

44. Interview 99SH11B, May 18, 1999.

45. Interview 99BJ36, August 3, 1999.

46. See Andrew C. Mertha, "Shifting Legal Goalposts: Chinese Bureaucracies, Foreign Actors and the Evolution of China's Anti-Counterfeiting Enforcement Regime," in Stanley Lubman, Kevin O'Brien, and Neil Diamant, eds., *Engaging the Law in China: State, Society and Possibilities for Justice* (Stanford: Stanford University Press, forthcoming).

47. Andrew C. Mertha and Ka Zeng, "Political Institutions, Local Resistance, and China's Harmonization with International Law," *The China Quarterly* (forthcoming).

## Rethinking Institutional Theories of Political Moderation

### The Case of Hindu Nationalism in India, 1996–2004

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In March 1998, following India's twelfth general election, a coalition of sixteen parties led by the Hindu nationalist Bharatiya Janata Party (BJP) secured a majority of seats in the Lok Sabha, the lower house of parliament, and formed a national government in New Delhi. For many observers, it marked a crucial turning point in modern Indian politics. The BJP, as the front party of the *sangh parivar*, a family of militant Hindu organizations led by the Rashtriya Swayamsevak Sangh (RSS, National Volunteer Corps), escaped its erstwhile political isolation by convincing a number of smaller secular parties to join its ranks. In exchange, the BJP shelved the most contentious aspects of its agenda. Chief among them was the campaign, spearheaded by its sister organization, the Vishwa Hindu Parishad (VHP, World Hindu Council), since the mid 1980s, to build a temple for the Hindu god Ram in the town of Ayodhya in the northern state of Uttar Pradesh. The *Ramjanmabhoomi* campaign had led to the demolition of the Babri mosque, which allegedly stood on the birthplace of Ram, on December 6, 1992, unleashing the worst communal riots in India since partition in 1947.<sup>1</sup> The events in Ayodhya and their aftermath convinced most secular parties to renounce electoral alliances with the BJP. The BJP agreed prior to the 1998 election, however, to remove the Ram temple issue from its official policy platform. It also set aside other controversial proposals such as the adoption of a union civil code, which would nullify the special judicial arrangements regarding personal family laws governing various minority groups, and the abrogation of Article 370 of the constitution, which gave the disputed Muslim-majority state of Jammu and Kashmir special asymmetric rights in the union. As a result of these gestures, many commentators portrayed "the politics of social exclusion that the BJP has carried forward to new extremes [as] self-limiting in the domain of representative democracy."<sup>2</sup>

In general terms, two versions of the self-limiting thesis underwrote these confident expectations. The first, more general version was that the BJP as a party would respect the rule of law due to the general exigencies of democratic electoral politics. Committing excessive violence towards minority groups would harm its prospects at the polls.<sup>3</sup> The second, more particular version claimed that it would have to moderate its policies due to "the compulsions of coalition politics."<sup>4</sup> The inability of any single party to capture a parliamentary majority on its own after 1989 forced larger parties, such as

he BJP, to stitch together coalitions with state-based parties representing different social coalitions and policy aims for the sake of office. In sum, democratic norms, electoral pressures and coalitional bargaining would together contain the more dangerous elements of the Hindi nationalist brigade.

The communal violence that shook the western state of Gujarat in March 2002, however, wrecked such hopes.<sup>5</sup> On February 27 a train carrying Hindu nationalist cadres on their return from Ayodhya caught fire while stationed in the town of Godhra, burning fifty-eight Hindus, mostly women and children. Although the reasons for the fire remain in dispute, the events that followed are not.<sup>6</sup> Hindu nationalist gangs rampaged across the state over the next three days, razing Muslim establishments, murdering hundreds of civilians, and displacing tens of thousands of citizens. The Gujarat state government, run by the BJP chief minister and RSS full-time member Narendra Modi, failed to stop the violence. Indeed, considerable evidence mounted that key figures in his administration orchestrated the carnage. Equally disturbing, the BJP-led government in New Delhi, which now contained an even greater number of parties, dithered over dispatching the army. It also failed to arrest senior party figures in Gujarat who directed the violence. Perhaps most damaging, Prime Minister Atal Bihari Vajpayee, the allegedly moderate leader of the BJP, reportedly blamed innocent Muslim victims for "starting the fire" at Godhra. "Wherever there are Muslims, they do not want to live in peace with others. Instead of living peacefully, they want to propagate their religion by creating terror in the minds of others."<sup>7</sup>

The purpose of his statement was clear. By invoking the September 11, 2001, attack on the United States, Vajpayee sought to justify the events in Gujarat by contextualizing them within the wider perceived threat of pan-Islamic terrorism. Moreover, despite fierce international condemnation from human rights organizations, journalists, and foreign governments, the party high command later endorsed the Gujarat chief minister's dissolution of the state assembly on July 19, 2001, and his call for early elections. The election commission temporarily derailed his attempt to corral Hindu votes amidst the violence. Yet the strategy ultimately worked. On December 12, 2003, the BJP posted a stunning electoral victory, increasing its tally to 126 of 181 seats in the Gujarat state assembly. Most disturbingly, it gained its maximum share of votes in areas where the violence against Muslims was greatest.

These alarming events compel observers of Indian democracy to reconsider the self-limiting thesis. They also urge students of democracy in general to rethink the explanatory power of institutional theories of political moderation that underlie the self-limiting thesis or similar versions of it. This article addresses the issue in the following manner. First, it elucidates the centrist institutional logic that partly generates the dynamics of coalition politics in India today, which reduce the threat of militant Hindu nationalism. In particular, observers of India's coalition politics frequently point out how the federal party system, organized into distinct linguistic zones, militates against the culturally homogenizing impulses of Hindu nationalism. A variegated federalism also creates a

system with many veto points at the center that potentially allows secular parties to thwart hegemonic political designs.<sup>8</sup> However, these investigations overlook how the centrist logic of two other political institutions, its plurality rule electoral system and parliamentary form of cabinet government, work in conjunction with federalism to exert moderating pressures on Hindu nationalist politics. In particular, the dynamics of federal coalition politics in India owe much to the workings of these three preceding institutions. Distinct institutional factors explain the extent to which Hindu nationalism has been self-limiting in recent Indian politics.

Second, the article demonstrates the limits of macroinstitutional explanations in assessing the prospects of militant Hindu nationalism. In particular, such analyses overstate the moderating effects of India's federal party system, which creates divergent political incentives that may undermine collective action against Hindu nationalist excesses. In general, institutionally driven explanations risk conflating outcomes that specific decision rules produce independently with the incentives generated by these rules, which ostensibly mediate such outcomes. In doing so, such explanations underplay the range of options available to political agents within particular institutional arrangements, whose actions determine how the latter function. With these considerations in mind, this article investigates the incentives generated by the electoral system, party system, and form of government on India's coalition politics, the performance of intermediary political institutions such as the council of ministers, extraparliamentary agencies, and other government bodies, and the strategies and tactics pursued by parties in the formal political arena and on the street. While India's macro-level political institutions shaped the options facing the BJP and their secular opponents, many important outcomes depended on how different party leaders appraised the costs and benefits of these options and acted upon them.<sup>9</sup> These institutional constraints were thus less severe than previously imagined.

Third, while a federal party system, first-past-the-post electoral regime, and parliamentary form of cabinet government acting in tandem produce a centrist logic in contemporary Indian politics, this institutional configuration can not determine where the underlying center of gravity lies. Analysis of the BJP's recent tenure shows how it subverted and circumvented rules and procedures of decision making through tactics of stealth and obfuscation, framed the terms of debate and the wider historical discourse that partly constitutes the debate to its own partisan advantage, and justified and sponsored acts of intimidation and violence on the street to mobilize committed followers and introduce fear into the dense texture of everyday social life.<sup>10</sup> These strategies yielded three distinct outcomes after the BJP ascended to office in 1998. In the first, pressures by its coalition partners forced the BJP to abandon its more extreme proposals, confirming the self-limiting thesis. In the second, which occurred more frequently, different quarters of the party spoke in more than one political voice, "offering a weighted, and ambiguous, mix of appeals" that sought to legitimize Hindu nationalist claims.<sup>11</sup> In the third, the BJP defended its actions, or those taken by its political associates, against

criticism from both coalition allies and opposition parties. In doing so, the BJP exposed the opposition's strategic disarray, challenged its professed secular credentials, and altered the terrain on which politics was fought by pushing the center of gravity to the right, a development for which standard institutional explanations can not account.

### Containing Hindu Nationalism

The most important issue in the eleventh general election in April-May 1996 was the threat militant Hindu nationalism posed to the country's secular democracy.<sup>12</sup> Following the violence of partition, India's governing elite, led by the Congress party under Jawaharlal Nehru, championed secularism as a way to contain the menace of Hindu supremacy. Moreover, it saw secularism as entwined with the imperatives of India's fledgling democracy: to recognize its citizens' multiple identities, protect cultural differences through institutional accommodation, and advance the interests of historically subordinate groups in the traditional caste order. Thus, the state recognized the customary laws of minority religious communities but reformed a range of traditional Hindu practices that violated the dignity of low caste groups. The constitution established proportionally based reservations (quotas) for untouchables, or *dalits*, as scheduled castes and tribals, or *adivasis*, as scheduled tribes in legislative assemblies, educational institutions, and government services to compensate for the disadvantages suffered by these groups historically. And the center acknowledged distinct regional identities by agreeing in the 1950s and 1960s to reorganize the states along linguistic boundaries. In these ways, the principle of secularism was consistent with other political measures that justified asymmetric interventions in the name of democracy.<sup>13</sup>

The BJP challenged these principles from the mid 1980s onwards. In particular, it advocated an ideology of Hindu cultural nationalism. *Hindutva*, as central to any proper self-understanding of India, "Our nationalist vision is not merely bound by the geographical or political identity of India, but defined by our ancient cultural heritage. Hindutva is a ratifying principle which alone can preserve the integrity and unity of our nation."<sup>14</sup> The arguments that inspired this counterideology were complex. On the one hand, the BJP portrayed the Nehruvian elite as pseudo-secular for capitulating to demands for preference made by historically subordinate groups. It also castigated the Congress for violating the principle of equality among religions in the public domain and for stigmatizing the majority Hindu community as dangerous. Hence, whatever its merits, secularism in India failed strictly to reflect its western liberal conception. On the other hand, the BJP's critique of secularism also drew strength from the Congress' failure to practice its own precepts. During Nehru's rule the party avoided the language of religion in national discourse yet appealed to traditional Hindu sentiments in local electoral politics. More damaging, Nehru's daughter Indira Gandhi exploited the fears of

various minority groups in different regions, especially in Assam, Kashmir, and Punjab, for short-term political objectives in the 1970s and 1980s. Similarly reckless practices continued during the tenure of her son, Rajiv, and into the 1990s. Thus, if secularism under Nehru embodied a practical but incongruous attempt to contain the dangers of Hindu majoritarianism, the decision by subsequent Congress leaders to give explicit and equal recognition to communal identities aggravated latent contradictions and eroded its legitimacy.<sup>15</sup>

Nevertheless, the virulence of *Hindutva* gave secularists reason to defend its principal intent. Far from separating religion from politics, the BJP advocated an ideology that endangered India's cultural heterogeneity. It espoused the maxim of "one nation, one people, one culture," which promoted a Sanskritized and hierarchical version of Hinduism, as central to the national political imagination.<sup>16</sup> Moreover, it sought to reverse legal measures that recognized cultural differences and to infuse religious intolerance into the dense texture of everyday social relations. In the name of restoring Hindu honor, zealots belonging to the VHP demolished the mosque in Ayodhya on December 6, 1992. The specter of violence convinced many that allowing the BJP to seize national power would tear the social fabric of the country apart.

Hence the quandary facing the BJP prior to the 1996 general election was straightforward. Divisions existed within the party between pragmatists, who adopted a relatively strategic attitude towards Hindu nationalism, and ideologues, many of who were disciplined and stalwart members of the cadre-based RSS. Moreover, the pressures and opportunities of electoral politics and democratic rule exposed tensions between the BJP and its *sangh parivar* associates. The party's decision in the mid 1980s to forsake relative moderation and hitch its ambitions to the *Ranjana madhoomi* movement reflected genuine support among hardline sections within the party. But it was also a question of strategic political judgment: the party benefited from the VHP's organizational capacity to mobilize Hindu sentiment through public spectacles and mass processions.<sup>17</sup> Similarly, the compulsions of office drove the BJP towards ideological compromises that its partners, operating largely outside of the constraints of the formal political arena, were averse to striking. The party high command's decision to nudge its ethnoreligious campaign during the 1993-1995 state assembly elections failed to prevent heavy electoral losses.<sup>18</sup> But the move revealed its awareness of the liability of being associated with excessive communal violence at this juncture.

The BJP responded to this dilemma with a two-pronged strategy.<sup>19</sup> On the one hand, it campaigned on its Hindu nationalist platform. It promised to adopt a union civil code, abrogate Article 370, and construct a temple on the site of the razed mosque in Ayodhya to "restore to [the] state its authority . . . its honor and its prestige."<sup>20</sup> Domestically, it promised increased defense expenditure and a more aggressive posture towards militant insurgencies in the North-East and Jammu and Kashmir.<sup>21</sup> Internationally, it pledged to break with India's long-standing policy not to exercise its nuclear option.<sup>22</sup> However,

while certain BJP politicians and their collaborators in the RSS, VHP, and Bajrang Dal expressed antagonism towards minorities in local electoral campaigning, the party high command adopted a more urbane tone in the national media. It chose Atal Bihari Vajpayee, with an image of moderation, as parliamentary leader.<sup>23</sup> Vajpayee's demand for probity and stability in government and greatness in international affairs appealed to urban middle classes weary of corruption and apprehensive of the rising political demands of historically subordinate groups.<sup>24</sup> Finally, the BJP forged electoral alliances with a few state-based parties in their home regions: the Shiv Sena in Maharashtra, Haryana Vikas Party (HVP) in Haryana, and Samata Party (SAP) in Uttar Pradesh and Bihar. Tactical provincial considerations, to defeat their erstwhile political colleagues in the Janata Dal (JD), rather than genuine ideological affinities, informed the decision by the latter two parties. Yet the BJP's willingness to devise these pacts foreshadowed its capacity to alter strategy for the sake of office.

These various decisions paid electoral dividends. The BJP captured slightly over 20 percent of the national vote, driven by the support of upper class, high caste, and urban elites in northern India, and 161 out of 543 parliamentary seats to emerge as the single largest party in a fragmented Lok Sabha. Its frontrunner status convinced a faction of the Shiromani Akali Dal (SAD-Badal) to join its alliance, bringing its tally of seats to 195. President Shankar Dayal Sharma invited Vajpayee, citing his leadership of the single largest party, to demonstrate a credible parliamentary majority within two weeks.

Yet a parliamentary majority proved elusive. A minority alliance of state-based parties, dubbed the United Front (UF) coalition, coalesced following the polls with the support of the Congress party, its principal rival in many regions. The main danger to the UF was that one or more of its constituents or supporters would cross the floor because of the accoutrements of high political office: to tempt them, Vajpayee vowed to abandon the party's most controversial pledges during his ministry's tenure in power. Many observers expected these last-minute gestures to succeed. Yet not a single party or faction defected from the UF. Thwarting the march of Hindu nationalist forces remained their principal aim. Vajpayee had to resign before the vote of confidence was taken. The first BJP-led ministry at the center lasted a mere thirteen days.

For secularists, the formation of the UF was a critical political victory. Its durability was questionable, however. The UF contained thirteen parties with divergent political agendas and bases of support; several were also prone to internecine struggles. These factors threatened conflicts of interest that would overwhelm the coalition. Moreover, its minority parliamentary status exposed it to the whims of its outside supporters, most importantly, the Congress party. Skeptics believed that it was only a matter of time before the experiment failed. Although it endured longer than expected, such pessimism eventually proved accurate. In November 1997 the Congress party withdrew its support from the UF in a bid to regain office, forcing the twelfth general election.<sup>25</sup>

### The Shifting Political Strategy of the BJP

During the tenure of the UF, the BJP's ruling elite agreed to shelve its three most controversial measures: abrogation of Article 370, the imposition of a union civil code, and the construction of a temple in Ayodhya. It also softened its public image by reining in more extreme voices of the *sangh parivar*. Crucially, these concessions allowed it to strike electoral pacts with many state-based parties, the vast majority of which agreed for purely instrumental reasons, to defeat various political opponents in their respective arenas.<sup>26</sup>

How can this change be explained? Most commentators argue that the dynamics of India's coalition politics forced the BJP to moderate its stance. Although not incorrect, this explanation discounts the underlying institutional framework that partly generated these compulsions: the combined interactive effects of the country's electoral system, a federal party system organized into distinct linguistic zones, and a parliamentary form of cabinet government. First, the electoral system enables parties with wide electoral appeal to win a majority of seats without securing a majority of votes. In the context of deep electoral fragmentation that characterized India in this period, it created strong incentives for parties to occupy the center of gravity in politics through consensual political rhetoric, moderate programs of action, and strategic multiparty alliances. Whether party leaders recognize these incentives, and how they respond to them, depend on their strategic political judgment and room for maneuver. The BJP high command failed to appreciate this electoral logic sufficiently prior to the 1996 general election. Its debacle in office persuaded it to change tack. In contrast, its main political rival, the Congress party, whose presence across the country made it the party to beat, refused to adopt a similar course of action at this juncture.

Second, a parliamentary form of cabinet government tends to induce political moderation.<sup>27</sup> Unlike presidential systems, parliamentary cabinet governments produce collegial executives whose survival in office also depends on the confidence of parliament.<sup>28</sup> Whether cabinet decisions reflect collective responsibility and whether parliament holds the executive to account are open questions.<sup>29</sup> But in the context of multiparty executives no single party can impose its will. The distribution of posts and determination of policies require negotiation among distinct political interests. Consequently, despite being the single largest party in parliament, the BJP could secure a mandate to govern only through explicit power sharing.

Third, a federal party system designed along linguistic lines engenders the development of vernacular public spheres over time. To some extent the UF, which consisted of three major blocs, symbolized this reality. The Communist Left Front played a critical role in forging the alliance. The parties of the National Front (NF) promoted the interests of middle and lower caste groups that *Hindutva* sought to suppress. Equally, the Federal Front (FF) encompassed regional parties, which represented middle and lower caste interests in non-Hindi speaking states in the south and east, and also opposed the cultur-

ally uniform agenda of the BJP. Concerted political mobilization played a critical role in building these political formations. However, as mentioned earlier, their politics was also a long-term function of measures implemented after independence to create a secular federal democracy. The most important consequence of these reforms was the emergence of multiple and overlapping political identities that contested any singular national identity. The identity of specific parties' main political rivals in their respective domains, the issues that animated their political contests, the social groups over whom they competed for votes and loyalty, and the languages through which these various political struggles were conducted, all of these differed across the union. In sum, the BJP realized that it had to extend its electoral appeal beyond northern India and privileged social groups to share executive power. Only by shelving its controversial proposals could it attract support from political opponents to form a majority-winning coalition.

The decision to moderate its stance reaped great dividends in the 1998 general election.<sup>30</sup> The BJP, whose popular vote rose to 25 percent, captured 179 seats to emerge again as the single largest party. By crafting a larger multiparty coalition, however, it secured another seventy-two seats, just shy of a parliamentary majority. After convincing several erstwhile members of the UF that it would exclude militant *Hindutva* measures from government policymaking, the BJP-led National Democratic Alliance (NDA) won the confidence of parliament. The party of Hindu nationalism, by temporarily renouncing its notorious ideological proposals, captured national office.

### Overriding Strategic Problems

The victory of the BJP seemed to vindicate arguments put forward that electoral compulsions and coalition pressures would force the BJP to moderate its politics. The party coauthored a national agenda for governance with its allies. It conceded several important ministries and parliamentary berths to its coalition partners.<sup>31</sup> Of course, as the largest party in the coalition, it retained control over many key posts: the prime, home, and foreign ministries and critically, as later events would show, the senior and junior portfolios for human resources development and information and broadcasting. Yet many politicians with strong RSS links were relegated to junior cabinet posts, driving a frustrated party functionary to lament that, "although we are the largest party in the ruling coalition at the Centre, we also seem to be the weakest. Consider, after all. . . the compromises we made on one issue after another."<sup>32</sup> Indeed, the BJP confronted two overriding strategic problems.<sup>33</sup> First, in order to escape political isolation, it expanded its social and regional bases of support through skilful coalition making and programmatic compromises. The cost of maintaining ideological purity was certain political defeat. Its first strategic problem defied simple resolution, however, since it was interwoven with a second. The BJP could not ignore hardliners within the *sangh parivar*

since these very elements distinguished its politics and mobilized political support on the streets. Moreover, these cadre-based ranks, given their considerable doctrinal austerity, were unlikely to accept indefinite political compromises. Indeed, they applied constant pressure upon the BJP to fulfill their demands. Consequently, the oscillation between strategies of moderation and militancy that mark the history of the Hindu nationalist movement became heightened, or were transformed into an inherent tension, in the context of federal multiparty coalitions.<sup>34</sup>

There were moments during the NDA's first term in office (March 1999–April 1999), which prematurely fell due to self-interested machinations, when secular parties blocked attempts by the BJP to introduce communal policies.<sup>35</sup> The exigencies of federal coalition politics constrained the politics of *Hindutva* on these occasions.

However, the BJP pushed ahead with its partisan agenda in several other instances. Moreover, the capacity and willingness of secular political forces to stymie Hindu nationalist maneuvers diminished during the tenure of the second BJP-led coalition (October 1999–January 2004), which came to power after winning the thirteenth general election in September–October 1999 in the wake of the Kargil war with Pakistan.<sup>36</sup> The disarray of the opposition was partly to blame. Yet the communalization of politics during this period was also due to the ability of Hindu nationalist forces to outflank the opposition and shift the center of gravity toward their own agenda by subverting or circumventing conventions and procedures of rule through tactics of stealth and obfuscation, manipulating the terms of debate and the wider historical discourse that constitutes such debates to their own partisan advantage, and condoning and sponsoring acts of intimidation and violence on the street, which mobilized committed followers while introducing fear into everyday social life

### Shifting the "Center" of Politics

**Case Study 1: Communalizing National Security** Demonstrating the role of the BJP in transforming national security doctrine and assessing the transformation in negative terms require considerable nuance. Genuine security concerns seemed to validate the more aggressive stance taken by the BJP-led NDA governments during this period regarding nuclear policy and relations with Pakistan. Mounting international pressure by the U.S. on India to sign the Comprehensive Test Ban Treaty made its ambiguous nuclear status more difficult to maintain. The infiltration of Pakistan-backed guerillas across the line of control in Kashmir, belatedly detected by Indian security forces in the town of Kargil in May 1999, along with assaults by Pakistan-based insurgents on the state legislative assembly in Jammu and Kashmir and the Indian parliament in October and December of 2001, made heightened troop mobilization inevitable. Indeed, despite these circumstances, Prime Minister Vajpayee participated in high-level summits in Lahore in February 1999 and Agra in July 2001 with his counterparts in Pakistan to

improve bilateral relations; relatively free and fair state assembly elections also took place in Jammu and Kashmir. Nevertheless, the BJP high command also framed all these events, creating a political climate that served Hindu nationalist claims.

The decision to test India's nuclear capabilities in May 1998, marking a decisive break in national security doctrine, was the first example. Although the technological ambitions and political influence of the atomic energy and defense research establishments, along with shifting perceptions of national security interests, significantly influenced the decision, and the BJP had pledged to acquire nuclear weapon status, a long-held symbol of Hindu pride, in its 1998 election manifesto, the timing of and obfuscation surrounding the tests revealed how the BJP exercised its authority amidst the entanglements of domestic coalition politics.<sup>37</sup> Its public justification also furthered Hindu nationalist designs.

Shortly after coming to office, the defense minister, George Fernandes, a coalition ally, announced the government's intention to establish a national security council to undertake a strategic defense review. This step was important, given that various opposition parties as well as NDA members were ambivalent towards altering India's nuclear doctrine. The opposition asserted that any major decision constitutionally would require the confidence of parliament. Yet the government ignored these calls. It made no attempt to set up a national security council, nor was the cabinet informed of the decision to test. In fact, senior RSS leaders, consulted by Prime Minister Vajpayee after his ministry came to power, knew of their timing before the defense minister. Their overwhelming extraconstitutional influence and frustration with compromises imposed by coalition allies encouraged Vajpayee to act decisively.

Following the tests, the BJP skilfully manipulated debate for partisan advantage. The national euphoria that accompanied the tests complicated the position of opposition parties. The Congress reproached the BJP for assuming total responsibility for the tests, highlighting the role of earlier Congress administrations in nuclear policy research and the intention to test by the last Congress government in 1995. Others, such as the UP foreign minister Inder Kumar Gujral, claimed that his ministry would also have exercised the nuclear option if the Congress had not prematurely toppled it in 1997.<sup>38</sup> In short, by construing the tests a "national triumph" but claiming responsibility for them, the BJP effectively portrayed itself as the guardian of the nation.<sup>39</sup> It provoked the opposition into a defensive position. The question whether the decision was desirable, on either strategic or ethical grounds, was simply not raised. To question the tests amidst popular euphoria was to risk being labeled as "antinational," a risk that proved too daring for any party to take.<sup>40</sup> The decision by Pakistan to retaliate by testing its nuclear devices a fortnight later, amidst threats by the hawkish BJP Home Minister L. K. Advani to escalate the conflict in Jammu and Kashmir, heightened military tension on the subcontinent and compelled foreign intervention.

Tension persisted until both sides agreed under American pressure to resume bilateral negotiations at the foreign secretary level in October 1998, occasioning a summit

between Vajpayee and Nawaz Sharif, his counterpart, in February 1999. The Lahore Declaration raised hopes that both sides would normalize relations and negotiate over a resolution in Kashmir. But the infiltration of Pakistan-backed guerrillas across the line of control, belatedly detected by Indian security forces in the town of Kargil on the Indian side in May 1999, caused an outbreak of heavy shelling, air strikes, and serious casualties on both sides. Claims that Pakistan's armed forces chiefs were considering nuclear devices compelled U.S. intervention to halt the first ever ground war between two declared nuclear weapon states, and to force Pakistan to withdraw its troops by July.

The BJP, facing the thirteenth general election in September 1999, mobilized patriotic support over Kargil to bolster the NDA at the polls. The deceit at Lahore embarrassed Vajpayee and damaged his credibility with hardliners in the *sangh parivar*. But it licensed the BJP to define national identity toward Pakistan, whose existence and sponsorship of "cross-border terrorism" in Kashmir embodied India's external "Muslim threat," a charge with clear political reverberations in domestic communal politics. Significantly, it also allowed the BJP to ignore India's role in fomenting the Kashmiri insurgency through its systematic and conscious policy of undermining democratic institutions and federal autonomy provisions in the region.<sup>41</sup>

After the October 1999 coup in Pakistan by General Pervez Musharraf and the subsequent hijacking of an Indian Airlines flight by Pakistani-sponsored militants two months later the BJP exploited the creeping estrangement between the U.S. and Pakistan by demonizing the latter in major international fora.<sup>42</sup> Prime Minister Vajpayee still pursued diplomacy by agreeing to host Musharraf in the north Indian city of Agra in July 2001, where bilateral engagement was renewed without altering either country's stance over Kashmir.<sup>43</sup> Yet the *détente* was temporary. The September 11, 2001, attacks on the U.S. furnished a pretext for the home minister to ban the Students' Islamic Movement of India by linking them with Kashmiri insurgents, the Taliban, and Al-Qaeda and to extend the Armed Forces Special Powers Act in Jammu and Kashmir. The subsequent October attack on the Jammu and Kashmir state assembly in Srinagar by the Islamic militant group Jaish-e-Mohammed and the December assault on parliament in New Delhi by its sister organization Lashkar-e-Taiba necessitated heightened security measures. But these attacks also enabled the BJP to push through the Prevention of Terrorism Ordinance, which many independent observers denounced for violating the constitution, and intimidated opposition parties into submission.<sup>44</sup> It also prompted New Delhi to put its troops on full alert along the line of control in the winter of 2002, leading to an alarming military standoff, which again compelled American intervention to avert a possible nuclear exchange.

In sum, India's security concerns were real, and resolution of the conflict in Kashmir remains an extremely vexed question. The success of the state assembly elections in Jammu and Kashmir in October 2002, which observers declared competitive and fair, and efforts by Prime Minister Vajpayee during his tenure to resume dialogue with both Kashmiri secessionist groups and the Pakistani leader General Musharraf, raised politi-

cal hope. However, these events occurred alongside a shift in the terms of debate over Indo-Pakistani relations, which the BJP adroitly moved toward its own programmatic terrain. Commentators appraised the vilification of Pakistan following Kargil as evidence that Hindu nationalists now "only" sought to focus their ire "against foreign enemies."<sup>45</sup> To be fair, such judgments were made prior to the anti-Muslim pogrom in Gujarat. Yet they illustrate how the BJP exploited an opportunity to frame a complex external conflict through Hindu nationalist rhetoric. Many observers underestimated a temporary strategic change for ideological moderation and discounted the tensions it stoked in the *sangh parivar*, which erupted thereafter in the domestic political arena.

**Case Study 2: Hinduizing Educational Policy** The importance given to educational policy by the BJP was evident from the appointment of stalwart Hindu nationalists to key cultural portfolios in both NDA administrations. The party sought to reinterpret Indian history in line with key *Hindutva* assertions through the revision of textbooks, introduction of curricula, and reconstitution of important educational bodies. In particular, the BJP attempted to refashion the study of history into Hindu versus non-Hindu eras of rule in which the authenticity and achievements of the former were set against the alleged foreign import, anti-Hindu practices, and historic failures of the latter. Of equal importance, the reinterpretation of history was crucial to justify key Hindu nationalist aims in the present.

Initially these activities met opposition. In October 1998 the national human resources development ministry, led by the *Hindutva* ideologue Murlī Manohar Joshi, convened a conference of state education ministers and secretaries in New Delhi to consider ways of improving primary and secondary school curricula. The conference schedule included a presentation by P. D. Chitlangia, a senior representative of the Vidhya Bharati, the RSS's educational arm, and a proposal to sing a hymn to Saraswati Vandana, the Hindu goddess of learning, instead of the Indian national anthem. Moreover, the preconference working papers included an experts' report, taken from the August 1998 session of the Vidhya Bharati's All-India Conference, that advocated a more "Indianised, nationalised and spiritualised" curriculum.<sup>46</sup> The report sought to incorporate the Vedas and Upanishads (ancient Hindu texts) into basic school teaching and to make Sanskrit compulsory. It also proposed constitutional amendments to Article 30, which grants minority religious groups special educational dispensations. In short, Joshi sought to extend *Hindutva* into the mainstream.

His attempt was unsuccessful on this occasion. The minorities commission objected to amending Article 30. Regional party leaders, including several NDA constituents, denounced the agenda and threatened to boycott the opening forum. Their fulminations worked: Joshi rescinded the controversial measures. This early incident demonstrated the ability of secular parties to check Hindu nationalist initiatives in formal political gatherings that required collective authorization.

The human resources development ministry was increasingly able to implement its decisions during the second NDA administration, however. In June 1998 it reconstituted the Indian Council of Historical Research by appointing figures implicated in the *Ramjanmabhoomi* campaign, even though the World Archeological Conference had accused several of them of lacking professional integrity.<sup>47</sup> Joshi justified his decision against protests by prominent Left historians by claiming that scholars with Communist sympathies had dominated earlier councils. In February 2000, the council pressured Oxford University Press to withdraw two volumes in the *Towards Freedom* series on the anticolonial movement on grounds that a previous volume displayed academic shortcomings.<sup>48</sup> The reason was political, however. The commissioned volumes, edited by the distinguished Marxian historians Sumit Sarkar and K. N. Pannikar, revealed the failure of the RSS to contribute to the anticolonial movement against the British. In November 2000 the National Curriculum Framework for School Education departed from previous secular guidelines by acknowledging that "religion was the foundation of all social values" and that Hinduism deserved prominence as the majority religion.<sup>49</sup> Less than six months later the university grants commission approved the introduction and funding of university-level courses in Vedic astrology, an attempt to restore Hindu pride by demonstrating how Aryan civilization was central to India's historical achievements.<sup>50</sup> In May 2001 an expert committee of the National Council for Educational Research and Training, staffed by Hindu nationalist sympathizers, decided to remove particular textbooks from the curriculum of higher secondary school history. Significantly, it selected textbooks written by several noted scholars whose research undermined many historical claims made to legitimize *Hindutva*. As these examples make clear, the desire to censor uncomfortable revelations about the newly self-appointed guardians of the nation was part of a broader political effort to Hinduize India's historical imagination on various fronts. Although the rewriting of history would come to fruition only in the long term, it was integral in justifying the agenda of militant Hindu nationalism in the present.

**Case Study 3: Defending Communal Violence** Lastly, the most disturbing example of how the BJP escaped the centrist institutional logic of Indian politics was the tendency of its associated organizations' cadres to propagate a Hindu public morality and evade the rule of law in states where they committed violence against minority communities. Crucially, the BJP high command either condoned or defended most of these activities, which culminated in the brutal anti-Muslim pogrom in Gujarat in March 2002.

Despite shelving controversial political measures, Hindu nationalist organizations continued to denigrate Muslims and police allegedly anti-Hindu sentiments in the state of Maharashtra, ruled by a BJP-Shiv Sena combine, after the first NDA administration assumed office in 1998. Activists belonging to the Shiv Sena, a Hindu chauvinist party of regional origin, regularly intimidated prominent Muslim artists and disrupted cultural

performances that purportedly displayed anti-Hindu sentiments.<sup>51</sup> For example, in November 1998 its foot soldiers attacked *Fire*, a film that explored the theme of lesbianism within the context of an extended family household in urban India and that had passed the national censor board.<sup>52</sup> Shiv Sena activists vandalized cinemas showing the movie in Mumbai and New Delhi; the police reportedly failed to intervene. The vandalism forced authorities in both cities to postpone screenings indefinitely and recommend its reappraisal by the censor board. In January 2000 the VHP and the Bajrang Dal responded in similar fashion to a related film, *Water*, being produced in the state of Uttar Pradesh.<sup>53</sup> These interventions fulfilled their original intent. Vigilante-style tactics on the street and official complicity by governing authorities undermined the right to express views critical of Hindu nationalism in the public sphere.

More serious transgressions of law, however, occurred in Maharashtra with respect to communal violence. In spring 1998 the ruling BJP-Shiv Sena state administration failed to extend the investigation of the Srikishna Commission Report, which had been established to inquire into the causes of the Mumbai riots in December 1992–January 1993 following Ayodhya. The administration, which received the report in February 1998, delayed its release until the statutory six month deadline in August. Upon doing so, it labled a response in the state legislative assembly that rejected the report for its “pro-Muslim, anti-Hindu” bias.<sup>54</sup> The reason was obvious: the report accused the Shiv Sena leadership of instigating a frenzy of violence against Muslims. Opposition parties demanded the BJP chief minister’s resignation and petitioned the center to prosecute all figures accused of complicity. But the home minister, L. K. Advani, claimed that the report failed to provide sufficient grounds to dismiss the state government; he also argued that its findings were not legally binding. Thus, the instigators of Mumbai’s worst communal violence since partition escaped with impunity.

Nevertheless, Hindu nationalist organizations avoided targeting Muslims within India during the NDA’s first spell in office. Yet the compulsions of coalition politics failed to deter them from terrorizing other religious minorities, such as Christians. Acts of intimidation, harassment, and violence commenced in summer 1998. Churches were desecrated; nuns and priests were attacked and murdered; and corpses were exhumed in the tribal belt of Gujarat, Bihar, and Madhya Pradesh. Although never proven, many suspected the VHP’s involvement after its central secretary defended the atrocities as “expressions of the anger of patriotic Hindu youth against anti-national forces” and a “direct result of the conversion efforts” of Christian missionaries.<sup>55</sup> Seeking to contain the damage, the VHP general secretary condemned the attacks but not his colleague’s remarks. The BJP, which tried to distance itself, failed to take any action at all.

The BJP’s failure to rein in the VHP encouraged subsequent attacks in autumn 1998, and violence escalated in January 1999.<sup>56</sup> These further acts compelled the prime minister to criticize the VHP, which officially denied involvement, and the Gujarat state administration, run by the BJP, to round up a few local activists. Yet Vajpayee rejected demands by the opposition to impose central rule, as constitutionally permitted under

Article 356, as “politically motivated.”<sup>57</sup> Moreover, he suggested holding a national debate on the desirability of conversions. Indeed, the home minister, following the murder of an Australian Christian missionary and his two sons, rejected significant circumstantial evidence of the Bajrang Dal’s involvement and stated that overseas donors were promoting Christian missionary activity in India.<sup>58</sup>

The effect of such prevarications was clear. Unable to enact a uniform civil code through parliament, Hindu nationalist organizations increasingly sought to target minority religious communities either unilaterally or in connivance with the BJP. However, the complicity of local and state administrations, commission of irregularities during the investigations, and reluctance of the BJP at the center to crack down on extremists allowed the perpetrators of these crimes to remain at large. The BJP’s coalition partners expressed dismay at these events but failed to threaten the NDA’s survival for reasons of cynical self-preservation. Toppling the NDA from within would bring the Congress, the chief electoral rival of many allies, to office; Christian minority groups, which comprise approximately two percent of India’s population, were not significant enough in electoral terms to justify pulling down the government.<sup>59</sup>

The preceding trends reached their nadir with the anti-Muslim pogrom in Gujarat in March 2002. The role of the BJP state government in orchestrating the carnage, combined with the party high command’s defense of the chief minister, N. Modi, was manifestly evident. Indeed, it was only the landmark judgment of the election commission in August 2002, which declared that holding elections was impossible in the circumstances, that temporarily derailed Modi’s plans.<sup>60</sup> The commission also stopped him from exploiting Hindu religious processions, such as the Ganesh festival, as vehicles of mobilization, which spurred him to denounce various state institutions and personnel and opposition parties.<sup>61</sup> For instance, the chief minister dismissed the censures of the chief election commissioner, James Michael Lyndogh, as anti-Hindu. Modi alleged that Lyndogh’s Christian name showed his political sympathies for the Italian-born Congress party leader, Sonia Gandhi.<sup>62</sup> He branded the alleged perpetrators of the fire at Godhra as “terrorists” and accused the opposition of being weak on national security and sympathetic to the Pakistani leader General Musharraf, branding the BJP’s patriotic image after the Kargil war. Indeed, he justified the squalid refugee camps that housed thousands of displaced Muslim citizens by invoking the fear that ostensibly high fertility rates among Muslims endangered the Hindu community’s future. “What shall we do? Run relief camps for them? Do we want to open baby-producing centers?” Elements within the BJP high command and some NDA partners expressed public consternation.<sup>63</sup> Yet not a single coalition ally extracted a major political concession from the NDA, let alone defected from it, even though Muslims constituted a sizable electoral base in many regions.<sup>64</sup>

The chief minister’s attempt to corral Hindu votes amidst the violence ultimately worked. On December 12, 2003, following a supreme court order to hold elections



before the end of 2002, and despite its lackluster policy record and recent electoral losses in municipal elections and by-elections, the BJP won 126 of 181 seats in the Gujarat state assembly. Its aggregate seat tally underscored its long-standing dominance in the state.<sup>65</sup> Yet commentators also noted that its vote share was highest in areas where the bloodshed was greatest, disproving the view that excessive communal violence would damage its electoral prospects.

The decisive political defeat of the BJP in the fourteenth general election in May 2004, which returned a Congress-led coalition to power, might be construed by some as evidence of the belated self-correcting tendencies of India's centrist democratic regime. Despite a campaign strategy that stressed economic growth and downplayed communal issues, the NDA's national vote share fell from over 40 percent to under 36 percent, while its parliamentary seats fell from 300 to 189. The fortunes of the BJP reflected this downward trajectory. Its vote share decreased from under 24 percent to just over 22 percent, while its seats declined from 182 to 138. Yet this general outcome, similar to other national electoral verdicts in India in the 1990s, was an amalgamation of many state-level contests in which a multiplicity of factors played a role. To some extent excessive communal violence hurt the BJP and its smaller coalition partners in various states, but other factors, such as protests against rising social inequalities, shrewd coalition making by the Congress, and poor campaign tactics by the BJP, assumed greater significance in the end.<sup>66</sup> Hence the return to power of a non-BJP-led alliance at the center can not easily vindicate the self-limiting thesis.

### Concluding Remarks

It is clear that India's democratic regime constrained the extent to which Hindu nationalist forces could fully pursue their extreme political designs after capturing national office in 1998. Attempts by the *sangh parivar* in January 2000 to press the national commission reviewing the constitution to explore the merits of a presidential system testify to the centrist logic of its macro-level political institutions.<sup>67</sup> The necessity of sharing executive power in a parliamentary cabinet government forced the BJP to shelve controversial policy measures: the electoral system generated incentives in a fragmented field towards accommodative coalition making; the linguistically zoned federal party system created vernacular public spheres that countered the homogenizing political thrust of *Hindutva*. Furthermore, intermediary political agencies, notably, the election commission, supreme court, and presidency, worked to reinvigorate institutional capital and check undemocratic excesses in the electoral party system.<sup>68</sup> In short, the desire of Hindu nationalist organizations to escape these constraints testifies to the safeguards of the present institutional set-up, whose achievements are striking in comparative historical perspective.<sup>69</sup>

Furthermore, a variety of factors explains why the violence erupted in Gujarat and not elsewhere. Historically, Gujarat has experienced the greatest level of communal violence compared to other states.<sup>70</sup> It constitutes the laboratory of *Hindutva*, where a long-term militant strategy of stigmatizing non-Hindus, mobilizing for power along ethnoreligious lines, and expanding a network of activists has reaped greatest dividends.<sup>71</sup> These factors led to the dominance of the BJP in Gujarat over the last decade. Indeed, its legislative majority during the anti-Muslim pogrom ensured that it could act at the state level with impunity. These conditions are less prevalent in other regions.

Nevertheless, the fact that most commentators believed the anti-Muslim pogrom in Gujarat would not occur due to the exigencies of federal coalition politics forces a reassessment of the self-limiting thesis and the institutional theories of political moderation that underlie it. Scholars have previously noted how India's federal structure quarantines violent social conflict at the border, as in Gujarat.<sup>72</sup> Yet they overlook the paradoxical effects of the federal party system in an era of diverse coalition governments. It is difficult for smaller coalition allies to act collectively at the national level given their divergent political stances toward the Congress party in their respective states. They can also cynically weigh the costs of remaining in the NDA at the center against the potential electoral backlash they would face in the regions and to ignore regressive political events in other states if they are judged not to be critical for their own survival. In other words, the varying conjunctural effects of the federal party system, in combination with the incentives of plurality rule elections and parliamentary government rule, made India's centrist democratic regime a necessary but insufficient bulwark against the threat of militant Hindu nationalism.

Ultimately, it is necessary to combine macro-level institutional analysis with micro-level analysis of the strategies and tactics various political actors devise to pursue their interests in the formal political arena and beyond. The preceding case studies concerning national security, educational policy, and communal violence illustrate the ways in which the BJP outflanked its opponents, framed the domestic political agenda within its own partisan view, and exploited a larger discursive shift in the international arena after September 11, 2001, which resonated with its more hardline views. Countering militant Hindu nationalism required the secular coalition allies of the BJP to respond to the increasingly virulent actions undertaken by extremists during the NDA's tenure in office. The failure of these parties to exercise a credible political veto against the BJP enabled Hindu nationalist cadres to severely challenge their professed secular credentials and test the limits of India's democratic regime. Compromising ethical situations are constitutive of politics. Yet even realists submit that at some point a politics of principle, driven by a responsibility for the consequences of action, must eclipse a calculus of survival.<sup>73</sup> Whether a new secular coalition can resist the BJP in the future and build effective political solidarities that transcend the varying political incentives of India's federal party system remains to be seen.

## NOTES

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1. See Ashutosh Varshney, *Ethnic Conflict and Civic Life* (New Haven: Yale University Press, 2002); Steven I. Wilkinson, *Votes and Violence* (Cambridge: Cambridge University Press, 2004); Paul Brass, *Theft of an Idol* (Princeton: Princeton University Press, 1997).
2. Sukumar Muralidharan, "BJP and Friends," *Frontline*, Jan. 23, 1998.
3. Amrita Basu, "The Dialectics of Hindu Nationalism," in Atul Kohli, ed., *The Success of India's Democracy* (Cambridge: Cambridge University Press, 2001), pp. 163–91.
4. Thomas Blom Hansen and Christophe Jaffrelot, "Introduction," in Thomas Blom Hansen and Christophe Jaffrelot, eds., *The BJP and the Compulsions of Politics in India*, 2nd ed. (Delhi: Oxford University Press, 2001), pp. 1–22.
5. The following draws on Pankaj Mishra, "Murder in India," *New York Review of Books*, Mar. 15, 2002; Human Rights Watch, "We Have No Orders to Save You" (2002). See also Asghar Ali Engineer, ed., *The Gujarat Carnage* (New Delhi: Orient Longman, 2003).
6. Early official reports suggested that a crowd of Muslims, in response to provocations by Hindu nationalist militants, set fire to a carriage. However, most investigative commissions have established that an accident inside the carriage triggered the fire. See <http://www.prafulbidwai.net/archives/20050131.col.htm>.
7. Editorial, "Gandhi's Horror," *Financial Times*, Apr. 16, 2002.
8. Balveer Arora, "Negotiating Differences," in Francine B. Frankel, Zoya Hansan, Rajeev Bhargava, and Balveer Arora, eds., *Transforming India* (Delhi: Oxford University Press, 2000), pp. 176–207.
9. Giovanni Sartori, *Comparative Constitutional Engineering* (London: Macmillan, 1994).
10. See Rob Jenkins, *Democratic Politics and Economic Reform in India* (Cambridge: Cambridge University Press, 1999), pp. 172–208.
11. Adam Przeworski, *Capitalism and Social Democracy* (Cambridge: Cambridge University Press, 1985), p. 112.
12. For debates on secularism, see Rajeev Bhargava, ed., *Secularism and Its Critics* (Delhi: Oxford University Press, 1998).
13. This argument is developed by Sunil Khilnani, *The Idea of India* (London: Hamish Hamilton, 1997).
14. *Bharatiya Janata Party (BJP) Election Manifesto 1996*, p. 7.
15. Ashutosh Varshney, "Contested Meanings," *Daedalus*, 122 (Summer 1993) 227–261.
16. Khilnani, p. 151.
17. See Stuart Corbridge and John Harriss, *Reinventing India* (Cambridge: Polity Press, 2000), pp. 111–17.
18. See Christophe Jaffrelot, *The Hindu Nationalist Movement and Indian Politics* (New Delhi: Penguin Books, 1999), pp. 478–91, 536–51; Yogendra Yadav, "Reconfiguration in Indian Politics," in Partha Chatterjee, ed., *State and Politics in India* (Delhi: Oxford University Press, 1997), pp. 177–208.
19. Sudipta Kaviraj, "The General Election in India," *Government and Opposition*, 32 (Winter 1997), 15.
20. *Ibid.*, p. 8. It also vowed to disband the minorities commission and amend Article 30, which gave minority religious communities special rights over education. *BJP Election Manifesto 1996*, pp. 10, 64.
21. *Ibid.*, pp. 34–40.
22. *Ibid.*, p. 37.
23. Although Vajpayee's alleged moderation is seriously contested, what mattered was his image of moderation, especially in relation to more hardline elements.

24. However, chargesheets against party leaders such as L. K. Advani and Yashwant Sinha in the *hawala* (illegal foreign exchange transactions) scandal blemished these efforts.

25. On the UF period, see Sanjay Ruparelia, "Coalition Politics in India: A Study of the United Front, 1996–8" (Ph.D. diss., Cambridge University, forthcoming 2005)

26. Some of these parties were its extant allies, the SAIP in Bihar and Uttar Pradesh, Shiv Sena in Maharashtra, HVP in Haryana, and SAD(B) in Punjab. But its willingness to shelve controversial *Hindutva* measures enticed many others to its side: the TDP(LP) in Andhra Pradesh, Biju Janata Dal in Orissa, Lok Shakti in Karnataka, Trinamul Congress in West Bengal, the Loktantrik Congress and BSP(J) in Uttar Pradesh, and the AIADMK alliance, which included the RTC (Ramamurthy), Janata Party, MDMK, and PMK, in Tamil Nadu.

27. See Juan J. Linz, "The Perils of Presidentialism," and "The Virtues of Parliamentarism," in Larry Diamond and Marc F. Plattner, eds., *The Global Resurgence of Democracy*, 2nd ed. (Baltimore: The Johns Hopkins University Press, 1996), pp. 124–43, 154–62, respectively.

28. Lijphart, *Patterns of Democracies*, pp. 117–18.

29. See Lloyd I. and Susanne Hoeber Rudolph, *In Pursuit of Lakshmi* (Chicago: University of Chicago Press, 1987), pp. 95–98.

30. See Atul Kohli, "Enduring Another Election," *Journal of Democracy*, 9 (July 1998), 7–20; Ramesh Thakur, "A Changing of the Guard," *Asian Survey*, 38 (June 1998), 603–23.

31. For instance, the AIADMK gained ministry of law and the ministry of state for finance while the TDP secured the speaker's post.

32. V. Ramakrishnan, "All for Survival," *Frontline*, Apr. 24, 1998.

33. Similar "overriding strategic problems" forced European Communist parties to settle for social democracy. See Przeworski, p. 102.

34. Compare Jaffrelot, *The Hindu Nationalist Movement and Indian Politics*, p. 548.

35. The first NDA government collapsed after the withdrawal of support by the AIADMK because the prime minister failed to halt criminal investigations into charges of corruption against its leader, J. Jayalalitha.

36. See Philip Oldenburg, *The Thirteenth Election of India's Lok Sabha* (New York: Asia Society, September 1999); Rob Jenkins, "Appearance and Reality in Indian Politics," *Government and Opposition*, 35 (2000), 49–66.

37. See George Perkovich, *India's Nuclear Bomb* (Berkeley: University of California Press, 1999).

38. See C. Raja Mohan, *Crossing the Rubicon* (New York: Palgrave Macmillan, 2004), pp. 1–29.

39. See Aijaz Ahmad, *Lineages of the Present* (London: Verso, 2000), pp. 243ff.

40. Praful Bidwai and Achin Vanaik, *South Asia on a Short Fuse* (Delhi: Oxford University Press, 2001).

41. Sumantra Bose, *Kashmir* (Cambridge, Mass.: Harvard University Press, 2003). See also Balraj Puri, *Kashmir* (Hyderabad: Orient Longman, 1993); Sumit Ganguly, *The Crisis in Kashmir* (Cambridge: Cambridge University Press, 1998).

42. Malini Parthasarathy, "An Elusive Peace with Pakistan," *Seminar 509* (January 2002), 35–39.

43. Kanti Bajpai, "Foreign Policy in 2001," *Seminar 509* (January 2002), 40–44.

44. Human Rights Watch, *Anti-Terrorism Legislation* (November 20, 2001).

45. Christophe Jaffrelot, "The BJP at the Centre," in Hanson and Jaffrelot, eds., p. 344. Jaffrelot foresaw the possibility of change, however.

46. Sukumar Muralidharan and S. K. Pande, "Taking Hindutva to School," *Frontline*, Nov. 20, 1998.

47. See Sukumar Muralidharan, "The Hindutva Takeover of ICHR," *Frontline*, July 17, 1998.

48. Sukumar Muralidharan and S. K. Pande, "Past and Prejudice," *Frontline*, Mar. 17, 2000.

49. T. K. Rajalakshmi, "Targeting History," *Frontline* May 11, 2001.

50. R. Ramachandran, "Degrees of Pseudo-science," *Frontline*, Apr. 13, 2001.

51. R. Padmanabhan, "Assault on Art," *Frontline*, May 22, 1998.

52. Praveen Swami, "Furore over a Film," *Frontline*, Jan. 1, 1999.

53. Jaffrelot, "The BJP at the Centre," pp. 350ff. The film depicted a relationship between a *Brahmin*

woman and a *dalit* man and sexual abuse towards a Hindu widow. *Sangh parivar* activists ruined the film set in the northern religious town of Varanasi in Uttar Pradesh. The BJP state administration requested that the filmmaker, Deepa Mehta, discontinue production.

54. Praveen Swami, "Coalition Conflicts in Maharashtra," *Frontline*, Sept. 11, 1998.
55. M. Venkatesan, "Communal Outrages in M.P.," *Frontline*, Oct. 23, 1998.
56. Human Rights Watch, *Politics by Other Means* (October 1999).
57. V. Venkatesan, "A Hate Campaign in Gujarat," *Frontline*, Jan. 29, 1999.
58. Sukumar Muralidharan, "Undermining India," *Frontline*, Feb. 12, 1999.
59. Jenkins, "Appearance and Reality in Indian Politics," p. 65.
60. See Election Commission of India, Order No. 464/GJ-LA/2002, August 16, 2002.
61. Dionne Bunsha, "Journeyman Modi," *Frontline*, Oct. 25, 2002.
62. Dionne Bunsha, "Narendra Modi's Long Haul," *Frontline*, Sept. 27, 2002.
63. Dionne Bunsha, "The Ambitious Pracharak," *Frontline*, Jan. 3, 2003.
64. Several parties left the NDA starting in the 2003, but for other reasons. See Eswaran Sridharan, "Electoral Coalitions in the 2004 General Elections," *Economic and Political Weekly*, Dec. 18, 2004.
65. See Yogendra Yadav, "The Patterns and Lessons," *Frontline*, Jan. 3, 2003.
66. See the supplement of *The Hindu*, "How India Voted," May 20, 2004.
67. Pressure by then President R. K. Narayanan and allegations of a hidden agenda by the opposition stopped the review from including parliamentary cabinet rule within its ambit. Sumit Mitra, "Review Rift," *India Today*, Feb. 14, 2000.
68. See Susanne Hoerber Rudolph and Lloyd I. Rudolph, "New Dimensions of Indian Democracy," *Journal of Democracy*, 13 (January 2002), 52-66.
69. See Juan L. Linz, Alfred Stepan, and Yogendra Yadav, "'Nation State' or 'State Nation'?" (Columbia University, mimeo, 2004).
70. Varshney, *Ethnic Conflict and Civic Life*, p. 97.
71. Jaffrelot, "The BJP at the Centre," pp. 356-63.
72. Myron Weiner, "The Indian Paradox: Violent Social Conflict and Democratic Politics," in Myron Weiner, ed. *The Indian Paradox* (New Delhi: Sage, 1989), p. 36.
73. Max Weber, "The Profession and Vocation of Politics," in Peter Lassman and Ronald Speirs, eds., *Weber: Political Writings* (Cambridge: Cambridge University Press, 2000), pp. 309-70.

## Veto and Voice in the Courts

### Policy Implications of Institutional Design in the Brazilian Judiciary

Matthew M. Taylor

A common issue in democratic consolidation in Latin America is the weakness of the judiciary in upholding the basic rights fundamental to democracy. In the words of one observer, this weakness is "a failure which is a consequence of the precarious functioning of the judiciary."<sup>1</sup> Its precariousness is frequently attributed to institutional weaknesses, such as underfunding, rickety systems of judicial administration, and problems of access.

The Brazilian federal courts offer an intriguing counterpoint. An independent judiciary operating under unambiguous institutional rules may have effects that are potentially as important in their policy impacts as a weak judiciary, perpetuating the power of certain groups and undercutting initiatives by other branches of government. There are of course moments when the judiciary should act as a check and balance on other branches of government. However, it is possible that courts' structure may offer a venue that is especially advantageous to specific political players who seek to block policies that alter the status quo.<sup>2</sup>

Two recent examples suggest the Brazilian courts' potential to influence public policy in civil service reform and agrarian reform. On September 30, 1999, Brazil's highest court, in response to a case filed by the Brazilian Bar Association (OAB), suspended a tax on civil service pensions. The government was visibly shaken by the defeat, which was expected to create a budget shortfall topping US\$1.25bn. Markets were even more unnerved, fearing that Brazil would be unable to meet its debt obligations. To compensate for the judicial decision, and to reverse deteriorating market sentiment, the finance ministry was forced to announce an emergency package of spending cuts and tax increases.

A second example comes from agrarian reform, which became an increasingly contentious political subject during the 1990s, following land seizures by landless peasants' groups and violent police repression. Forced to address the issue, the government in 1999 adopted a new policy that made expropriation procedures more efficient but also constrained the landless movement in its primary tactic of land seizures. The policy seemed to be a successful attempt at reconciling interests on both sides, until Brazil's highest court struck down the policy's limits on monetary claims in land expropriation cases in response to a suit by the OAB.