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REPRESENTING THE STATES AT THE FEDERAL LEVEL: THE ROLE OF THE RAJYA SABHA

I.

Federal systems the world over, are increasingly being seen as political arrangements that afford an opportunity for the plurality within a political system to find legitimate expression. The federal principle is intrinsically an expression of political diversity and accommodation without in any way undermining the basic commitment to the sovereignty of a nation (Elazar 1993). The fact that federalism « rests upon the love for complexity » (Rougement 1986:21), is clearly demonstrated by several studies which have focussed on the capacity of federal systems to successfully negotiate and manage political cleavages (among others Ducachek 1970; Morrison and Stevenson 1972; Mehden 1973; Hibbs 1973; Riker 1975; Barrow 1976; Gurr and Duvall 1976; Powell 1982; Diamond et.al. 1988; Kothari 1988; Ekeh et.al. 1989; Frankel and Rao 1989; Frankel and Rao 1990; Osaghae 1991; Elazar 1993; Horowitz 1993; Adele. 1994; Watts 1995; Yadav 1996; Khan 1997; Mitra and Singh 1999; Frankel et.al. 2000; Kohli 2001; Shastri 2001).

The federalism project is directly linked to the wide range of variations and options that it offers — federalism is often considered a « question of degree » (Bothe 1998:17) — specifically in the context of the demands and requirements of a particular society. As a form of political organisation, federalism permits both the compulsions of collective action — in terms of shared values — and the need to protect the « regional space », to be meaningfully reconciled. A survey of the institutional arrangements across modern federal systems more than proves this point.

It is beyond the shadow of doubt that the successful working of any federal system presupposes the existence of a healthy and harmonious relationship among the units on the one hand and between the federal authority and the states on the other. The growth of friction, beyond the boundaries of control, triggers off a chain of adverse consequences that subjects the federal system to a variety of stresses and strains. Each federal system has designed institutional mechanisms to manage and negotiate inter-unit disputes in the specific context of the historical circumstances and political conditions in which it operates (see Watts 1996; Shastri 2001). Both formal and non-formal mechanisms are in place in most federal polities and their relative importance differs significantly across systems. Institutional arrangements for effective inter-governmental relations have both vertical and horizontal dimensions. Strategies and avenues for the effective and meaningful participation of the units at the federal level have often been considered critical for relaxing tensions and resolving disputes.

In this context, a review of the constitutional provisions relating to the Indian federal system and the dynamics of its operation provides sufficient proof of the multi-track complexities involved in the working of federal systems in heterogeneous societies. This review assumes even greater significance in the light of the political developments of the 1990s.

In the 1990s, far-reaching social and political developments in India have influenced the nature, course and direction of federal politics. More often than not, changing power equations at the state level has triggered off these developments. The impact of social change on the working of the political process and institutions, the end of one party domination and the emergence of a competitive party system, the inevitability of minority and coalition governments are all reflections of this trend. Their implications for the working of federal institutions are wide ranging.

This « new language of politics » was succinctly articulated in the Common Minimum Programme (CMP) formulated by the 13 party United Front (UF) Government (which came to power in 1996), when it promised an « alternative model of governance » based on « federalism, decentralization, accountability, equity and social justice » (CMP

1996). While making an unequivocal commitment to strengthening the forces of political federalism — a strong centre, strong states and viable local bodies (*ibid*), the CMP went on to add that there had been a new articulation of states rights and the need for greater power to the states to meet the aspirations of their respective states (*ibid*).

The National Agenda for Governance (NAG) — formulated by the Bharatiya Janata Party (hereinafter called BJP) and its allies (1) — also underscored the changing contours of federalism and recognized the need for devolution of more financial and administrative powers and functions to the states and promised to effect decentralization right up to the grass-root level by activating and involving local bodies (NAG 1998).

It needs to be stressed that the National Democratic Alliance (2) (NDA) manifesto released during the 1999 Parliamentary elections, emphasized that the BJP led government had «set new parameters of purposeful governance» especially in the field of «centre-state relations» (NDA: 1). The alliance promised to usher in «a new political age of reconciliation and accord» based on their commitment to «federal harmony — ensuring a partnership of the Centre and the States» (*ibid*).

The United Progressive Alliance (UPA) which came to power after the 2004 elections, has underscored its commitment to cooperative federalism in its Common Minimum Programme (CMP).

In the light of the above developments, this paper focuses on a select institution in the Indian federal system that aims at — and has the potential to, effectively articulate the voice of the states at the federal level and provide a channel for the representation of diverse socio-political interests — the Upper House of the Federal Legislature also called the *Rajya Sabha*. The success of the *Rajya Sabha* in ensuring «federal fairness» and «just representation to diverse interests» is assessed.

The paper is divided into five sections. The first section is introductory in nature and locates the specific issues raised in the paper in the wider context of the discourse on federalism. In the second sec-

(1) The BJP led alliance, which formulated the NAG, came to power in 1998.

(2) The National Democratic Alliance was formed by the BJP and its allies prior to the 1999 elections. It remained in power till 2004.

tion, a brief overview of the major developments in the Indian federal system in the post-Independence period is attempted to provide the appropriate setting for an analysis of the role of critical federal institutional structures. In section three, the role of the *Rajya Sabha* in representing the states at the federal level is assessed. In the concluding section, the main issues raised in the paper are summarised.

II.

Any attempt at assessing the role and functioning of federal institutions in India, would necessarily involve an analysis of the changing contours of centre-state relations in particular and the dynamics of federalism in general.

The federal arrangement that was envisaged by the Indian constitution was clearly reflective of the «strong federal government» mind-set of the members of the members of the Constituent Assembly. By decidedly tilting the balance of power in favour of the central government, the Constituent Assembly unequivocally endorsed the view that the unity and integrity of the nation could only be maintained by a fortified central authority (Shastri 1994:54). In the process, the question of «State rights» was relegated to the background and was given little attention (Austin: 108). As in the case with many other provisions of the constitution, the decision makers in the Constituent Assembly appeared more keen to legitimize the existing federal arrangement as outlined in the Government of India Act of 1935.

For a meaningful analysis of the developments in Indian federalism over the last five decades, four clear phases can be delineated: a) Independence to 1967; b) 1967-1977; c) 1977-89; and d) 1989 to the present. Important developments in three crucial years permit the clear demarcation of these four phases. 1967 saw, for the first time, the defeat of the Congress party in several states of India. In 1977 the Congress faced its first defeat at the federal level and the country saw the formation of a non-Congress government and 1989 marked the end of one party domination in Indian politics. Interestingly, all three developments are linked to the electoral fortunes of the Congress party!

During the first phase — often referred to as the Nehruvian

phase, the political leadership underscored the inevitability of centralization of power to ensure « nation building ». When ticklish state problems demanded immediate solutions, Nehru counseled the disputing parties to « keep in mind the larger view » (for details see *Shastri 1992: 59*). Further, this phase witnessed the gradual — yet steady — thinning down of the line of distinction between party and government (*Shastri 1991: 15*). Politics, in this phase, saw an attempt to forge « broad consensus » on issues, which resulted in what, Kothari has referred to as the « Congress system ». The consensus became possible because of the high level of legitimacy of the « national political elite » and the coalition of diverse social groups that was brought together in that period. The low level of mobilization among the depressed social groups also facilitated this process.

The second phase (1967-77) was witness to increasing tensions between the federal and state governments on account of the breakdown of the consensus culture of the earlier years. With non-Congress governments (3) being voted to power in the states on the one hand and Indira Gandhi attempting to increasingly assert her authority within the party on the other, the constitutional provisions relating to centre — state relations were systematically abused (4), and the values that governed the functioning of federal institutions were greatly undermined. The dismantling of the federal structures (and traditions) in the Congress party, with « loyalists and favourites at state and constituency level » replacing « party officials and candidates with local knowledge and support » (*Rudolph and Rudolph: 138*) the collapse of internal democracy in the Congress was more or less complete.

With the Janata Party coming to power (at the central level) in 1977, it was hoped that the aberrations in federal-state relations would be corrected and the principles of federal fairness respected and scrupulously adhered to. However, within months of assuming power, the new government established a record of sorts by resorting to the

(3) Till 1989, political parties other than the Congress party were referred to as non-Congress parties. This was reflective of the center stage occupied by the Congress in Indian politics.

(4) Politicisation of the office of the Governor, Misuse of Article 356 and further erosion of the fiscal autonomy of states.

mass dismissal of Congress governments in the States, by invoking Article 356. The absence of internal democracy in the Janata Party resulted in frequent change of Chief Ministers — often on the directions of the leadership at the central level in several states where the party was in power (5).

Increasing tensions in centre-state relations becomes clearly evident in the early 1980s, with Indira Gandhi's return to power. While the 1978 split in the Congress had further consolidated her hold over the party and the Chief Ministers of Congress ruled states were her hand picked choices, non-Congress Chief Ministers came together to articulate their demand for greater state autonomy.

Commenting on developments in this phase, the Commission on Centre State Relations (hereinafter referred to as the Sarkaria Commission), averred that those in power at the centre, have been « obliged to use diverse strategies and tactics, which were not always sound from long term interests » (Report 1988:15). Commenting on the ills of over-centralisation, the Commission asserted « centralisation leads to blood pressure at the Centre and anaemia in the periphery. The inevitable result is morbidity and inefficiency. Indeed, centralisation does not solve but aggravates the problems of the people » (*ibidem*: 542).

The 1980's were also witness to the collapse of the « consensus model » of governance and Kothari has succinctly expressed the changes it brought in its wake:

An electoral democracy that had... broadened its social base and shown special regard for diverse types of minorities and hence gained so much legitimacy got eroded over time and forced the political managements to compromise with ... monied and mafia interests ... The erosion of parliamentary, party and federal institutions and decline of authority of the State and of the national political leadership has also been one of the reasons for the rise of new actors on the scene, new forms of political expression and new definitions of the content of politics (Kothari 1988:28, 175).

The political developments of the 1990s have clearly contributed to « greater democratization of federalism and federalizing of democracy » (Shastri 2001). States have today emerged as the focal point

(5) Uttar Pradesh, Bihar and Madhya Pradesh can be cited as examples.

of Indian politics and have significantly influenced the nature and course of federal politics. Various factors have contributed to the emergence of this trend. The politics of the 1990s has clearly seen the impact of social change on political/electoral processes. With the democratic process « seeping downwards » (6), new social/political alliances have been formed and this has permanently altered the landscape of Indian politics. The end of one party domination and the emergence of a competitive party system is merely a reflection of this trend. Their implications for federal governance are far reaching and significant.

The 1990s have seen the emergence of the State as the epi-center of Indian politics. Several political developments are reflective of this trend. One indicator is the major role that regional parties (7) have come to play at the national level. Regional parties have been key players in the coalition governments formed at the centre since 1989 (8). Most of the regional parties in India are state-specific and given the nature of their electoral support base, they have increasingly attempted to articulate state rights issues at the federal level.

The results of the National Election Study '96, '98, '99, '04 coordinated by the Centre for the Study of Developing Societies (CSDS), clearly indicated that local and regional issues have determined electoral outcomes in the 1990s. A linked trend is the polarization, which Indian politics has witnessed at the state level. While nationally, India has seen the emergence of a multi-party system, at the state and constituency level, there is a bi-polar or at the most a tri-polar electoral

(6) The implication here is that social groups which had earlier been denied their rightful role in the political/electoral process, were now demanding their legitimate share of the « political cake ».

(7) As per the Election Symbols Order 1968 (as recently amended), a National Party is one which secures at least 6% of the votes in 4 states of India in the last Parliamentary or Assembly elections. A regional party is one which secures at least 6% of votes in particular state, where it would be then recognized as a regional party. The granting of national or regional party status is a decision of the Election Commission of India.

(8) Four of the Six parties in the National Front Coalition government (1989-90) were regional parties. In the 13 party United Front Governments (1996-98), 11 were regional parties. In the NDA government today, all parties in the alliance, save the BJP are powerful regional players. The United Progressive Alliance, which came to power in 2004, is made up of 12 parties of which 10 are regional parties.

contest (for details see *Heath: 1999:66-71*). Voters at the state/constituency level have reduced the effective competition to 2 or 3 major political players. This implies that the voter choice at the local/state level is very clearly articulated. However, when this is aggregated nationally, the number of effective players dramatically increases — a near « multiple bi-polarity » (*Sridharan 1999*). The political preferences that voters are indicating at the state level, vary significantly from one state to another, resulting in the need for coalitions at the federal level. As a result, electoral alliances are forged keeping in mind the dynamics of state politics resulting in interesting inclusions and surprising exclusions. The new pattern of electoral outcomes does not represent a political fragmentation of the Indian electorate, but mirrors state specific electoral verdicts. With the rise of state-wide parties, « political loyalties, opinions and social identities are being articulated at the level of the state » (9) (*Yadav 1999: 2399*).

The above developments, especially in the 1990s, are a categorical and authentic expression of the changing power equations within the Indian federal system. Its impact on and implications for federal governance are immense and significant. More specifically, to what extent do important federal institutions represent the interests of the states? Do states have an effective platform at the federal level to articulate their problems and participate in decision-making on matters of critical national relevance? The *Rajya Sabha* assumes relevance when an attempt is made to answer the above questions.

III.

The Upper House of the Indian Parliament — the *Rajya Sabha* (Council of States) — provides an opportunity for a « states perspective » to be articulated at the central level. Ideally, as an important federal institution, it offers a platform for those representing the interests

(9) This trend was further entrenched by the 2004 elections. A detailed analysis of the results of this elections and a state-wise analysis of the verdict was published in the *Economic and Political Weekly*, 18-24 December 2004.

of different states to place on the national agenda, issues of relevance and critical concern to the diverse regions of India.

Before discussing the *Rajya Sabha*, one important structural caveat needs to be added. The leaders of post-Independence India decided to adopt the parliamentary system of government for India. Such a political arrangement clearly requires a dominant role for the popularly elected Lower House of the Legislature (for details on why India chose this system see Shastri 1999). Across the world, parliamentary systems, which are also federal, have had extensive debates on the role and responsibilities to be assigned to the Upper House (Watts 1996). India too has had this debate both while the Constitution was being drafted and during the last five decades of its operation.

It is in this context that it becomes important to take into account the debate in the Constituent Assembly on the provisions relating to the *Rajya Sabha*. While commending the Draft Constitution's provisions on the Upper House, Gopalaswamy Ayyangar categorically stated:

The most that we expect... the Second Chamber to do is perhaps... hold dignified debates on important issues and to delay legislation which might be the outcome of passions of the moment until the passions have subsided and calm consideration could be bestowed on the measures which will be before the Legislature... this Second Chamber is only an instrument by which we delay action which might be hastily conceived and we also give an opportunity perhaps, to seasoned people who may not be in the thickest of the political fray, who might be willing to participate in the debate with an amount of learning and importance which we do not ordinarily associate with a House of People. (Constituent Assembly Debates [hereinafter referred to as CAD] 4:876:28 July 1947. Emphasis added).

Ayyangar saw the *Rajya Sabha* as a body that would act as a check on hasty legislation passed by the Lower House and a forum for dignified debate. It was seen as a necessary institution in a parliamentary system of government. During this stage of the debate, no mention was made either by Ayyangar or the others who participated, about the status of the *Rajya Sabha* as a Chamber that represented and articulated « state rights » (see Morris Jones 1959; Austin 1962). As mentioned earlier, the members of the Constituent Assembly seemed keen to legitimize the federal arrangement already in place rather than focus on designing

a federal model tailor-made to the needs of Independent India (10). India's first Vice President and Chairman of the *Rajya Sabha*, S Radhakrishnan, also appeared to echo Ayyangar's sentiments in his opening remarks to the House in 1952, with no mention being made of the role of the House as a chamber representing the states:

There is a general impression that this House... is a superfluous body... we should try to do everything in our power to justify to the public of this country that a Second Chamber is essential to prevent hasty legislation. (as quoted in Singh 1977:218. *Emphasis added*).

In the Constituent Assembly, it was only during the debate on the composition and powers of the *Rajya Sabha*, that a few members made specific reference to fact that the House would represent the States of the Indian Union. It was in this context that K.T.Shah, pleaded for incorporating the principle of equality among the states, while distributing the *Rajya Sabha* seats (CAD:7:1202) and Lakshminarayana Sahu made out a case for a more just representation to the smaller states (CAD:7:1209). Loknath Misra was among the more assertive and took the stand that:

Since the Council of States is going to represent the States, it is but fair, to the States units that these units should be dealt with as units and every unit is equally represented. Otherwise, there is no sense in saying that the State shall be represented in the Council... If we do not accept this principle, that of taking every State as an equal unit, and sending in their representatives to safeguard or protect their special interests, there is no sense or meaning in having a second chamber... I suggest that the allocation of seats to the representatives of the State in the Council of States, should be on the basis of equal representation to each of the component States, the number of which representation shall be in no case more than three (CAD:7:1208:3 January 1949).

The suggestions made in the Constituent Assembly for a more equal representation to the states in the Upper House were not accepted and reflected the majority opinion in the constitution making body. Later in the debate in the Constituent Assembly on the special powers to be conferred on the *Rajya Sabha* to empower Parliament to

(10) Ayyangar's statement was made on 28th July 1947, a few weeks prior to Independence.

make laws on subjects in the state list on the grounds of « national importance », Ambedkar opined that as the « Upper House represents the State », its « resolution would be tantamount to the authority given by the States » (CAD:9:1118). Save for these few specific references, the Constituent Assembly appeared to view the *Rajya Sabha* as a mere Second Chamber, with a peripheral role in the larger federal design.

It would be useful to examine the Constitutional Provisions and outline clearly the structure, role and functions of the *Rajya Sabha*.

— The Constitution mandates that the *Rajya Sabha* shall consist of a maximum of 250 members (11). Of them, 238 are elected from the States and those Union Territories which have a Legislative Assembly (12) and 12 are nominated by the President of India. The elected seats are not equally divided among all the states. The 238 elected seats are divided among the states and union territories on two principles. The first principle is population and the second is the need to ensure that the smallest states/union territories are given at least one seat each. The members from a particular state are elected by the members of the legislative assembly.

— The qualifications to contest the elections to the *Rajya Sabha* (13) are very similar to the ones specified for the Lower House called the *Lok Sabha*, save for the age criteria. In the *Rajya Sabha* the lower age limit is 30 years whereas in the *Lok Sabha* it is 25 years.

— The *Rajya Sabha* is a permanent house and cannot be dissolved. Each member has a term of six years and one-thirds of the members retire every two years.

— The Vice President of India is the ex-officio Chairperson of the *Rajya Sabha*.

— While the powers of the two Houses are assessed, it must be stressed that in the backdrop of the country having adopted the parliamentary form of government, the council of ministers is principally accountable to the lower house. On matters of legislation, the powers of the Two Houses are equal on non-fiscal matters whereas the Lower House (*Lok Sabha*) is more powerful on money matters. A

(11) Article 80 (1).

(12) Article.

(13) Article 84.

non-money bill can be introduced first in either house and has to be passed in identical form to become a law. If any one of the houses does not consent to the bill, it lies deadlocked between the two Houses. There is an option to break the deadlock (which need not be mandatorily exercised). The President (on the advice of the Council of Ministers) can call a Joint Session of the two Houses to discuss a deadlocked non-money bill. In a Joint Session the Lower House is likely to have an Upper Hand as its strength is more than double that of the Upper House. In the case of a money bill, it can be first introduced only in the Lower House. If this House passes the legislation it is sent to the Upper House. The Upper House has four options: It can pass the bill, after which it goes to the President for his assent. Secondly, it can amend a bill. If the Lower House considers the bill again and rejects the amendments and passes the bill in its original form, it is sent straight to the President for his assent. If the Rajya Sabha rejects the bill, it comes back to the Lok Sabha. If the Lok Sabha passes it once again, the bill goes straight to the President for his assent. Finally, if the Rajya Sabha neither passes nor rejects the bill, then it is given a maximum of 14 days time. If in this time nothing is done, then the bill straight goes to the President (after 14 days) for his assent. Thus, on money matters the Rajya Sabha can, at best delay the bill by 14 days or force the Lok Sabha to consider it once again.

— The Rajya Sabha has three special or exclusive powers. The Rajya Sabha can declare by a resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest that Parliament should make laws with respect to any matter enumerated in the State List specified in the resolution (14). A similar resolution can be passed by the Rajya Sabha, for the creation of one or more all-India services (15). The Rajya Sabha can approve special emergency proclamations initially or extend them subsequently while the Lok Sabha is under dissolution (16).

This paper attempts a study of the membership of the *Rajya Sabha*

(14) Article 249. The power of the Union and State are divided into Three list: Union List, State List and Concurrent List.

(15) Article 312. An All India Service is the Elite Civil Service.

(16) Under Article 352, 356 and 360.

for half a century (1952 to 2002) keeping in mind the facts as states above. The profile of the 1746 individuals, who have been *Rajya Sabha* members during this period, provides an indication of the role that political parties and states assigned to this House. Several factors have been kept in mind in this analysis. These include: a) whether the members actually belonged to the state that they were elected from; b) the number of terms an individual member has been elected for; c) whether they had been members of the State Legislative Assembly or Council prior to being elected to the *Rajya Sabha*; d) whether they were office bearers in the state unit of the party or was there proof of their involvement in state politics prior to their becoming *Rajya Sabha* members; e) were those members who were elected for more than one term elected from the same state or different states; and f) were those elected for more than one term elected on the same party ticket or different party tickets (17). The analysis also attempts to examine whether there are any major variations in the above aspects when those elected before and after 1989 are taken into account (18). 1989 is being chosen as a bench-mark in view of its significance in terms of altering the course and direction of not merely centre-state relations but the nature of political competition in the states.

The study shows that 5% of the elected *Rajya Sabha* members (hereinafter referred to as members), do not belong to the state that they have been elected from. This percentage increases to 9% if only those elected after 1989 are taken into account (graph 1). On the other hand, prior to 1989, only 3% of those elected did not belong to the state they had been returned from.

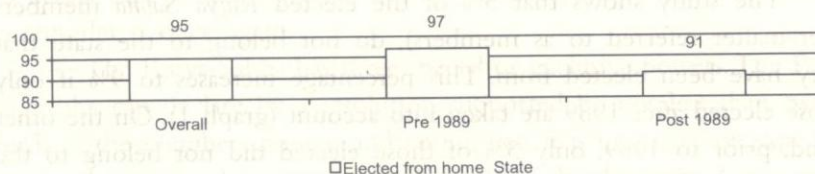
The implication is that, since the 1990s, nearly 1 out of every 10 elected members, do not belong to the state they have been elected from. These members are able to fulfill the legal requirement of being a « domicile » of the state on paper, while in reality they do not belong

(17) While an attempt was made to secure details relating to all the members, it was not possible to secure the full information pertaining to 52 members. This is one of the limitations of this study.

(18) Those members who were elected prior to 1989 and continued to be members after 1989 (single term or multiple terms) are included in the post 1989 category.

to the state. The capacity of these « domiciled outsiders » to represent the interests of a state that they do not belong to (but have been elected from) needs to be borne in mind. The National Commission for the Review of the Working of the Constitution (NCRWC) did make a tangential reference to the issue when it commented on the move to introduce a legislation to do away with the domiciliary qualification for being eligible to contest the *Rajya Sabha* election from a state. The Commission opined that any such move would adversely affect the « federal character of the Council of States » and favoured its continuation (NCRWC Report 5.11.5). It must be noted that the legislation was subsequently passed and is now before the Supreme Court. What is obviously being attempted through this legislation is to do away with whatever little formal requirement, existed, to ensure that those elected from a state actually belong to it. The need of the hour is actually to further strengthen the domicile clause rather than to altogether abolish it.

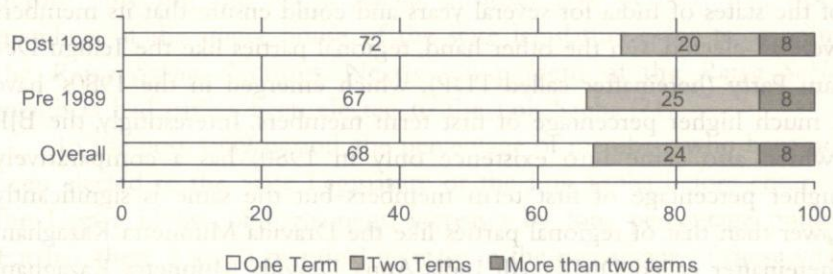
GRAPH 1. *Elected Rajya Sabha Members - 1952 to 2002. Elected from Home state* (all figure in percentage - n. 1611).



In real terms, the largest number of members who have been elected from a state they do not belong to hail from the Congress party. However, in view of the fact that, a higher percentage of members during the period under study belonged to the Congress party, a clearer picture emerges if the percentage of members from each party who have been elected from the state they do not belong to is analyzed. In the case of the Congress party, it is similar to the overall average of 95%. Only 75% of those elected on the BJP ticket belonged to the state they were chosen from and 87% of the successful independent candidates were elected from their home states.

More than two-thirds of the members have been elected/nominated for a single term (graph 2) (19). This implies that there is a high turnover in membership. A little less than one-fourth of the members have enjoyed a two-year term and just 8% of the members have been in the House for more than two terms. The relative lack of stability in tenure, is indicative of the fact that political parties tend to frequently change their representative in the Upper House. This raises the question as to whether *Rajya Sabha* membership is often viewed by political parties and its leaders as an opportunity to distribute the benefits of power among those who have demonstrated their loyalty to the party/leader. This point is elaborated more in detail in the later part of this section.

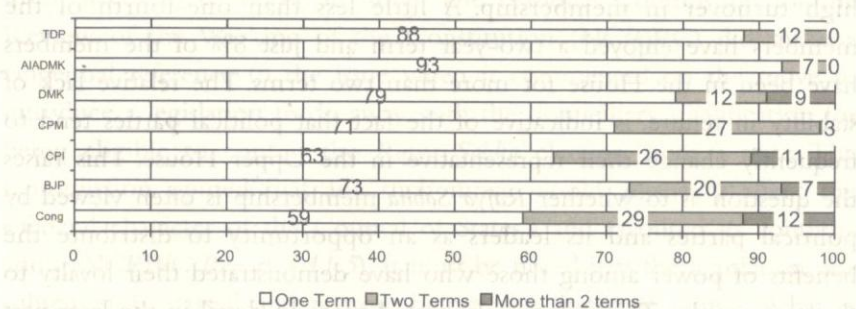
GRAPH 2. *Rajya Sabha* Members - 1952 to 2002. Number of Terms Elected/Nominated (all figure in percentage - n. 1737).



The percentage of members who have been in the House for only a single term increases marginally (5% points) when the membership after 1989 is considered (graph 2). This is principally because of the fact that the representation of regional parties in the *Rajya Sabha* has increased in this period and many of those elected on regional party tickets are entering the house for the first time.

(19) Those who served for less than one full term are included in the one term category.

GRAPH 3. *Elected Rajya Sabha Members - 1952 to 2002. Number of Terms: Party wise (all figure in percentage - n. 1635).*



When a party wise analysis (20) of the number of terms members have served is undertaken, it is noticed that the lowest percentage of single term member are in the Congress party — 53% (graph 3. This is essentially due to the fact that the Congress enjoyed a majority in most of the states of India for several years and could ensure that its members were re-elected. On the other hand, regional parties like the Telugu Desam Party (hereinafter called TDP), which emerged in the 1980s' have a much higher percentage of first term members. Interestingly, the BJP (which also came into existence only in 1980) has a comparatively higher percentage of first term members but the same is significantly lower than that of regional parties like the Dravida Munnetra Kazagham (hereinafter called DMK), All India Anna Dravida Munnetra Kazagham (hereinafter called AIADMK) and the TDP. In the case of the regional parties it is noticed, that sitting *Rajya Sabha* MP's are often not given the party ticket and the party fields new faces. This is especially true in the case of the AIADMK and the TDP. In the case of the regional parties, the strategy appears to be to field for a second term, a very small percentage of its sitting members and nominate new faces for the remaining seats.

In the case of the BJP, the percentage of second term members is not significantly lower than that of the Congress, though the Congress

(20) For the purpose of analysis, only those parties on whose ticket a significant number of members have been elected have been taken into account.

has been sending its representatives to the House for a much longer period of time. In the case of the Congress, Communist Party of India (hereinafter called CPI) and the DMK the percentage of members who have been in the House for more than two terms is significantly higher than in other parties (9-12% range). These parties have been represented in the *Rajya Sabha* for a much longer period of time as compared to the other parties and could possibly explain this trend. Further, the major national parties appear to re-nominate a core group of sitting members while distributing the party ticket and fielding new faces for the rest of the seats.

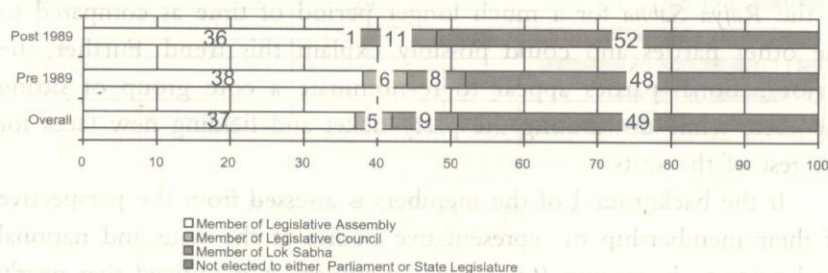
If the background of the members is assessed from the perspective of their membership of representative bodies at the state and national level prior to becoming *Rajya Sabha* members, it is noticed that nearly half of those elected have never previously won an election to either the state legislature or the Lok Sabha (graph 4). While a little over one-thirds of the members had been elected to the state legislative assembly before entering the *Rajya Sabha*, another five percent had been members of the upper house of the state legislature prior to winning the *Rajya Sabha* elections. Nearly ten percent of the *Rajya Sabha* members had earlier been elected to the Lok Sabha (21).

In the post 1989 period, the percentage of members who have not been elected to the State Legislature or the Lok Sabha before entering the Upper House of Parliament, increases by four percentage points. Further, there is also a marginal increase in the percentage of those who have moved from the Lower House to the Upper House. Frequent Lok Sabha elections in this period, and the parties nominating those who were defeated in the Lok Sabha elections, for a *Rajya Sabha* seat, appears to explain this trend. The abolition of the Legislative Council in most states has contributed to the decline in the percentage of members who

(21) Those members who had been elected to both the State Legislative Assembly and the Lok Sabha prior to being entering the *Rajya Sabha*, have been placed in the category of «Members of the Legislative Assembly» and those in the «Members of the Lok Sabha» category are those who were Lok Sabha members only and did not have a stint in either House of the State legislature. The rationale behind this classification is to be able to identify those *Rajya Sabha* members who have had the experience of being in the state legislature prior to entering the Upper House at the central level.

had earlier been members of the Upper House of the State legislatures.

GRAPH 4. *Elected Rajya Sabha Members - 1952 to 2002: Membership of other Legislative Bodies* (all figure in percentage - n. 1607):



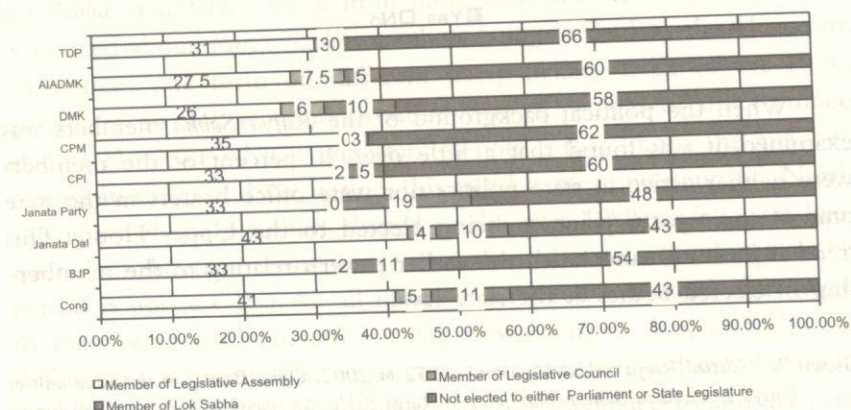
The overall pattern clearly indicates that most political parties, do not consider it important to nominate those who have been actively involved in electoral politics at the state level, to represent them in the Upper House. Further, most of those who have come to the *Rajya Sabha* after serving a term/several terms in the Lok Sabha (9% of members) (22), have moved to the Upper House after having been defeated in the elections to the Lower House. The fact that a majority of the *Rajya Sabha* members have never won an election to the State Legislature or have entered the Upper House after serving a term in the Lok Sabha — and being defeated in subsequent elections, is indicative of the fact that most political parties have viewed *Rajya Sabha* membership as a means of « political accommodation » of interests perceived to be important by the party leadership.

If the electoral profile of the members elected on different party tickets is analysed, it is noticed that a majority of the members elected on all party tickets, save the Congress, Janata Party and Janata Dal, had previously never been elected to either the State legislature or the Lok Sabha (graph 5. This percentage is significantly high in the case of the two major Communist parties (CPI and Communist Party of India

(22) This percentage increases to 18% if those who have been members of both the Legislative Assembly/Council and the *Lok Sabha* is taken into account.

[Marxist] hereinafter called CPM) and the three major regional parties (TDP, AIADMK and DMK). In the case of the Communist parties it is noticed that the while nominated their candidates, they tend to give greater weightage to those who have been involved with the party organization (not necessarily at the state level). The Communist parties have also not favoured (as much as the national parties) nominating those who were earlier elected to the Lok Sabha.

GRAPH 5. *Elected Rajya Sabha Members - 1952 to 2002. Previous Membership of Legislative Bodies: Party wise (all figure in percentage - n. 1607).*

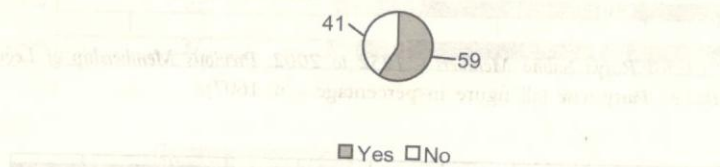


In the case of the regional parties, *Rajya Sabha* nominations are often given to those who have not been actively involved in either the electoral politics in the state or the party organization. Relative newcomers have secured *Rajya Sabha* nomination. This accounts for the higher percentage of those elected from regional parties who have no record of registering electoral victories in state and national elections, prior to entering the *Rajya Sabha*. In the case of the DMK, the practice of nominating former *Lok Sabha* members is more common as compared to other regional parties.

It is interesting to note that more than 40 percent of the *Rajya Sabha* members elected on the Congress party ticket, have earlier been legislative assembly members. This percentage is significantly lower in the case of the BJP. From among the *Rajya Sabha* members elected on

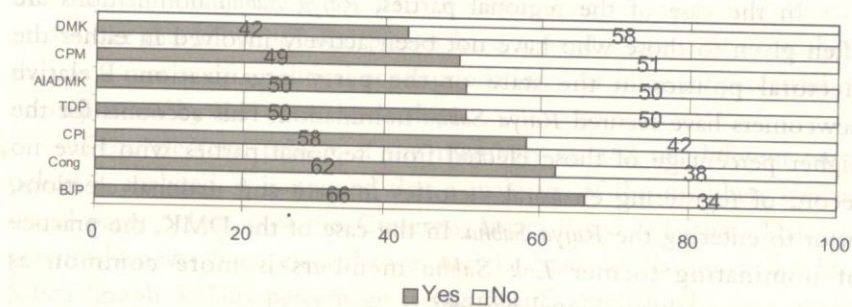
the Janata Party ticket, nearly one-fifth have been former Lok Sabha members.

GRAPH 6. Elected Rajya Sabha Members - 1952 to 2002. Office Bearers in the State unit of Party/ Involved in State politics prior to Rajya Sabha Membership (all figure in percentage - n. 1607).



When the political background of the *Rajya Sabha* members was examined, it was found that a little over 40 percent of the members were neither active in state politics nor were office bearers in the state unit of their party prior to being elected to the Upper House. This trend is in consonance with the earlier pattern relating to the membership of elected bodies at the state level.

GRAPH 7. Elected Rajya Sabha Members - 1952 to 2002. Office Bearers in the State unit of Party/ Involved in State politics prior to Rajya Sabha Membership: Party-wise (all figure in percentage - n. 1607).



A party-wise analysis of the political background, of the *Rajya Sabha* members, shows that more than 60 percent of those elected on the ticket of the two major national parties (BJP and Congress) had

been office bearers of the state unit of the party or participated actively in state politics (graph 7). In the case of the CPI and CPM, a majority of those elected have not been actively involved in state politics. In the case of the three major regional parties (DMK, AIADMK and TDP), half the members had not been actively associated with state politics nor had they served as officer bearers of the party. This trend is in consonance with the analysis earlier in the paper, on both the number of terms served and electoral background of those elected on regional party tickets.

A very small percentage of members have been elected to the *Rajya Sabha* in different terms from more than one state. The same trend is noticed about *Rajya Sabha* members being elected to the House for more than one term on different party tickets. Each of the above categories do not account for more than 2 percent of the members elected. However, what is important to note is that among the members elected in the post 1989 period, this trend is more pronounced. Nearly 4 percent of the members elected in the post 1989 period have been elected in different terms from more than one state (in the pre 1989 period it was just 1%). An all most similar trend is noticed with regard to those who have entered the *Rajya Sabha* more than once, but on different party tickets. The most common cases involved members who served a term as Congress members and then switched to another party and successfully contested the elections.

A very distinct profile of *Rajya Sabha* membership emerges from the above analysis. In the first place, the founding fathers of the Constitution did not envisage the Upper House as a chamber that articulated state interests. At best it was viewed as a necessary Second Chamber, which held dignified debates and delayed hastily conceived legislation. In a sense, the *Rajya Sabha* membership profile provide no indication of an attempt on the part of States or political parties to mirror and voice state interests in the Upper House. The high percentage of single term members, is reflective of the fact that, more often than not, political parties tend to offer *Rajya Sabha* tickets as a reward for service to the party/leadership. Further, half the members have never occupied an elected position in either the State legislature or the *Lok Sabha*. Viewed from another perspective, nearly half the members have

never been officer-bearers in state party units or been active in state politics prior to entering the Upper House. Yet another alarming trend is that the percentage of those who have been elected to the *Rajya Sabha* subsequent to their defeat in the *Lok Sabha* elections is on the rise, especially after 1989. Another disturbing trend in recent years, is the increase (though marginal) in the percentage of members who have been elected from states that they do not belong to. The above facts point, in significant ways, to a « lack of direction » of the *Rajya Sabha*. Ideally, the House should be a Chamber of States at the federal level. Its present structure and membership pattern provide no indication of this desired end.

Developments in the Swiss and German federal system point to interesting trends. The Swiss case first. As politics in Switzerland is canton centred, federal politics more often than not represents a Grand Coalition of canton level interests. The units in the federal system play a major role in the federal Second Chamber. In terms of institutional structures, the Swiss federation accorded primacy to inter-unit coordination and cooperation. With cantons retaining the initiative, conflict management and resolution were often negotiated by the units without involving the federal government. « Federalism without Bern » has been a sentiment frequently expressed in Switzerland.

The German federal system too, has consciously attempted to preserve the identity and autonomy of the *Laender*. A crucial institutional safety valve in this regard is the *Bundesrat* (Federal Council), one of the five supreme constitutional bodies at the federal level. The *Bundesrat* consist of executive representatives of the *lander* governments. The representatives of a *Land* vote *en bloc* in the *Bundesrat*. All federal legislations need to be endorsed by the *Bundesrat*.

Germany has also recognised the crucial importance of formal structures and regulations for the smooth conduct of inter-governmental relations and resolution of inter-*Laender* differences. It has been estimated that in the first decade after the adoption of the Basic Law, more than 340 formal agreements were signed between *Laenders* and between *landers* and the federal government (Scharpf et.al. 1978).

The system of joint decision making — involving both the federal and *Laender* governments — has increasingly become the norm in

Germany. Not only has this resulted in greater innovativeness and efficiency, it has also strengthened the problem solving capacities of federal institutions (Hesse 1998:144). The capacity of the German state and its *landers* to react and adapt to changing socio-economic and cultural conditions has also been significantly enhanced. The growth of « inter-locked » federalism in Germany bears testimony to this fact.

In the light of the above narrative it may be useful to consider the option of re-designing the structure and membership of the *Rajya Sabha*, on the lines of the German *Bundesrat*. This would make the Upper House a truly « federal chamber » that mirrors state interests and protects state rights at the national level.

IV.

The changing power equations within the political system have called attention to the need for a searching second look at the India's federal institutional structures. The imperative need for effective institutional mechanisms in the federal system, to provide a meaningful forum for states to participate in federal decision making assumes significance in the light of these developments. Further, major inter-state and center-state disputes can be effectively managed and resolved if institutionalised bargaining structures are strengthened and accorded a major role in the federal process. If this « new way of doing federalism » is to truly mirror the multi-verse Indian democracy, the changing landscape of Indian politics and the finer nuances of state politics, it would require, in the least, a new look *Rajya Sabha*. This federal institution, if reformed, would provide an ideal platform for charting the course of center-state relations on a more fair, balanced and just basis.

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