Parishad (Assam Peoples Association, AGP) and Dravida Munnetra Kazhagam (Dravidian Progress Party, DMK) governments in Assam and Tamil Nadu that the Congress Party—the government's main ally—opposed. Even the national parties that publicly protest the arbitrary use of Article 356, such as the Communist parties, did little to restrain their alliance partners from usurping governance in the states.³¹ The only restraint we witness in the coalition governments prior to the mid-1990s is that they did not invoke Article 356 in states governed by their coalition allies.

In contrast, since the mid-1990s we witness regional parties restraining the parliamentary executive from imposing direct central rule in states on several

30. Contemporary news magazines report that the CPI(M), which supported the National Front, "regretted the misuse of Article 356" although it did nothing to prevent it. See "Constitutional Coup," *India Today*, October 31, 1990, pp. 76–80.

31. Venkataraman noted this incongruence between public advocacy and private support for Article 356 among some national parties. He recalled how Harkishan Singh Surjeet of the CPI(M) and Jaipal Reddy of the Janata Dal pressed him to dismiss the state government in Haryana in 1991: "It is odd that these very leaders, who wanted Article 356 to be removed from the statute book, should come and plead for exercise of power under the same Article." See Venkataraman, *My Presidential Years*, p. 496.

occasions. Thus, in 1998, when the Atal Bihari Vajpayee-led coalition government wanted to impose central rule in Bihar, Tamil Nadu, and West Bengal, its regional allies in the cabinet—notably the Telugu Desam Party (Party for Telugu People, TDP) and the Shiromani Akali Dal (Supreme Immortal Party, SAD)—opposed the move.³² In the face of opposition from within the cabinet, the government decided not to impose central rule. In 2000, this restraint worked again when the Vajpayee government planned to dismiss the Communist state government in West Bengal. Despite pressures from Vajpayee's BJP and the Trinamool Congress, a BJP ally, the Vajpayee government could not dismiss the West Bengal government with other regional parties in the BJP coalition, the DMK and the TDP, opposing the central takeover.³³ Regional parties, similarly, prevailed on another coalition government, led by Congress, in 2008 against dismissing the state government in Orissa. In the cabinet meetings, the DMK and the Pattali Makkal Katchi (Working Class People's Party, PMK) strongly pressed against the imposition of central rule in the state.³⁴ The fragmentation that the regional parties have spawned in the center was apparent not only within the cabinet but also in Parliament. For example, the central government's failure to build legislative coalitions in order to pass proclamations of direct central rule was also evident in February 1999, when the legislature refused to ratify the government's effort to oust the Bihar state government.³⁵

Figure 2 shows how regional parties since the mid-1990s have fragmented the national cabinet and the two houses of the Indian Parliament.³⁶ This increased fragmentation, as can be seen in Figure 2, has coincided closely with the decline in impositions of central rule in Indian states. This correspondence is particularly striking since 1997, when the formation of the BJD, RJD, and the Trinamool Congress fragmented the center further.

32. See Alistair McMillan, "The BJP Coalition: Partnership and Power-sharing in Government," in Katherine Adeney and Lawrence Sáez, eds., *Coalition Politics and Hindu Nationalism* (New Delhi: Routledge, 2005), pp. 13–35.

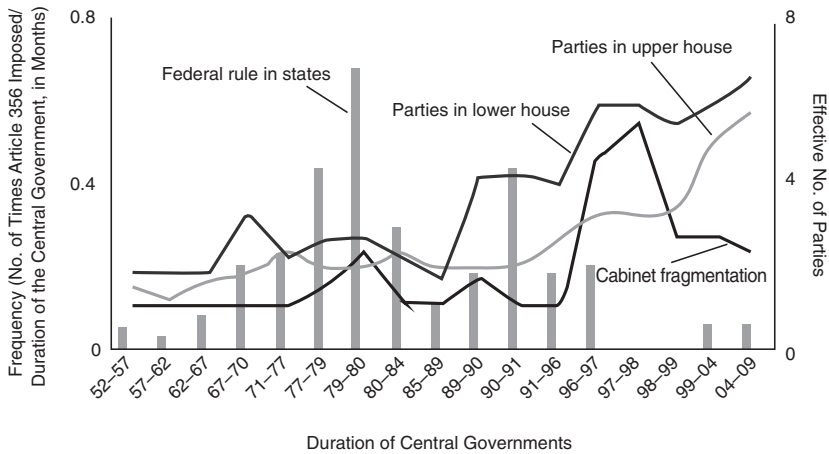
33. See Venkitesh Ramakrishnan, "The Bengal Battle," *Frontline*, supplement to *The Hindu* 17, September 30–October 13, 2000, <<http://www.hinduonnet.com/thehindu/fline/fl1720/17200300.htm>>, accessed July 21, 2009.

34. J. P. Yadav, "Demand for Art 356 Splits UPA, PM Agrees to Send Team to Orissa," *Indian Express*, October 9, 2008, <<http://www.indianexpress.com/news/demand-for-art-356-splits-upa-pm-agrees-to/371200/>>, accessed July 24, 2009.

35. See Katherine Adeney, "Hindu Nationalists and Federal Structures in an Era of Regionalism," in Adeney and Sáez, eds., *Coalition Politics and Hindu Nationalism*, pp. 97–115.

36. Fragmentation is calculated using the Laasko-Taagepera measure for the effective number of political parties. See Markku Laakso and Rein Taagepera, "Effective Number of Parties: A Measure with Application to West Europe," *Comparative Political Studies* 12:1 (April 1979), pp. 3–27.

FIGURE 2. Regional Parties and the Fragmentation of the Federal Government



SOURCE: Ibid. to Figure 1.

Regional Parties and Opportunistic Alliances

This fragmentation of the center—both in Parliament and within the cabinet—is insufficient in itself to restrain the central government. This is because the regional parties have exhibited a variable commitment to centrifugal politics and also in their opposition to Article 356. Regional parties like the DMK (Tamil Nadu), the TDP (Andhra Pradesh), and the SAD (Punjab), which have been targets of federal interventions in the past, have more consistently opposed the use of Article 356 than regional parties like the Trinamool Congress (West Bengal) or the Samata Party (Bihar). Therefore, some regional parties have called for the invocation of Article 356 as an expedient political strategy to remove their political rivals from power in the states. The Trinamool Congress, the Samata Party, and the Anna Dravida Munnetra Kazhagam (Anna’s Dravidian Progress Party, AIADMK)³⁷ had pressed the Vajpayee government in 1998 to dismiss the state governments of West Bengal (governed by the Communists), Bihar (RJD-governed), and Tamil Nadu (DMK-governed), respectively.

37. AIADMK was formed in 1972, when Maruthur Gopalan Ramachandran broke away from the DMK. The full name of the party is All India Anna Dravida Munnetra Kazhagam, yet it wins elections only in Tamil Nadu and Pondicherry.

A second attribute that many regional parties have brought into coalitions has helped counteract the expedient tactics of some regional parties and check the arbitrary imposition of central rule in the states. The regional parties have tended to join central coalitions for opportunistic reasons—to be in power—rather than ideological ones. Governments formed by such opportunistic coalitions exercise great restraint in imposing central rule in the states. This is because the national parties in such coalitions calculate the future costs of dismissing a state government formed by a party that is currently *not* part of the coalition. A party thus removed from government in a state may refuse to support the national party in forming the central government in the future. This calculation works as an effective restraint on the central government even when parties currently opposed to it form these state governments.

Opportunistic alliances, when compared to ideological ones, also tend to be fluid, with national and regional parties ever seeking new partners that would help them gain power. This is manifested in the movements in and out of coalitions that Indian politics has witnessed in the past 15 years. For example, between 2002 and 2007, the National Conference in Jammu and Kashmir, the Lok Jan Shakti Party (People's Power Party, LJSP) in Bihar, the DMK in Tamil Nadu, and the Trinamool Congress in West Bengal left the BJP to join a Congress-led alliance. Other allies—the BJD of Orissa and the TDP of Andhra Pradesh—severed ties with the BJP to ally with the Communist-led Third Front in 2009. The RJD and the LJSP, which had been members of the Congress alliance until 2009, fought against the Congress Party in the 2009 election. The Telengana Rashtra Samiti (Telengana National Party, TRS) in Andhra Pradesh left the Congress alliance in 2006 and joined the Third Front to contest the 2009 election, but then shifted to the BJP as the election proceeded.

Given this fluidity in political alliances, the national parties are often uncertain who their future allies may be. This uncertainty has made the national parties wary of antagonizing any regional party that could be a potential coalition ally. This situation has made the central government cautious (especially within the national parties) when contemplating the invocation of Article 356. Thus, in 1998, the Vajpayee government resisted pressures from its ally, the AIADMK, to dismiss the DMK government in Tamil Nadu. A year later, when the BJP's Vajpayee sought a second term as prime minister, the DMK legislators in the Parliament helped him form the government. And the DMK, although ideologically more distant from the BJP than the AIADMK,

joined the Vajpayee government; its members served as cabinet ministers. Similarly, RJD members from Bihar supported the Congress in 2004 to form the central government and served as cabinet ministers; in 2000, the Congress had opposed the dismissal of the RJD government in Bihar.³⁸

It must be noted that this central restraint does not extend to states governed by ideological rivals. Ideological alliances are characterized by rigidity and predictability. The national party that forms the federal government therefore knows who its future allies will be, and is amenable to taking over the governance in states where its ideological rivals hold power or are poised to. The BJP-led central government, for example, dismissed the RJD government in Bihar in 2000.³⁹ The Congress-led government removed the BJP government in Goa in 2005 and also imposed direct central rule in Bihar to prevent the Janata Dal (United) (JD[U])-BJP coalition from forming the state government. As alliances become more opportunistic and fluid, we can expect to see greater restraint exercised by the central government.⁴⁰

Not all coalition governments exercise restraint as the coalition government thesis posits; only those crucially dependent on regional parties for survival are likely to be constrained. The political orientation that regional parties espouse and introduce into such coalitions enable those parties to be effective wielders of veto power within the central government, fragmenting and restraining it from centralizing tendencies. These restraints are reinforced when such coalitions are opportunistic in nature. Table 1 presents the conditions under which coalition governments produce restraints on the parliamentary executive.

Exact empirical referents corresponding to every cell in Table 1 are absent in Indian politics, but the table underscores the importance of focusing on the *nature* of coalitions to understand when they can restrain the parliamentary

38. In contrast, ideological affinity has shielded some state governments from dismissal where a strong case for the imposition of Article 356 has been made. For example, the Vajpayee government refused to impose Article 356 in Gujarat during ethnic rioting in 2002. Some have argued that the Gujarat state government failed to fulfill its constitutional duties. See “Gujarat Carnage 2002: A Report to the Nation by an Independent Fact Finding Mission,” *Outlook*, April 11, 2002, <<http://www.outlookindia.com/article.aspx?215160>>, accessed July 28, 2010.

39. The RJD of Bihar is the only prominent regional party that has refused to ally with the BJP.

40. For instance, in 2010, with the JD(U) distancing itself from the BJP in Bihar, the Congress government in New Delhi refrained from imposing Article 356 even when the party’s state unit and its former allies, the RJD and LJP, pressed for dismissal of the Nitish Kumar government. See “Sniffing Opportunity, Congress Asks Nitish Kumar to Dump BJP,” *Times of India*, June 13, 2010, <<http://timesofindia.indiatimes.com/city/vadodara/-Sniffing-opportunity-Congress-asks-Nitish-Kumar-to-dump-BJP-/articleshow/6034145.cms>>, accessed July 26, 2010.

TABLE I. The Nature of Coalition Governments and Federal Restraint

| | <i>Ideological</i> | <i>Opportunistic</i> |
|-------------------------------|--------------------|----------------------|
| Of national political parties | No restraint | Limited restraint |
| Dependent on regional parties | Limited restraint | Restraint |

SOURCE: By the author.

executive. As pointed out earlier, the coalition governments that the national parties dominated have shown limited restraint in imposing Article 356. Only when regional parties play a crucial role in the survival of coalition governments are these parties able to effectively thwart central transgressions on state governance, via the veto. The opportunistic nature of the alliances that the regional parties have joined only strengthens this restraint.

Regional Parties and a New Federal System

The restraints regional parties have introduced in the central cabinet and Parliament are preceded by changes the parties themselves have undergone that have redefined the federal system in India. The regional parties initially were seen as impediments to national integration and as symptoms of incomplete nation building. The secessionist or exclusivist politics that some regional parties had followed initially contributed to this perception.⁴¹ But this has changed over the years; the regional parties have moderated their politics and gained legitimacy by showing voters that they were as competent as the national parties were in providing stable governments. These changes have created political conditions that permit reevaluation of Article 356 and revitalization of existing institutional safeguards against its arbitrary use. The most apparent of these have been the changes in the judiciary and the role of the president.⁴²

Proclamations of direct central rule in the states in India can be challenged in high courts and in the Supreme Court. Therefore, such central interventions are now subject to judicial review.⁴³ But as pointed out earlier, until the

41. The AGP, the DMK, the SAD, and the Shiv Sena are examples of regional parties that supported exclusionist or secessionist demands; the Shiv Sena still espouses exclusionist politics.

42. The coalition government thesis posits that these changes are consequent to the emergence of coalition governments in New Delhi. But, as documented earlier, the courts and the president did not curb central impositions of Article 356 even during coalition governments until the mid-1990s.

43. The Constitution of India does not explicitly provide for, nor exclude, judicial review of the invocation of Article 356. In 1975, the Congress government introduced an amendment to exclude such proclamations from judicial review. But this move was undone in 1978 through another amendment that restored the *ex ante* position. Even before the 1978 amendment, the Supreme Court, in

mid-1990s the courts had always endorsed the central government's invocation of Article 356 every time it was challenged in the courts. However, coinciding with the rise of regional parties in the 1990s, the Supreme Court of India in *S. R. Bommai v. Union of India* held that the central government could not dismiss a state government on the pretext that it could no longer offer stable governance. Stability of a state government was not to be judged by the central cabinet but by its show of majority in the state assembly. Further, to enable judicial review, the central government henceforth had to submit to the courts the full facts and information forming the grounds for the proclamation of direct central rule.

These changes marked an assertion of independence by the judiciary, made possible by the rise of regional parties. Although it may not be possible to answer conclusively the counterfactual question of whether the judiciary would have asserted itself without the rise of regional parties, there are compelling reasons to infer that this played a crucial role. By the time the Supreme Court was laying down strictures in 1994 for the imposition of Article 356, voters had signaled their approval and support for regional parties. By that year, regional parties were in power in about 40% of the states and garnered 37% of the votes in the national election.⁴⁴ In this changed scenario, the judiciary's continued affirmation of the centralizing tendencies of the central government would have led to frequent suppression of the democratic exercise and weakened the federal structure. In the *S. R. Bommai v. Union of India* case, the Court, therefore, reasoned:

We have [a] multi-party system and in [the] recent past regional parties are also emerging. So one political party would be in power at the Centre and another at the State level. In particular, when the Union of India seeks to dismiss a State Ministry belonging to a different political party, there is bound to exist friction. . . . It also generates disbelief in the efficacy of the democratic process which is a death-knell for the parliamentary system itself. It is, therefore, extremely necessary that the power of Proclamation under Article 356 must be used with circumspection and in a non-partisan manner.⁴⁵

The new judicial position was invoked for the first time in 1996, when the government in New Delhi imposed direct central rule in Uttar Pradesh to

State of Rajasthan v. Union of India, held that central impositions of Article 356 were subject to judicial review.

44. A decade earlier, the regional parties formed governments only in a few states and secured less than 15% of the votes.

45. *S. R. Bommai v. Union of India* (1994) 3 SC 1.

prevent the BJP from forming the state government. The Allahabad High Court ruled the imposition of central rule in the state unconstitutional and ordered the resumption of the state assembly. In 2006, the Supreme Court, similarly, reversed the central government's decision to impose Article 356 in Bihar, ruling the central takeover there unconstitutional.

Since the mid-1990s, Indian presidents too began asserting their right to return a cabinet recommendation for reconsideration. In 1997, the president, Kocheril Raman Narayanan, for the first time returned to the cabinet its recommendation to impose direct central rule in Uttar Pradesh, suggesting that the case for the breakdown of constitutional machinery in the state was inadequate. A year later, President Narayanan returned a similar recommendation by another central government to dismiss the state government in Bihar. Faced with presidential resistance, the central government withdrew the recommendations on both occasions. Again, in 2007, when the Congress-led government in New Delhi was considering dismissal of the Uttar Pradesh state government, President Avul Pakir Jainulabdeen Abdul Kalam was reported to have expressed his reservations about the central government's decision.⁴⁶

These assertions of independence by the judiciary and the president occurred in a new political environment engendered by the rise of regional parties. These institutional safeguards, although present prior to the 1990s, did not prevent successive central governments from arbitrarily usurping governance in the states by imposing Article 356. In a political situation where national parties formed the central government and were considered vital to guarantee political stability while regional parties and their politics were seen as destabilizing, these institutions could not assert themselves as effective safeguards against central transgressions. Theoretically, the courts and the president of India act as impartial umpires in intergovernmental disputes. But lacking any enforcement mechanism, the courts are dependent on the executive to carry out their decisions, thereby undermining their ability to check central transgressions. Furthermore, political parties, through nominating party supporters or members, have sought to undermine the

46. See Venkitesh Ramakrishnan, "Tactical Blunder," *Frontline*, supplement to *The Hindu* 17, September 30-October 13, 2000, <<http://www.thehindu.com/fline/fl2404/stories/20070309006312700.htm>>, accessed August 2, 2009; Priya Sahgal and Farzand Ahmed, "Aborted Coup," *India Today*, March 5, 2007, <<http://www.indiatoday.com/itoday/20070305/stateup.html>>, accessed August 2, 2009.

independence of the courts and the president. This situation changed in India only when politics became more competitive with the rise of regional parties. Therefore, the transformations of regional parties and their subsequent rise in the 1990s created conditions permitting these institutional safeguards to assert themselves and check the arbitrary use of Article 356.

CONCLUSION

The central usurpation of state governance in India via invoking Article 356 presented a great challenge to the country's federal system. It subverted relations between the central and state governments, and also undermined democracy. Until the mid-1990s, the institutional safeguards set in place to check the arbitrary use of the emergency constitutional provision had failed. The rise of regional parties and their entry into the central cabinet and Parliament, however, imposed political restraints on the central government. This occurred because regional parties can act effectively as veto players within the coalition central government and by forming opportunistic alliances with national parties. Additionally, the rise of regional parties has facilitated a revitalization of existing institutional safeguards, curbing the frequent central takeover of governance in the states.

These changes better explain the restraints on the central government than either the dominant party thesis or the coalition government thesis. In particular, the dominant party thesis cannot explain why over 40% of the instances of central takeovers in the states happened when no party had majority in the Lok Sabha. The coalition government thesis cannot explain why successive coalition governments of Morarji Desai, Charan Singh, V. P. Singh, and Chandra Shekhar used Article 356 as frequently as single-party governments. Nor can the thesis explain why the presidents and the courts assented to the centralizing tendencies of these coalition governments. In contrast, this article explains the decline in the central government's use of direct central rule by relating it to the rise of regional parties. Only when the support of regional parties had become crucial to the survival of the central government do we see the parliamentary executive being restrained from dismissing state governments.

Besides explaining the decline in the instances of central takeover of state governance in India, this paper has presented an argument that examined the variation *within* coalition governments and has identified the conditions

under which regional parties can act as effective veto players to restrain the parliamentary executive. This has wider significance for the study of parliamentary democracies. Parliamentary systems are characterized by a fusion of power, rather than the balance of power, among the legislative and executive that marks presidential systems. Coalition governments have the potential to increase the number of veto players within governments that could check official transgressions.

However, as we have seen, this potential need not always be realized. In the Indian case, only regional parties have been effective veto players checking the parliamentary executive from usurping state governance. As argued in this article, the political orientation that regional parties bring to a central government allows them to wield the veto to thwart centralizing tendencies. The broader implication is that when central governments are formed by coalitions with disparate political orientations, they introduce checks and balances that are otherwise structurally absent in parliamentary systems. Even when opportunistic alliances have contributed to government instability, this essay has highlighted how they help maintain and strengthen the federal balance in democratic India.