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JUNE 2016

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Dinsha Mistree

Postdoctoral Fellow, Stanford University
Center on Democracy, Development, and the Rule of Law

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Center on Democracy, Development and the Rule of Law
Freeman Spogli Institute for International Studies
Stanford University
Encina Hall
616 Serra St.
Stanford, CA 94305-6055

Voice: 650-723-4610
Fax: 650-724-2996
Website: <http://cddrl.stanford.edu/>

Power from Doing Nothing: Why Some Government Agencies Start with Autonomy

Dinsha Mistree
Postdoctoral Fellow
Center on Democracy, Development, and the Rule of Law
Stanford University
dmistree@gmail.com
June 2, 2016

Abstract¹

Why do some government agencies start with more autonomy than others? Conventional studies of autonomy at genesis are few and far between, with most of this sparse literature focusing on why a single founder—usually a politician—unilaterally chooses to delegate power to the new agency. In this article, I suggest that the decision to bestow autonomy to a new agency is not always made by a single founder alone. Instead, politicians must sometimes rely upon other actors to create a new government agency. When multiple founders collaborate to create an agency, they can either agree to share power or they can seek to prevent one another from controlling it. When they pursue the second option, the founders often compromise by empowering the new agency with autonomy from its start. I term this process “contestation,” as multiple founders seek to insulate the new agency from those whom they had to initially work with. I proceed to examine the creation of several government higher education systems in India, finding that contestation best explains why some of these systems start with more autonomy than others. I then consider the generalizability of this process, suggesting that it might explain variation in autonomy across many kinds of government agencies as well as variation across private universities. This work carries important implications for international engagement in higher education reform, specifically where we should expect outsiders to be able to create universities with greater autonomy.

¹ I have benefited from helpful conversations with Miguel Centeno, Katherine Bersch, Poulomi Chakrabarti, Vijaya Sherry Chand, Peter Evans, Atul Kohli, Pratap Mehta, Vinay Sitapati, Katherine Saunders-Hastings, Ezra Suleiman, and Deborah Yashar, in addition to seminar participants at Indiana, MIT, Princeton, Stanford, and New Hampshire. I would like to acknowledge the Ravi J. Matthai Centre at IIM-Ahmedabad, which hosted me during a critical time in this research. I particularly thank Kim Patrick Sebaly for making available several important documents he collected for his own research.

I. Introduction

Why do some government agencies start with more autonomy than others? This is a crucial yet understudied topic in public administration, with previous scholarship mostly focusing on why a single founder makes the calculation to endow autonomy. We know, for instance, that a politician working alone may choose to endow a new agency with autonomy because of her time horizon for maintaining power or because the agency's task is too complex for the politician to handle directly or to avoid blame (Fiorina, 1982; Bendor, Glazer, and Hammond, 2001; Gailmard and Patty, 2012).

But a politician—like any other founder—is rarely able to create an agency alone. Instead, multiple founders often come together to create a new agency. A politician might need to partner with local elites, international development agencies, and even rival political factions. Conventional thinking suggests we should expect the founders to agree to share control over the agency by forging a power-sharing agreement. This means that the agency would start with low autonomy, but with multiple founder-controllers (i.e., principals) the agency can potentially derive autonomy over time by manipulating coordination problems among the principals (Bernheim and Whinston, 1986; Hammond and Knot, 1996; Carpenter, 2001). However, processes such as these only explain how autonomy is derived over time; they do not explain why some agencies start with more autonomy than others.

In this article, I explore the differences in starting autonomy that arise when multiple founders create a government agency. I argue that a government agency is likely to start with less autonomy when a founder is able to create an agency unilaterally. Oppositely, a government agency is likely to start with more autonomy when multiple founders who have disparate interests create an agency. I find that instead of agreeing to share power, these multiple founders sometimes seek to cut one another out of controlling the agency. This often results in the agency enjoying autonomy from its founding. I term this process *contestation* and I examine the conditions under which this process takes place.

I then demonstrate the efficacy of *contestation* through an empirical examination of India's higher education sector. India has the third-largest system of higher education in the world, with almost seventeen million students studying at nearly seven hundred universities. Most of these universities are government-run, and we can observe a wide range in quality between public universities. Some of these universities—such as the Indian Institutes of Technology (IITs)—are profound success stories, with graduates climbing to the highest echelons of nearly every public and private sector; yet many others are more widely known for their problems. As with much of the rest

of the Indian educational sector, faculty absenteeism and student bribery are endemic, and many observers are concerned that universities are becoming “degree mills.”

There are many reasons why certain universities outperform others—from starting resources to variation in organizational cultures—but there seems to be a widespread belief among academics that university autonomy leads to greater effectiveness. Supporting this belief, Aghion et al. (2009) provide evidence suggesting that enhanced autonomy leads to higher levels of university research output across the United States and Europe. Many in India also share this belief that autonomy makes for more effective universities, and public debate has come to center upon whether the ruling BJP government threatens university autonomy more than their Congress predecessors (Jayal, 2015; Mehta, 2015; Sen, 2015). This debate has been galvanized by recent protests across the country as many universities are currently witnessing marches, sit-ins, and even fasts that center on issues of autonomy.

Tellingly, these protests have so far been disconnected movements: they are not demanding autonomy for all universities, but are instead seeking greater protections for their own. This is because the nature and scope of autonomy varies considerably across universities in India. At some universities, the government may have near complete control: it can appoint the majority of the governing board and can make a bureaucrat (rather than an academic) the chief executive. In these universities, the government is able to determine what will be taught in a specific class, whether a specific donation can be accepted, and even whether a specific academic deserves promotion. At other universities, the government has minimal control. An independently-appointed governing board makes administrative and academic decisions and the chief executive is always an academic. Faculty are allowed to set their own teaching and research agendas and they are promoted through processes internal to the university.

Recognizing why some universities start with more autonomy is important in itself, but understanding why some agencies start with more autonomy than others should also refine our theories about how autonomy changes over time. In order to understand how autonomy changes over time—perhaps where we might expect certain forms of protest to be successful or not—it is imperative to understand why some universities start with more autonomy than others. After all, universities that start with high levels of autonomy are likely to seek to protect their autonomy, whereas universities with low levels of autonomy are more likely to engage in political strategies that augment their autonomy.

Apart from universities, understanding why certain government agencies start with more autonomy than others has important implications for governance and development. Providing autonomy to agencies and bureaucracies is thought by some to make states more effective in pursuing development agendas (Evans and Rauch, 1999; Lipsky, 2010). Others conclude the opposite — that the precise problem with many states is that government agencies are not responsive to elected officials without costly oversight (Niskanen, 1972; Wilson, 1989). Others identify a non-linear relationship between autonomy and effectiveness (e.g., Fukuyama, 2013).² Whether autonomy enhances or reduces effectiveness, understanding why some agencies start with autonomy is critical.

In the following section, I define autonomy and discuss existing explanations for why autonomy comes about. In Section 3, I describe the process of contestation through an analysis of the IITs, where foreign advisors worked with the central government to create a university system that started with high levels of administrative and academic autonomy. In Section 4, I compare several public universities to explore whether contestation best explains other cases, for which I created a rigorous method for determining levels of university autonomy. In Section 5, I analyze the starting autonomy for several universities along with their nature of creation. The findings consistently highlight the efficacy of contestation: when a university is created by a single founder, the founder usually controls the university. When multiple founders who are dependent upon one another create a university together, the university starts with autonomy. I conclude in Section 6 by considering recent efforts to start universities in India; I also discuss how contestation can be applied to understanding autonomy in other contexts.

II. Pathways to Autonomy

An agency's mandate is determined by its founders. For instance, when a government creates a police force, the government tasks the police force with providing law and order. Once an agency is created and a mandate established, the agency utilizes policies to pursue its mandate. Autonomy should be understood as the power an agency has in setting its own policies towards pursuing its mandate. More specifically, autonomy refers to the capacity of an agency to “take sustained patterns

² Fukuyama (2013) hypothesizes that there is a “sweet spot” of autonomy: too little and an agency is stymied, too much and the agency will do the wrong activities. This sweet spot is dependent on the agency's function and capacity; universities and other professionalized sectors of the state should be able to make better use of enhanced autonomy than other state sectors.

of action consistent with [its] own wishes, patterns that will not be checked or reversed by elected authorities, organized interests,” or other governmental bodies (Carpenter, 2001: 14).

Oftentimes, agencies and institutions operating within the same state have different levels of autonomy. States are “a set of governing institutions embedded in their respective societies” (Centeno, et al., forthcoming). These governing institutions can be divided into three types, and autonomy varies in important ways between and within each of these institution types. The first includes government ministries. Ministries are meant to have minimal autonomy as politicians are supposed to direct and oversee their operations by constitutional design. Scholarship to date has only identified illusory or temporary factors as to why autonomy might vary among ministries within the same state. For instance, differences in ministerial autonomy sometimes might emerge due to coalition bargaining among political parties, when a ruling party sometimes needs smaller parties to form the government. In order to get smaller parties to join the coalition, the formateur party agrees to share control of a ministry with another party. Because the formateur and the smaller party are both responsible for the functioning of the ministry, the ministry’s bureaucrats are sometimes able to derive autonomy by dividing the leadership against one another. Once the ruling government is replaced, however, the next government should be able to reestablish control over the ministry.

A second institutional type includes constitutional institutions, or those institutions whose autonomy affects the entire state. Examples include those that are not typically deemed part of the bureaucracy—such as the armed forces and the judiciary—as well as election commissions, attorneys general, and reserve banks. Their claims to autonomy usually derive from a legal-rational need for independence from outside control. These institutions often need autonomy—or at least be perceived as autonomous—in order to buttress the state’s legitimacy.

Even though constitutional institutions may claim that their autonomy is necessary for maintaining a state’s overall wellbeing, politicians and other actors are known to interfere with these institutions, particularly in weak states. In patrimonial regimes, for instance, politicians may exert undue influence over courts or force election commissions to falsify voting results. A growing literature examines why some politicians respect constitutional institutions in emerging democracies, even as others do not. For instance, one such explanation focuses on response to crisis: we know that many central banks across Latin America developed greater autonomy following currency crises (Cukierman, 1994).

A third and final institutional type includes all other government agencies. This class of institutions includes universities, public hospitals, research laboratories, certain regulatory agencies,

and state-owned enterprises. Unlike constitutional institutions—which often tend to have broad mandates—these agencies are usually designated with specific tasks. Because of their limited mandates, if a single one were to fail, it would not threaten the overall stability of the state. In other words, people might suffer if a university went bankrupt or a hospital failed, but the state would not collapse.

Even though an individual agency might not be critical to a state's functions, these agencies as a whole are very important. There are thousands of such agencies across India, affecting the daily lives of nearly every citizen in the country, and their counterparts in other countries are just as prevalent.

Many of these 'everyday agencies' are officially deemed "autonomous" by the Indian government, yet despite their shared classification they exhibit a wide range of variation in actual levels of autonomy. Some agencies are able to control how their resources are allocated, who should be hired and promoted, and can make decisions that cannot be overturned by other agencies. Other agencies are autonomous in name only. Every policy is subject to approval by another government office, while hiring and promotion decisions are made externally, either by politicians or other organizations.

Extraneous agencies are not necessarily part of a ministry nor are they constitutional institutions. This means that claims to control or autonomy have to be justified through more generalizable means. Why, then, are some of these agencies accorded autonomy? The presence of autonomy needs to be framed as a political puzzle. If there is anything resembling a "law" of politics, it is that politicians typically seek to maintain control over decision-making. They do not like to give up power. Conventional explanations consider how autonomy comes about from two directions, either why an individual politician decides to delegate power or how an agency acquires power over time (i.e., not at genesis). To understand why some agencies start with autonomy, it is worth considering each of these in turn.

Why do politicians sometimes delegate autonomy to an agency? Scholars usually treat the agency, rival politicians, and other outside influences as neutral bystanders, addressing the politician as a single, unilateral actor in determining whether an agency receives autonomy or not. This politician's calculus then becomes simplified, leading Huber and McCarty to recognize that "the central tension motivating contemporary theories of delegation from politicians to bureaucrats lies in the potential conflict between the value of bureaucratic expertise, on the one hand, and the desire for political control on the other" (2004: 481). The politician usually chooses to delegate when a task

is sufficiently complex, either because the task requires a considerable degree of manpower or technical expertise or the task is time-sensitive (Miller, 2005). Politicians may also choose to delegate when they are assured that the appointees will be allies such that the agency will act in accordance with their interests (Evans, 1995; Bendor and Meirowitz, 2004).

The decision to delegate may also depend upon a politician's time horizons. Politicians who expect to lose power sometimes insulate agencies before they leave office so that their opponents will not be able to control them. In his analysis of the prevalence of technocracies in Latin America, O'Donnell discusses how authoritarians anticipated their countries adopting democratic systems (1973). Expecting to be replaced, they sought to insulate the bureaucracy and other institutions from future democratically-elected politicians so that the state could not be used for reprisal against the authoritarians. Likewise, one might expect a political party that is about to lose power to insulate certain agencies so that its rivals will not be able to control these agencies as easily. Supporting this theory, Ting et al. (2012) examine civil service reform across U.S. states, finding that politicians are more likely to insulate bureaucracies when they expect to lose an election. Moe (1989, 1990) also suggests that political turnover and uncertainty about the future leads politicians in power to make somewhat inefficient institutions that cannot be easily co-opted. This theory of insulation is persuasive and supported by considerable empirical evidence, but perhaps the most influential theory of autonomy—at least for those who study the developing world—posits the exact reverse: politicians who anticipate staying in power for a long time are more likely to bestow autonomy to bureaucrats.

The most prominent champion of this long time horizons theory is Geddes (1994), who frames the decision for autonomy as a “politician's dilemma.” Geddes treats the politician as an actor torn between virtue and vice. On the virtuous side, the politician wants to bestow autonomy because agencies work better when independent. On the other hand, a politician is also self-interested and can control an agency to pursue individually beneficial goals. According to the theory of the politician's dilemma, if an agency is to be created and the politician has a long time horizon for staying in power, the new agency will be accorded a higher level of autonomy. A politician who expects to stay in power will benefit more from a well-working agency. If the politician instead has a short time horizon, the new agency will be much more controlled and corrupted.

Geddes's theory may hold for constitutional institutions as a politician may recognize that insulating such institutions is necessary for the long-term wellbeing of the state. But constitutional institutions form only a portion of any state. Generalizing the politician's dilemma to other

institution types is of limited value as this theory assumes that politicians recognize that their control is deleterious to the agency's functioning. In reality, however, most political actors simply do not believe that their control over an agency leads to bad results. In the American case, presidents often seek greater control over government agencies because they believe that they can run the agencies better (Moe, 1985). Supporting the idea that politicians believe in their own managerial abilities, Suleiman finds that politicians are reducing bureaucratic autonomy across the democratic world (2003). Politicians generally seem to believe that a government agency will function better if it is more closely controlled, not if it is afforded greater autonomy.

Apart from considering why a politician might grant autonomy, scholars also explore the various ways in which agencies and bureaucracies seek to acquire power to pursue their own mandates. For instance, agencies often have more specific technical information than their political masters; they can use this informational advantage to acquire greater autonomy, contributing to *bureaucratic drift* (McCubbins, Noll, and Weingast, 1987). Likewise, in his examination of the U.S. Food and Drug Administration (FDA), Carpenter (2010) suggests that the FDA enjoys profound levels of autonomy because of its reputation. With a strong reputation, the FDA is able to protect and even augment its autonomy. Agencies are also thought to be able to acquire greater autonomy by monopolizing their functions such that there are no competing agencies.

The leading explanations for autonomy focus either on why a single politician chooses to delegate power or how an already-existing agency takes autonomy. But what happens when multiple political masters oversee an agency? This often arises in presidential systems, where the executive and the legislative branch might represent different political parties. Agencies are thought to prefer such fractured political systems because coordination problems between political masters can be exploited to source greater autonomy. Supporting this theory, Epstein and O'Halloran (1999) have shown that when there is a unified government in the U.S.—meaning both the President and Congress are from the same party—Congress is more likely to delegate responsibilities to executive agencies. When there is divided government, Congress delegates to independent agencies. Autonomy is more likely when politicians are divided amongst themselves.

In the rare instances where politicians are willing to surrender control, there are often outside interests such as corporations, professional associations, international development agencies, and various elite groups who are keen to *capture* these agencies. In analyses of bureaucracies in developed countries, capture is used to describe situations where regulatory agencies become beholden to the groups they regulate (Moe, 1982; Kollman, 2011). In studies of developing

countries, capture typically refers to the more general condition of outside interests taking control of the state writ large, not just regulatory agencies (Hellman, Jones, and Kauffman, 2003). When capture occurs, the agency's level of autonomy is reduced as it loses the ability to set some of its own policies.

The involvement of outside organized interests is often thought to threaten an agency's ability to set its own policies. Some even suggest that the mere presence of outside organized interests will result in an agency becoming completely captured. Others take a more qualified view, but still conclude that greater involvement of outside interests should compromise an agency's autonomy (Schneider, 2003).

The ability for an organized interest to capture an agency not only depends upon the strength of politicians, but also upon the number and strength of any other potential organized interests that may be seeking to capture the agency. If there are several organized interests who lay equal claim to the agency, then it potentially has the ability to balance multiple founders against one another. This allows the agency to derive autonomy over time by strategically aligning with certain founders on various issues.

This form of balancing has been shown to affect patterns of autonomy and control in many non-state organizations as well. For instance, Berle and Means (1932) famously attributed the 1929 stock market crash to coordination problems among changing corporate ownership structures. At the turn of the twentieth century, most corporations were owned by small groups of highly coordinated long-term investors. But then the general public sought to invest in the stock market as well. Corporate ownership structures suddenly expanded, with power becoming diffused among a large group of owners with different investment time horizons. Corporate executives quickly found that these new ownership structures had difficulties coordinating their own oversight and took advantage of this lax oversight to benefit themselves. Executives increased their compensation packages, took greater risks, and prioritized short-term gains over the long-term health of their firms. These changes resulted in greater autonomy for the corporations, but also contributed to one of the most severe economic depressions in history.³

³ Balancing also seems to explain why certain international bureaucracies such as the European Commission enjoy autonomy. The European Commission has been described as a "runaway bureaucracy," as it often chooses to adopt unpopular measures. This is because the Commission is not answerable to a single country (Hooghe, 2002). With so many political masters, bureaucrats at the Commission have created an organizational culture that rejects pressures from the populace and from the member states in favor of a long-term vision for a unified Europe (Ellinas and Suleiman, 2012).

This strategy of balancing also explains why some universities acquired autonomy over time, including how Harvard gained independence from the state of Massachusetts (Baltzell, 1976). Harvard was founded in 1636 by a vote of the Great and General Court of the Massachusetts Bay Colony, making it a public university. Through the remainder of the seventeenth century and for much of the eighteenth century, Harvard's principal executive organs were composed of academics, clergy, and state government officials. These members, sharing a cohesive elite identity, were known as Boston Brahmins. Few issues arose between the university and the state legislature because the same set of elites controlled both institutions. By the early 1800s, however, fissures started to emerge within this elite class: religious divides formed, new economic elites came about as the economy began to industrialize, and the emergence of populist political parties all reduced elite cohesion. In 1824, the Massachusetts government issued its last grant to Harvard, but retained control over the institution. In 1842, the alumni formed an association that would become a strong lobbying force for the university. By 1865, the Harvard Alumni Association was able to convince the members of the state legislature to "privatize" Harvard by giving up their seats on the Board of Overseers. The alumni association was also able to use its influence to remove the clergy from university governance.

The Alumni Association sought to make the university private in part to preserve cohesion among an elite class that was splitting, and it believed that controlling Harvard would enable them to determine who could subsequently become elites (Story, 1980). Paradoxically, the Alumni Association's movement to take control of the university was aided by this breakdown in elite cohesion. Agencies and their lobbyists are sometimes able to wrest autonomy when the overseers become divided.

But even though balancing is an important and well-studied path through which agencies are thought to gain autonomy, it cannot explain why some agencies start with more autonomy than others, as agencies need to already exist for balancing to take place.

To summarize, conventional explanations for autonomy can be grouped into two camps. First, we understand why individual politicians choose to delegate power. Delegation is thought to be more likely if there is task complexity, if the politician believes that the agency is likely to faithfully execute her interests, and/or depending upon how a politician's time horizons for power are structured. Second, scholars have considered a variety of mechanisms through which an already-existing agency can enhance its autonomy over time. These mechanisms include bureaucratic drift, developing strong reputations, and balancing multiple masters. These explanations do not, however,

address whether or why multiple founders might choose to endow an agency with autonomy from its genesis.

III. Contestation Explained

For balancing to come into play, a power-sharing agreement for control over an agency needs to be struck among multiple founders. Multiple founders may agree on a mandate—what an agency’s purpose should be—but may also be suspicious of letting other founders control how the agency executes this mandate. In these cases, founders are sometimes so concerned with preventing other founders from gaining a share of power that they are willing to forsake their own claims to agency control. When founders pursue this approach, an agency is bestowed with autonomy from its very start. This process can be termed *contestation* as the founders are more concerned with minimizing each other’s influence than maintaining a share of control over the agency. Figure 1 depicts one possible form of contestation: when a politician and an outside actor collaborate to create a new agency. The politician wishes to politicize the agency; alternatively, the outsider seeks to capture the agency. Neither can claim complete control over the agency, however, because of the other founder’s claims. As second-order strategies, the politician focuses on preventing capture and the outsider ensures that politicization cannot occur. As a result, the politician and the outsider agree to empower the new agency with autonomy.

The example of the Indian Institutes of Technology (IITs) illustrates how contestation plays out. As a government-run system of premier technical universities spread across India, the IITs were created in the 1950s and 1960s by a group of officials in the central government who believed that world-class training for a small number of students could trigger industrialization (Bassett, 2016). But the government could not afford to build such universities at the time and the Indian state lacked the expertise to carry out such an ambitious project. Consequently, the government had to partner with foreign donors and advisors to create the first five campuses: at Kharagpur (in 1950, led by UNESCO), Bombay (in 1958, led by the Soviet Union), Madras (in 1959, led by West Germany), Kanpur (in 1959, led by the U.S.), and Delhi (in 1961, led by the United Kingdom). Each outside group sent funds, laboratory equipment, and technical experts who were university professors. At IIT-Kanpur, for instance, the U.S. government funded facilities and recruited professors from eleven top American universities (KIAP, 1973).

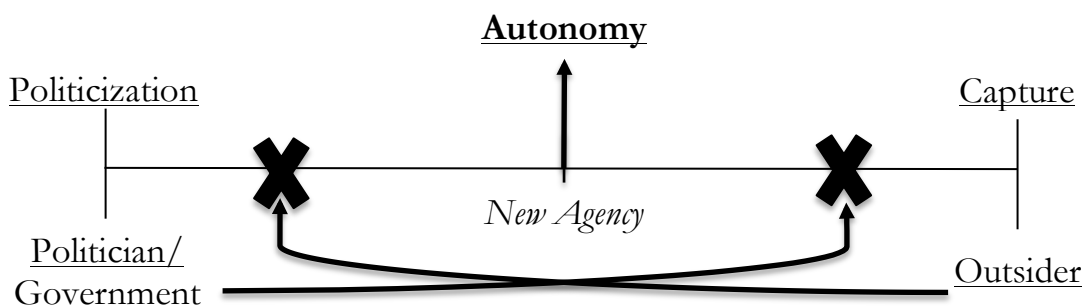


Figure 1. A Politician and an Outsider agree to create a new agency. Each would prefer to completely control the agency, but are unable to do so alone. As a second-order preference, they do not want the other side to control the agency and negotiate conditions that block the other side from controlling the agency, in the process surrendering their own control. As a result, the new agency is created with autonomy.

Foreign advisors and donors were keen to ensure that the government could not interfere with operations at the IITs and made political autonomy a condition of their involvement. Many foreign professors had experienced politicization in academia at home and were wary of government oversight.⁴ In India, they found a central government that was already asserting itself in the affairs of other universities and even at new technical institutes such as the All India Institute for Medical Sciences (AIIMS), India's premier medical training system.

For their part, officials in the central government regarded foreign involvement in the IITs as a dangerous necessity. The central government could not create the IITs on its own, yet India had also just emerged from the specter of colonialism. The four major donor countries all had imperialistic histories, and one reason behind why they agreed to provide support was because they hoped for larger geopolitical considerations from India.⁵ There was some apprehension that these campuses might be used as bases for espionage, but there was also an overarching concern that each country would seek to replicate their own programs for higher education and technical training without respecting Indian sensibilities.

As a result, even though both sides wanted to work together to build a technical education

⁴ See Kim Patrick Sebalý's interviews with early IIT founders (1967-69). These interviews are presently being added to an online archive.

⁵ Even though India was committed to a nonaligned approach at the time, both the Soviets and the West were pursuing India's support. The Americans initially balked at supporting the IIT project. But once they learned that the Soviets were involved, they quickly agreed to support the construction of IIT-Kanpur as a gift, officially setting no return stipulations (Kennedy, 1961).

program, the foreigners sought to limit government control over the IITs even as government officials sought to check the power of the foreigners. The central government agreed to several provisions that insulated the IITs from its control. Unlike most other universities in India, the IITs would not have to report to the politically controlled University Grants Commission, but could instead submit budget requests directly to the Parliament through the Ministry of Education. An IIT Council was created to shield them from political influence; the central government could appoint the Chairperson of each campus's Board of Governors, but no other members.⁶ The government had limited academic and administrative oversight and minimal control over spending decisions, although it could set tuition rates. Reciprocally, foreigners were not allowed to assume administrative positions; this meant that in most cases, foreign advisors were ineligible to become department heads, let alone directors of the universities.

This compromise empowered the new internal administration to chart the future course of the IITs, and they were repeatedly able to stand up to both central government officials and their foreign advisors. For instance, when the IIT Council was searching for suitable locations for the campus that would become IIT-Kanpur, Prime Minister Jawaharlal Nehru lobbied for the campus to be placed near his home in Allahabad (Nehru, 2010). His overtures were rejected. In contrast, Nehru successfully intervened in internal disputes at the AIIMS, the Indian Statistical Institute (ISI), and at Delhi University.

For their part, the foreign advisors expressed concern with the direction that the new IIT administration had chosen. The Soviets were involved in founding IIT-Bombay and expected to build Soviet-style institutes focusing in depth in a single area rather than breadth across several technical domains (Yokoi, 2015). The administrators at IIT-Bombay and the IIT Council did not agree and did not allow the curriculum to reflect Soviet priorities.

Advisors from West Germany were also unhappy with the administration at IIT-Madras. At the time, West Germany had a dual track for training theoretical, research-oriented engineers versus lower-level experiential engineers; the academics sent to India sought to build an institute for mass training of low-level engineers, as they believed that this would be most beneficial for a developing country. The administration refused to take IIT-Madras in this direction.⁷ West German investment

⁶ The Director is also a member of each campus's Board of Governors and is chosen by the IIT Council with approval from the central government.

⁷ West German officials also advocated for building a "technical high school" from their very first meetings with Indian government officials (Nehru, 1956).

in IIT-Madras represented its biggest development program anywhere in the world at the time, but its foreign advisors were so disgruntled that they recommended the partnership be dissolved.⁸

As a result, even though the IITs were created in partnership between the Indian central government and foreign powers, neither had control over the IIT administration. The founders were suspicious of one another and sought to limit each other's influence. In doing so, they ensured that the IITs received autonomy at their inception. This is contestation.⁹

But are the IITs an isolated case, or does contestation explain variations in starting autonomy across the landscape of Indian higher education? The IIT system is a very small component of the overall higher education system. They have been growing rapidly since 2008, but there are still less than 7,000 professors and slightly less than 20,000 undergraduate students across all nineteen (soon to be twenty-three) campuses. By comparison, the entire higher education system includes approximately 1.2 million academics serving more than 16.8 million students across 677 recognized universities.¹⁰ How well does contestation explain variation in founding autonomy across this broader landscape?

IV. Examining Contestation

To understand whether contestation is a common pathway through which universities start with autonomy, I examined the creation of several universities in India. First, I examined the history of each university's creation. In most cases this was straightforward: universities often like to celebrate their founders and keep detailed histories of their origins. For some, however, popular understandings of their origins proved false, so I incorporated archival data and interviews with university creators when appropriate.

Second, I examined the original charters for each university. All universities were officially created either through Acts of Parliament, Acts of State Assemblies, or through Memorandums of Association. I used these documents to construct a measure of initial autonomy. To do so, I turned to the scholarship on central bank independence, which describes the ability of a country's central bank to chart its own policies without interference from politicians, other government agencies or

⁸ Kim Patrick Sebaly interview with Professor Rouvé, October 13, 1966. These advisors were ultimately overruled and West German support for IIT-Madras continued through the 1970s.

⁹ Despite some recent setbacks, the IITs have largely been able to protect this autonomy over time by relying upon a stellar popular reputation and through the emergence of a powerful network of alumni.

¹⁰ See the website of the Indian Ministry of Human Resources and Development: <http://www.mhrd.gov.in/university-and-higher-education> (last accessed May 23, 2016).

private banks (Alesina and Summers, 1993; Cargill, 2013). Similar measures can be adapted and applied to university governance, such as how appointments to the apex body are made, and whether outside agencies or actors are able to overturn decisions. Other literature on university autonomy also suggests that the ‘power of the purse’ should affect a university’s ability to make its own decisions, as should how rank-and-file hiring and promotions are handled (e.g., Moos and Rourke, 1959). The six dimensions that I examine to compare university autonomy are as follows:

1. Appointments to the Apex Body – Every university has a governing body. Who makes the appointments to this body? Are terms fixed or do appointees serve at the pleasure of someone else?
2. Selection of the University Executive – Every university has an officer with executive duties. How is this officer selected? Are they selected from within the ranks of the institution? Do they have an academic pedigree?
3. Hiring and Promotions – Who determines how faculty and staff are hired and promoted? Are these processes internal to the university or are other outside actors involved?
4. Academic Oversight – Are the faculty organized in a Council or Senate? If so, are non-academics included in this body? Can decisions of the academic body be overturned by other organs within the university or by outside actors?
5. Administrative Oversight – Which outside actors, if any, can overturn non-academic decisions?
6. Power of the Purse – Is the university allowed to maintain its own endowment or set its own financial instruments (such as issuing its own bonds)? Does the university receive funds from multiple sources (such as research agencies and outside contracts) or can it only receive funds from one government agency? Once it receives money, can the university internally determine how the money is spent or must its budget be pre-approved by an outside agency?

Using these criteria, I identify whether a university has a low or high level of autonomy. The advantage of this approach lies in its objectivity: the codified processes of universities lend themselves to comparison. The disadvantage is that universities sometimes do not operate as their constitutions suggest they should. In the case of the Indian Law Institute (ILI), for instance, a separate shadow committee of foreign academics superseded the formal processes of the university: they made almost all decisions instead of the officials who were entrusted with these powers. Because I had access to the early university histories, however, I was able to analyze the extent to which universities followed their codified processes. Apart from ILI and some erstwhile absent government officials at other campuses, universities mostly conducted their affairs in line with their charters.

V. Case Studies

Why do some Indian universities start with more autonomy than others? As this section shows, the level of autonomy that a university starts with has to do with who founds the university. If a single founder creates a university, the single founder tends to limit the new university's autonomy. If there are multiple founders, then the university is sometimes—but not always—endowed with autonomy at its creation. Whether or not the university is endowed with autonomy has to do with whether contestation takes place: if multiple founders must depend upon one another for the creation of the university, they are likely to demand an independent administration. If one founder is able to marginalize the other founders, the more powerful founder will come to control the university. This pattern has held since the 1850s—when the British colonial government created the first public universities in the country—and has held through independent India's history. I shall discuss the details of many cases below, but all the cases studied are summarized in Table 1.

A. Comparing Central Universities under British Rule

Although India had institutions of higher education for centuries, the current Indian university system began in 1854 when Sir Charles Wood, the President of the Board of Control of the East India Company, sent a *Dispatch* to the Company's Governors emphasizing the need for proper systems of Anglo education from the primary to the university level. In response to Wood's Dispatch, universities were founded in Bombay, Calcutta, and Madras in 1857. The University of Punjab was created in 1882 and Allahabad splintered from the University of Calcutta to form its own varsity in 1887.

A cohesive colonial government unilaterally founded these five universities, and they consequently had low autonomy. Faculty had limited involvement in university governance, the government could make most academic and administrative decisions, and there was no full-time university executive.¹¹ According to the Sadler Commission (1919), Indian universities from this time period faced more government control than universities anywhere else in the world.

For the next several decades, no new public universities were created apart from the Indian Institute of Science.¹² Then beginning with the 1909 Indian Councils Act and culminating with the 1919 Indian Councils Act, the British sought greater Indian representation in colonial government.¹³ Even though the British maintained control over the “steel frame”—in areas such as finance, revenue, and home affairs—they allowed for joint control over what they determined were less critical sectors of government. Among the sectors deemed less critical—and ripe for Indian participation—was higher education.

With the inclusion of more Indians in the colonial government, there was a push to redefine higher education and the Imperial Legislative Council established Banaras Hindu University (1915), Patna University (1917), Aligarh Muslim University (1920), Lucknow University (1921), Delhi University (1922), Nagpur University (1922), Andhra University (1926), and Agra University (1927).¹⁴

These new universities were distinct from their earlier counterparts in that they were created by a legislature almost evenly split between Anglos and Indians. The purpose of all colonial era universities was to advance the interests of the elites, but this was a time where serious divides were also emerging between Anglo and Indian elites. Indian elites—including those on the Imperial Legislative Council—sought to reduce and ultimately end British dominion. A university act that gave too much authority to the government would potentially enable long-term Anglo dominance. For their part, Anglo legislators no doubt recognized that India was moving towards self-government. They did not want these universities to become bases for anti-British resentment, and

¹¹ University autonomy was further curtailed by the 1904 Universities Act.

¹² The Indian Institute of Science was created in 1909 by multiple founders including the industrialist Jamsetji Tata, the Maharaja of Mysore, the colonial government, as well as several prominent British and Indian academics. IISc was accorded a profound level of autonomy at its founding with a robust system of faculty-centered system of internal governance.

¹³ The move to include greater Indian representation in colonial government came to be known as the Montagu-Chelmsford Reforms.

¹⁴ The colonial government also created Dhaka University in present-day Bangladesh (in 1921) and Rangoon University was created in present-day Myanmar (in 1920). It was renamed Yangon University in 1989.

so they preferred to entrust control over the university's affairs to the academics, many of whom would be Anglo.

As a result, the Delhi University Act—much like other university acts from this time—reflects autonomy derived from contestation between Anglo and Indian legislators. At Delhi University, a robust Executive Council was created with wide latitude in university governance. It was primarily composed of academics from within the University: in addition to the Vice-Chancellor and the Rector, the Executive Council included the six Deans of the Faculties, the Principals of the Colleges (there were three at the time), and two members of the Academic Council. There were only three non-academic government appointees on the Executive Council. The Court—controlled by faculty and alumni—could also elect five members to the Executive Council, and the Executive Council could select its own Treasurer, who was also a member. The Academic Council was also empowered within the University structure.

The Vice-Chancellor would be the chief academic and executive of the University; he would be selected by the Executive Council, with the assent of India's Governor-General. The Governor-General was made the Chancellor, but could only make non-binding recommendations.¹⁵ The University also enjoyed healthy fiscal autonomy, as it was able to set its own tuition rates and propose its own budget to the Government. The starting autonomy enjoyed by Delhi University and others created at this time reflects the divides and calculations between the various sets of founders.

B. Comparing Universities Created in Princely States

One might challenge the preceding account by suggesting that universities created between 1915 to 1927 enjoyed autonomy simply because of historical circumstance rather than the politics of contestation. For instance, one might suspect that there was widespread agreement during this time period that autonomy would produce better universities. However, an examination of universities created in India's princely states during this same time period points to the important role of contestation in securing autonomy. At the same time as the colonial government was establishing new universities, two maharajas were doing the same. The University of Mysore was founded in 1916 and Osmania University was founded in Hyderabad in 1918. Unlike the universities being created by the colonial government, the governments of the princely states sought to tightly control

¹⁵ The Chancellor (i.e., the Governor-General of British India) could also veto certain ordinances.

their new universities.¹⁶ For instance, Mir Osman Ali Khan, the Nizam of Hyderabad, founded Osmania (Elliott, 1972). As one of the richest individuals in the world at the time, Khan and his government did not need to partner with any other founder to start a university. Khan wanted a university where Indians could learn about modern sciences and humanities through the medium of an Indian language, and Osmania became the first to offer instruction in a non-English language: Urdu.

Despite these lofty ideals, Khan ensured that the university would be subject to his complete control. Khan was named Patron and could overturn any policy he did not like. The Prime Minister of Hyderabad—who served at Khan’s pleasure—was made the Chancellor. The Vice-Chancellor would be the chief executive of the university, and was ordinarily Khan’s Education Minister. The main executive body of the university was the Council, comprising six ex-officio members: the principals of constituent colleges and three members nominated by the Hyderabad government. The Senate was the university’s main academic body. In addition to including the professors of the university, the Senate also included the members of the Council, two alumni and two members of the junior faculty. The Nizam’s Government could also make appointments to the Senate, provided that the majority of Senators were in some way connected to the field of education. Therefore the Senate did not necessarily need to be composed of academics from Osmania.¹⁷ Osmania was created with almost no autonomy, experiencing the pros and cons of a single founder with deep pockets.¹⁸ A similar situation developed at the University of Mysore, founded by the Maharaja of Travancore in 1937 and closely controlled by his princely government.¹⁹

Shortly following Independence, the new Indian government sought to convince the maharajas—who controlled approximately forty percent of the country—to surrender their dominions. The prince of Baroda, Pratap Singh Rao Gaekwad, agreed to let his territory join India on the condition that the new government fund a university in his father’s honor (Menon, 1956). On

¹⁶ Another center for higher learning was established by Rabindranath Tagore in 1921. Using the money he received from winning the Nobel Prize, Tagore established Visva Bharati in present-day West Bengal as a completely private institution. Tagore and his family maintained near complete control over Visva Bharti until 1951, when it was taken over by the central government.

¹⁷ The university governance structure also included a Syndicate, which consisted of representatives of the Council and the Senate.

¹⁸ As the University became larger, the Nizam’s Government transferred some of the day-to-day management to full-time officers at the university. This is consistent with the idea that as a task becomes more complex, the principal becomes willing to delegate power. Nevertheless, the government could appoint and remove these officers, and could also review and overturn any policies. Very little substantive autonomy was acquired with these changes.

¹⁹ Travancore University was transferred to the government after Independence and was renamed the University of Kerala in 1957.

April 30, 1949—the day before the administration of Baroda was transferred to the state of Bombay—Singh inaugurated the Maharaja Sayajirao University of Baroda.²⁰ Two years later, Gaekwad moved to Europe.

In contrast to other universities created in Maharashtra and Gujarat shortly afterward, MS University was endowed with a healthy degree of autonomy at its founding. Gaekwad assumed a largely ceremonial Chancellorship position that his descendants continue to occupy today.²¹ At its founding, decisions were made by the Vice-Chancellor, the Syndicate, and the Senate. The Vice-Chancellor was to be elected by the Senate from three nominees of the Syndicate. The Syndicate was the main executive body of the University, composed of eight academics and nine non-academics; the nine non-academics represented different branches of the state government as well as the University Trust. The real power of the University lay with the Senate, however, which could overturn acts of the Syndicate. The Senate included mainly academic members, but the state government could make twenty-five appointments to the ninety-seven member body. The state government usually deferred to the recommendation of the Vice-Chancellor for these appointments. When Rudolph and Rudolph (1972) examined MS University in the late 1960s, they found a robust internal governance system where faculty members were courted for their votes. Most decisions were made internally, not by the state government or some other outside organization.

Why did MS University start with such high autonomy? The Maharaja of Baroda and his father had been trying to create a university since 1908, but they had been unsuccessful in doing so on their own (Bhagavan, 2002). When the Indian government offered to fund a university on the condition that the Maharaja step down, the Maharaja agreed. The government did not grant the Maharaja full power over the university: he instead accepted a ceremonial position, but also ensured that the state and central governments were checked.

These cases confirm a general pattern: when a single founder creates a university, the single founder tends to maintain close control over the university's operations. This took place with India's earliest universities, which were largely created by a cohesive Anglo colonial government, and at Osmania and Mysore, which were both created by powerful princely states. The same pattern holds post-Independence, when the central government created universities like the School of Planning and Architecture—which was started by a former bureaucrat with funds from the central

²⁰ Baroda was merged with the state of Bombay on January 31, 1949, but the administration was not handed over until May 1, 1949. In 1960, the state of Bombay split into Gujarat and Maharashtra; Baroda was assigned to Gujarat.

²¹ MS University's autonomy would later be reduced by the Gujarat state legislature in 1982.

government and became completely controlled by the Ministry of Education—or the National Institute of Design, which was first conceptualized by outsiders, but was funded and built unilaterally by the central government. When instead, multiple founders create a university, they sometimes endow it with autonomy, as in the cases of the colonial universities created from 1915 to 1927, the MS University, and the IITs. But as I show in the next section, the presence of multiple founders alone does not guarantee autonomy: instead, the presence of multiple founders is perhaps better framed as a necessary condition for autonomy. If one of the founders can marginalize the others, then the dynamics of contestation do not take place and university autonomy becomes unlikely.

C. Institutes Created After Independence

Following Independence in 1947, India aggressively expanded its higher education sector, and by the 1960s the government was spending more on higher education relative to overall education than any other country in the world (Rudolph and Rudolph, 1972). Much of this expansion involved creating state and central universities across the country, but the government also formed several institutes to train small sets of students within narrowly defined fields of study. In addition to the IITs, SPA, and NID, these included the IIMs, AIIMS, and the IIL. Despite being created with similar missions at around the same time period with many of the same government officials involved, they were endowed with varying levels of autonomy. As discussed earlier, the IITs acquired initial autonomy from contestation between the central government and the foreign donors and advisors. Despite having outsider founders, some of these other institutes would not enjoy the same fate as the IITs, as foreign involvement alone does not necessarily guarantee contestation or autonomy.

Consider the case of AIIMS, India's foremost medical university and hospital. In 1950, a group of seven Commonwealth nations including India and New Zealand agreed to form the Colombo Plan for Cooperative Economic Development in South and Southeast Asia, whose purpose was to discourage the spread of communism. In early 1952, New Zealand authorized the

first of many grants to India under the Colombo Plan, with funds earmarked to create AIIMS. It began operating in Delhi later that year.²²

New Zealand's main goals for supplying this assistance were to buy support from the central government and discourage Communism: creating a great medical training facility was secondary. The assistance from New Zealand was given to the Health Ministry rather than to AIIMS directly. Also, New Zealand did not send long-term medical advisors nor did they place demands on how AIIMS should operate. Rajkumari Amrit Kaur, the Union Health Minister for the Government of India, had taken an active role in recruiting the assistance, and she was appointed AIIMS' first President while still serving as Health Minister.²³

In 1956, AIIMS was officially created through an Act of Parliament.²⁴ The politics became tense as the Health Ministry consolidated control over AIIMS. The Indian Medical Council—the preeminent medical body in the country at the time—sought to be included in governing AIIMS, but Kaur ensured that they were rebuffed. Other foreign officials involved in the project, such as L. R. Allen from the Rockefeller Foundation, encouraged a Governing Body “free from interference from political forces desiring to gain special advantage,” but ultimately recognized that foreign donors had negligible leverage over Kaur and the central government (Kavadi, 2006: 2967).

As a result, the Health Ministry came to exert tight control over AIIMS. Fifteen of the seventeen members of the main oversight body were directly appointed by the central government; the Governing Body (the executive body) was chaired by the Health Minister, and would mainly be composed of central government appointees. These decisions have carried through to the present: of the eleven members of the current Governing Body, only five have medical degrees and only two are full-time employees of AIIMS (AIIMS 2015). Furthermore, the Health Ministry empowered itself to directly review and overturn anything passed by the main executive body.

Kaur ensured that AIIMS was under her ministry's control, but would soon come to regret it. A year after the AIIMS Act passed, Kaur resigned as Health Minister but continued as President

²² The Rockefeller Foundation offered a small amount of financial assistance, giving them observational access to the debates over the construction of AIIMS. The amount of assistance was not enough to give them serious influence in making AIIMS autonomous.

²³ During her time as Health Minister, Kaur concurrently served as the President of the World Health Organization. She used her extensive international networks to secure further aid for AIIMS from Sweden, Australia, and the United States, often with minimal strings attached.

²⁴ AIIMS was also certified as an Institution of National Importance by this Act.

of AIIMS.²⁵ Kaur soon found herself struggling for control over AIIMS with the new Health Minister. Using her personal connections, Kaur would appeal directly to Prime Minister Nehru, who ultimately became irritated with Kaur's incessant approaches.²⁶ Ultimately the new Health Minister was able to consolidate control, with a senior Rockefeller Foundation advisor noting that "although the AIIMS is an autonomous body which can accept grants from any sources the real fact is that the ministry does control the institute and its governing body in the final analysis" (Balfour, 1958).

Outsiders also failed to engage in contestation at the IIMs, India's foremost management institutes. The idea behind the IIMs first emerged in 1957, when the Ford Foundation sent two Harvard Business School professors to explore creating a management school at Bombay University. The professors recommended establishing an American-style school of management that would be as independent as possible from the British-designed university system, which they felt focused too much on liberal education at the expense of real-world practice. A follow-up report by George W. Robbins, Associate Dean of the Business School at UCLA, echoed those recommendations made by the Harvard professors. He suggested that instead of affiliating with a university or as a society recognized by a state government, the IIMs should be organized as autonomous societies. Robbins admitted that this approach would only allow the IIMs to issue diplomas and not more valuable degrees, but maintained that "this method provides ample compensating factors in freedom and flexibility" (Mohan, 2011). The Robbins Report was accepted by the central government in 1959 and plans were immediately started to establish the first campuses in Calcutta and Bombay.

From the start, the Ford Foundation gave unconditional assurances that they would help with costs. The central government was also confident that they could get state governments to donate land and could recruit local industrialists to provide further financial support.

By this point, internal records suggest that the central government was already busy planning how to control the yet-to-be-created IIMs. In a letter sent from the Education Minister Humayun Kabir to the chief ministers of the two states slated for IIM campuses, Kabir wrote that each campus should be governed by a Council composed of industrialists and government officials

²⁵ Kaur believed that she had lost her position as Health Minister because of personal issues with others in Nehru's Cabinet, but she was also against family planning and population control at a time when India was increasingly seeking to address the size of its population.

²⁶ Kaur would write to Nehru when she disagreed with the new Health Minister's decisions. These petty issues included salaries for certain kinds of professors, whether a certain research professor above the age of 55 could continue to work at AIIMS, and the release of funds for hospital furniture (Nehru, 2010: Vol. 41: 457-64).

(Anubhai, 2011). Kabir did not want to include academics on the Council, nor did he want the Ford Foundation to be given any formal role in university governance.

The next big development for the IIMs took place in 1960, following the split of the state of Gujarat from Maharashtra. The new Chief Minister of Gujarat immediately sought to transfer one of the proposed campuses from Bombay to Gujarat's capital in Ahmedabad. The Government of Gujarat quickly offered land for the campus within the city itself, while the local business community offered to provide a generous initial grant and recruited celebrated American architect Louis Khan to design the campus. The proposal enticed the central government and to shift the project to Ahmedabad.

Almost as soon as Ahmedabad was offered the Institute, divides emerged between the two other major founders who could have contested the central government's power: the local business community and the Ford Foundation. The Ford Foundation was keen to include UCLA in the Ahmedabad project; the local industrialists wanted HBS instead. One of the leading industrialists involved, Vikram Sarabhai, was adamant: even though HBS seemed less enthusiastic about the project, Sarabhai believed that HBS's brand name guaranteed better guidance.

Sarabhai planned a trip to America in the spring of 1961 with the intention of bringing HBS on board. Before leaving, Sarabhai and other industrialists drafted a proposed Memorandum of Association (MoA) for the central government. Their proposal empowered a mainly academic and local business Council to appoint the Director and the Chairperson, to frame bylaws for appointments and promotions of teachers, and to purchase property as it saw fit. The central government's powers would have been curtailed considerably.

But Sarabhai's challenge to check the central government was unlikely to be accepted for several reasons. For starters, the central government had only recently agreed to offer the new IIM to Ahmedabad. Sarabhai and his allies had already spent political capital lobbying for the new campus, and they were unlikely to receive further concessions. Also, Sarabhai was about to leave the country for two months, more concerned with wooing HBS than with setting the MoA. He would neither be able to lobby the central government from the United States, nor would he be able to ally with the Ford Foundation, who could have been useful in demanding autonomy for the IIMs. Furthermore, Sarabhai and the Ahmedabadi business community were not well connected with their counterparts in Calcutta, who were backing the project and were on good terms with the central government.

As a result, Sarabhai's proposal was dismissed. There is no record of Sarabhai or anyone else pushing for a compromise MoA after the failed March proposal, and the central government finalized an MoA on July 29, 1961 according to its own terms. The central government was given the power to appoint the Director and the Chairperson, to review the proposal of any bylaws affecting hiring, promotion, or salaries, and the Institutes were required to get permission from the central and state governments before acquiring any immovable property (Anubhai, 2011: 45). Most importantly, the central government could directly appoint twelve of the twenty-five members of the Board of Governors and could indirectly appoint several others.²⁷

For contestation to produce autonomy, multiple sets of founders must be able to check one another. What we see from the cases of AIIMS and the IIMs is that if one founder has the ability to marginalize the other founders, contestation will not take place and the more powerful founder will consolidate control. In the next section, I shall analyze what happens when the outsider is able to marginalize the government's role as a founder and captures the new university.

D. Cases of Outsider Capture

When the central government unilaterally starts a university or when it is able to politically minimize the other founders, the government maintains control over the university. The same is true when an outside organization starts a public university. The India Law Institute (ILI) and National Law School (NLS) are grouped together because they both demonstrate how outside groups have been able to capture public universities when they can minimize the government's claim to founding a university.

Under colonial rule, the British allowed Indians to become lawyers, and so many law colleges were formed. However, they were widely known to supply a poor level of education: classes were held at irregular times, there were low attendance rates, poor testing methods, inadequate facilities, outdated curricula, and second-rate instructors who were paid below-average salaries (Krishnan, 2004: 452). Consequently, the best students avoided Indian legal training altogether and studied in the United Kingdom.

²⁷ Over time, many government appointees sided with the local business leaders instead of the central government. Over the next several decades, a pattern emerged as the academics at the IIMs lobbied these local business leaders to check the central government. Ultimately in 2012—after several recent intrusions on the part of the central government—the IIMs convinced several powerful business leaders to lobby for their autonomy. The central government capitulated and made the IIMs among the most autonomous public universities in the country.

Shortly after Independence, local and state parties politicized many law colleges across the country. All law colleges were affiliated with universities, and when the University Grants Commission (UGC) was formed in 1953, all law colleges came under direct government control. India's lawyers and judges won a series of court cases challenging the central government's attempts to enhance its power over legal education, but educators remained concerned that the central government was unlikely to invest in improving the quality of education, and that the ruling party could potentially come to dominate legal education (Krishnan, 2004).

Against this backdrop, the Ford Foundation decided to improve Indian legal education. As the Foundation would do in other spheres of higher education, American academics were brought in to propose a new system. In the case of legal education, however, some of the American academics brought to India expressed skepticism over introducing an American system of legal education. Carl Spaeth, the Dean of Stanford Law School, and Herbert Merrillat, a lawyer, visited India in 1956. They confirmed the deplorable and politicized state of Indian legal education, but instead of encouraging the development of American-style legal training, suggested that the Ford Foundation should encourage an Indian body to oversee legal training: there were too many differences between the American legal and educational systems, and India should develop its own system appropriate for its context.

Despite these objections, the Ford Foundation established the ILI as an American-style law institute in December 1956. Even though the central government would contribute some funds, the Ford Foundation offered the major funding for the project and took the lead in all aspects of building the Institute. Consequently, the Ford Foundation (and its American advisors) reserved the right to chart the ILI's course and to make all appointments. Leaders of the Indian legal community were appointed to various posts, but in the early years, American advisors held most of the power.

Some of the Americans who reviewed the ILI warned that too many decisions were being made from American perspectives, without taking into account the needs of the Indian legal community. For instance, an Indian ILI professor had been writing what would become an expensive constitutional law casebook. The American advisors—who had been “in country” only a few weeks—forced him to abandon the project because they thought the casebook would be unaffordable for law students. When the Indian professor found out why—a few weeks after most of the advisors had left—he explained that the target audience of the textbook was actually lawyers, and many had already expressed positive feedback because it was among the first books to provide a common body of precedent. At the meeting where this was decided, one of the advisors mentioned

that he was troubled that there were no Indian law professors present. A law professor visiting from Columbia replied, “The truth is, we can talk more freely among ourselves when we don’t have to worry about Indian sensibilities” (Getman, 1992: 249). Over time, the Ford Foundation allowed the ILI to develop its own autonomy, but this case demonstrates that an outsider—if left unchecked—can be just as willing to control an institution of higher education as a government.

The case of National Law School (NLS) in Bangalore further confirms the willingness of outside organizations to capture purportedly public universities. The background of NLS can be traced to the 1960s and 1970s, when the legal establishment battled with Prime Minister Indira Gandhi. Several court cases curtailed Gandhi’s power in favor of the judiciary. Partly in response to these cases, Gandhi declared Emergency in 1975. Gandhi arrested several lawyers and forced the Supreme Court to approve her actions. After Emergency ended in 1977, the legal profession sought to insulate itself from political interference. For instance, beginning in 1981, the nation’s constitutional courts established a collegium system whereby they appointed their own members. India became the only country where judges appoint and promote themselves.

During this time, the legal community also sought to create law schools independent of government influence, and central government influence in particular. In 1985, the Bar Council of India (BCI) formed a trust for the purpose of establishing an independent law university. The BCI purposely did not approach the central government and instead sought to partner with a state government that would offer favorable treatment. The BCI settled on Karnataka, a state controlled by the Janata Party (a rival to Indira Gandhi’s Congress Party). Karnataka offered generous resources with minimal conditions, and the state legislature passed the 1986 National Law School of India Act.

As a result, the BCI reserved the right to closely control the NLS. The General Council was originally the supreme authority of the university. The BCI could appoint slightly less than half of its members, but formed a strong plurality as seats were also reserved for government officials, other lawyers, and judges. Only four of the forty-three seats were reserved for faculty, including the BCI-approved Vice-Chancellor. The BCI has also made appointments to the Executive Council and can even make non-academic appointments to the Academic Council. In short, the BCI controls the internal governance of NLS.

NLS may have low autonomy, but unlike many other universities in India, it enjoys relatively benign outsider control. Even though the BCI has remarkable power over NLS, it has historically deferred to on-campus academics in decision-making. Perhaps this respectful approach has to do

with the unique characteristics of the BCI. Unlike bar councils in neighboring countries, a political party has never controlled the BCI at the national level; instead, the BCI has historically remained apolitical, focusing on strengthening the country's judiciary against threats from other spheres of government. Had the BCI been more politically-oriented—or if the BCI one day becomes politicized—we might expect a different kind of stewardship over NLS.²⁸

What emerges from these cases is a robust pattern, as displayed in Figure 2. If a single founder creates a university, the founder controls the university. This holds when the colonial government created universities prior to the inclusion of Indian representation, when princely states created their own universities, when the post-Independence Indian central government was able to create higher education institutions on its own, and when outsiders founded law schools such as the ILI and NLS. Indeed, there was only one case I examined where a single founder of a university provided autonomy: the Indian Statistical Institute (ISI). Originally created in 1932 under the University of Calcutta, it became independent in 1959 by an act of the Indian Parliament. The central government agreed to fund ISI, but apart from some pressure to focus less on theoretical and computational statistics, the government provided a high level of autonomy and the ISI began to operate independently. This autonomy probably had to do with the special personal relationship forged between Prime Minister Nehru and the ISI's leader, P.C. Mahalanobis.

²⁸ Even though the BCI is apolitical at the national level, many state-level bar councils are controlled by local political parties. In the last twenty years, several of these state bar councils have worked with their state governments to create local law schools. These law schools all have different governance structures. According to the theory of contestation advanced in this paper, we should expect new law schools to start with higher autonomy when the state bar council is either apolitical or is controlled by an opposition political party. Autonomy should be lower at law schools created in states where the same political party controls the state government and the state bar council.

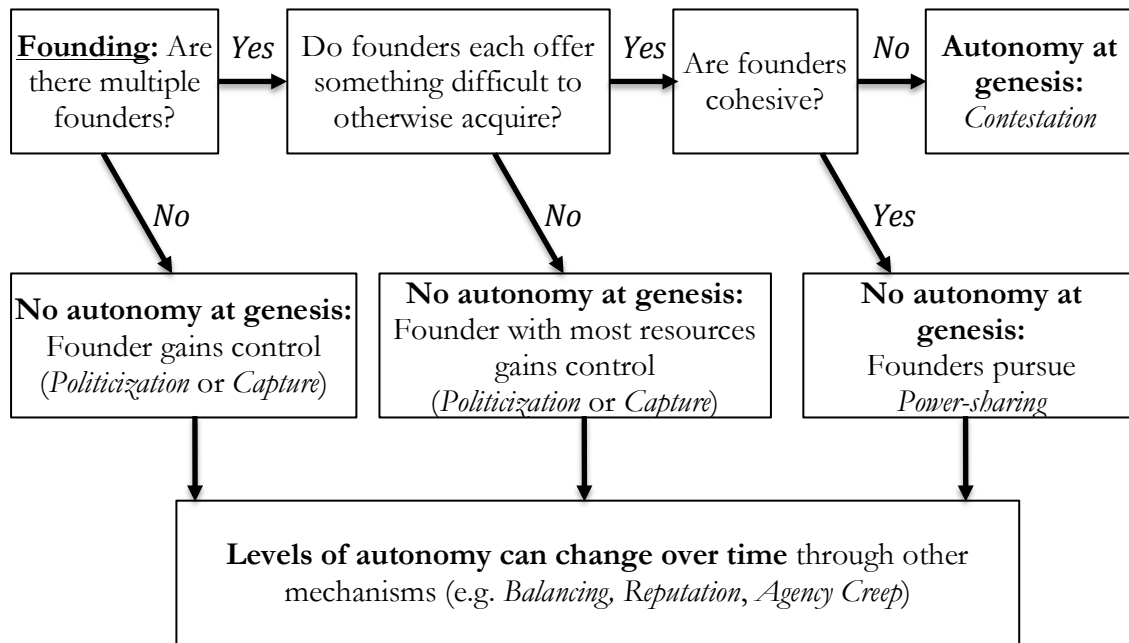


Figure 2. A Theory of Autonomy

Apart from ISI, the universities that start with autonomy tend to have been created by multiple founders with disparate interests. The presence of multiple founders alone does not guarantee autonomy, however, as one founder can sometimes neutralize the other founders. This happened at AIIMS and at the IIMs, where the central government sought to consolidate control; it also happens at the IIT and NLS, where the outsider was able to capture the universities. In the cases when there are multiple founders with disparate interests who must depend upon one another, we are likely to see autonomy emerge. This dynamic took place in the formation of several universities including the IITs, colonial universities created when Indian and British representatives shared control over higher education policy, and at MS University.

VI. Summary and Extensions

Previous studies of autonomy follow one of two frameworks. Scholars either explore how already-existing agencies gain autonomy over time or focus on the conditions under which a single founder—usually a politician—chooses to bestow autonomy to a new agency. I have presented a third framework through which agencies gain autonomy. A new agency sometimes starts with autonomy when contestation takes place: that is, when multiple interdependent founders seek to limit one another’s control over the new agency. By checking each other, the founders agree to

endow the new administration with autonomy. In contrast, if a single founder creates an agency or if one founder is able to marginalize the other founders, then the main founder oftentimes consolidates control over the agency. This framework should also generalize to explain variations in starting autonomy at other extraneous government agencies including public hospitals, research agencies, and state-owned enterprises, both in India and elsewhere.

Understanding the politics between multiple founders is crucial at a time when many developing countries—including India—are rapidly increasing the number and size of their public institutions. As developing countries reach out to outside founders to help them build institutions—sometimes through public-private partnerships, sometimes by partnering with international donor agencies, sometimes through other means—this framework provides a way of thinking about how and when we should see robust institutions emerge instead of institutions that become politically controlled by the local government. And yet, for the important role that outside actors can play in pushing for autonomy, the outsider has to do more than merely provide resources. Autonomy at the start seems to be incumbent upon a struggle.

References

- Aghion, P., Dewatripont, M., Hoxby, C., Mas-Colell, A., & Sapir, A. (2009). Governance and Performance of Universities. *NBER Working Paper Series*, 14851.
- Alesina, A., & Summers, L. H. (1993). Central Bank Independence and Macroeconomic Performance: Some Comparative Evidence. *Journal of Money, Credit and Banking*, 25(2), 151–162.
- Anubhai, P. (2011). *The IIMA Story: The DNA of an Institution*. Delhi, India: Random House India.
- Arnone, M., & Romelli, D. (2013). Dynamic Central Bank Independence Indices and Inflation Rate: A New Empirical Exploration. *Journal of Financial Stability*, 9(3), 385–398.
- Balfour, M. C. (1958, March 18). Balfour Note. *Rockefeller Foundation Archives*, Record Group 1.2, Series 464 A, Box 37, Folder 307.
- Baltzell, E. D. (1976). The Protestant Establishment Revisited. *The American Scholar*, 45(4), 499–518.
- Bassett, R. (2016). *The Technological Indian*. Cambridge, MA: Harvard University Press.
- Bendor, J., Glazer, A., & Hammond, T. H. (2001). Theories of Delegation. *Annual Review of Political Science*, 4, 235–69.
- Bendor, J., & Meirowitz, A. (2004). Spatial Models of Delegation. *American Political Science Review*, 98, 293–310.
- Berle, A. A., & Means, G. C. (1932). *The Modern Corporation and Private Property*. New York, NY: MacMillan Press.
- Bernheim, B. D., & Whinston, M. D. (1986). Common Agency. *Econometrica*, 54(4), 923–42.
- Bhagavan, M. (2002). The Rebel Academy: Modernity and the Movement for a University in Princely Baroda, 1908–49. *The Journal of Asian Studies*, 61(3), 919–947.
- Cargill, T. F. (2013). A Critical Assessment of Measures of Central Bank Independence. *Economic Inquiry*, 51(1), 260–272.
- Carpenter, D. P. (2001). *The Forging of Bureaucratic Autonomy: Reputations, Networks, and Policy Innovation in Executive Agencies, 1962–1928*. Princeton, NJ: Princeton University Press.

- Carpenter, D. P. (2010). *Reputation and Power: Organizational Image and Pharmaceutical Regulation at the FDA*. Princeton, NJ: Princeton University Press.
- Centeno, M., Kohli, A., & Yashar, D. (Eds.). (Forthcoming). *States in the Developing World*. New York, NY: Cambridge University Press.
- Cukierman, A. (1994). Central Bank Independence and Monetary Control. *The Economic Journal*, 104(427), 1437–1448.
- Education Development Center. (1973). Kanpur Indo-American Program (KIAP) Final Report.
- Ellinas, A. A., & Suleiman, E. N. (2012). *The European Commission and Bureaucratic Autonomy: Europe's Custodians*. Cambridge, UK: Cambridge University Press.
- Elliott, C. M. (1972). The Problem of Autonomy: The Osmania University Case. In S. H. Rudolph & L. I. Rudolph (Eds.), *Education and Politics in India: Studies in Organization, Society, and Policy* (pp. 273–312). Cambridge, MA: Harvard University Press.
- Epstein, D., & O'Halloran, S. (1999). *Delegating Power: A Transaction Cost Politics Approach to Policy Making Under Separate Powers*. Cambridge, UK: Cambridge University Press.
- Evans, P. B. (1995). *Embedded Autonomy: States and Industrial Transformation*. Princeton, NJ: Princeton University Press.
- Evans, P. B., & Rauch, J. E. (n.d.). Bureaucracy and Growth: A Cross-National Analysis of the Effects of the “Weberian” State Structures on Economic Growth. *American Sociological Review*, 64(5), 748–765.
- Fiorina, M. P. (1982). Legislative Choice of Regulatory Forms: legal Process or Administrative Process? *Public Choice*, 39, 33–66.
- Fukuyama, F. (2013). What is Governance? *Governance*, 26(3), 347–368.
- Gailmard, S., & Patty, J. W. (2012). Formal Models of Bureaucracy. *Annual Review of Political Science*, 15(1), 353–377.
- Geddes, B. (1994). *Politician's Dilemma: Building State Capacity in Latin America*. Berkeley: University of California Press.
- Getman, J. (2010). *In the Company of Scholars: The Struggle for the Soul of Higher Education*. Austin, TX: University of Texas Press.
- Hammond, T. P., & Knott, J. H. (1996). Who Controls the Bureaucracy? Presidential Power, Congressional Dominance, Legal Constraints, and Bureaucratic Autonomy in a Model of Multi-Institutional Policy-Making. *Journal of Law, Economics, and Organization*, 12, 119–66.
- Hellman, J. S., Jones, G., & Kaufmann, D. (2003). Seize the State, Seize the Day: State Capture and Influence in Transition Economies. *Journal of Comparative Economics*, 31(4), 751–773.
- Hooghe, L. (2002). *The European Commission and the Integration of Europe: Images of Governance*. Cambridge, UK: Cambridge University Press.
- Huber, J. D., & McCarty, N. (2004). Bureaucratic Capacity, Delegation, and Political Reform. *American Political Science Review*, 98(3), 481–494.
- Jayal, N. G. (2015, July 27). A Department of State. *The Indian Express*. Retrieved from <http://indianexpress.com/article/opinion/columns/a-department-of-state/>
- Kavadi, S. N. (2006). Autonomy vs Ministerial Control in AIIMS: A Tussle Born in 1950s. *Economic and Political Weekly*, 41(27/28), 2967–2969.
- Kennedy, J. F. (1961). Statement by the President Concerning an Educational Consortium to Aid in Developing a Technical Institute in India. *The American Presidency Project*. Retrieved from <http://www.presidency.ucsb.edu/ws/?pid=8434>
- Kollman, K. (2011). Chapter 7: The Bureaucracy. In *The American Political System* (Second Edition). New York, NY: W.W. Norton Publishers.

- Krishnan, J. K. (2004). Professor Kingsfield Goes to Delhi: American Academics, the Ford Foundation, and the Development of Legal Education in India. *The American Journal of Legal History*, 46(4), 447–499.
- Lipsky, M. (2010). *Street-Level Bureaucracy: Dilemmas of the Individual in Public Service* (30th Anniversary Expanded Edition). New York, NY: Russell Sage Foundation.
- McCubbins, M., Noll, R., & Weingast, B. (1987). *Journal of Law, Economics, and Organization*, 3(2), 243–277.
- Mehta, P. B. (2015, July 14). Nalanda is a Syndrome. *The Indian Express*. Retrieved from <http://indianexpress.com/article/opinion/columns/nalanda-is-a-syndrome/>
- Menon, V. P. (1956). *The Story of the Integration of the Indian States*. New York: MacMillan Company.
- Miller, G. J. (n.d.). The Political Evolution of Principal-Agent Models. *Annual Review of Political Science*, 8(1), 203–225.
- Moe, T. (1989). The Politics of Bureaucratic Structure. In J. Chubb & P. Peterson (Eds.), *Can the Government Govern?* (pp. 267–329). Washington D.C.: The Brookings Institution.
- Moe, T. (1990). The Politics of Structural Choice: Toward a Theory of Public Bureaucracy. In O. Williamson (Ed.), *Organization Theory: From Chester Barnard to the Present and Beyond*. New York: Oxford University Press.
- Moe, T. M. (1982). Regulatory Performance and Presidential Administration. *American Journal of Political Science*, 26(2), 197–224.
- Moe, T. M. (1985). The Politicized Presidency. In J. E. Chubb & P. E. Peterson (Eds.), *The New Direction in American Politics* (pp. 235–271). Washington DC: The Brookings Institution.
- Mohan, T. T. R. (2011). *Brick By Red Brick*. New Delhi, India: Rupa Publications.
- Moos, M., & Rourke, F. (1959). *The Campus and the State*. Baltimore, MD: The Johns Hopkins University Press.
- Nehru, J. (2005). To Abul Kalam Azad -- August 17, 1956. In H. Y. S. Prasad, A. K. Damodaran, & M. Hasan (Eds.), *Selected Works of Jawaharlal Nehru* (Vol. 34, pp. 96–97). Delhi: Jawaharlal Nehru Press.
- Nehru, J. (2010a). Section 4(iii): Issues of Governance -- All India Institute of Medical Sciences. In A. Mukherjee & M. Mukherjee (Eds.), *Selected Works of Jawaharlal Nehru* (Vol. 41, pp. 457–464). Delhi: Jawaharlal Nehru Press.
- Nehru, J. (2010b). Setting up a New Technological Institute -- Note to the Minister of Education, July 27, 1956. In H. Y. S. Prasad, A. K. Damodaran, & M. Hasan (Eds.), *Selected Works of Jawaharlal Nehru* (Vol. 34, p. 86). Delhi: Jawaharlal Nehru Press.
- Niskanen, W. A. (1971). *Bureaucracy and Representative Government*. Chicago, IL: Aldine-Atherton Press.
- O'Donnell, G. (1973). *Modernization and Bureaucratic-Authoritarianism: Studies in South American Politics*. Berkeley, CA: University of California Press.
- Rudolph, S. H., & Rudolph, L. I. (1972). Parochialism and Cosmopolitanism in University Government: The Environments of Baroda University. In S. H. Rudolph & L. I. Rudolph (Eds.), *Education and Politics in India: Studies in Organization, Society, and Policy* (pp. 207–272). Cambridge, MA: Harvard University Press.
- Schneider, B. R. (1993). The Career Connection: A Comparative Analysis of Bureaucratic Preferences and Insulation. *Comparative Politics*, 25(3), 331–350.
- Sen, A. (2015, August 13). India: The Stormy Revival of an International University. *The New York Review of Books*. Retrieved from <http://www.nybooks.com/articles/archives/2015/aug/13/india-stormy-revival-nalanda-university/>
- Story, R. (1980). *The Forging of an Aristocracy: Harvard and the Boston Upper Class, 1800-1870*. Wesleyan, MA: Wesleyan University Press.
- Suleiman, E. N. (2003). *Dismantling Democratic States*. Princeton, NJ: Princeton University Press.

- Ting, M., Snyder, J., Hirano, S., & Folke, O. (2013). Elections and Reform: The Adoption of Civil Service Systems in the U.S. States. *Journal of Theoretical Politics*, 25(3), 363–387.
- Yokoi, K. (2015). The Colombo Plan and Industrialization in India: Technical Cooperation for the Indian Institutes of Technology. In S. Akita, G. Krozewski, & S. Watanabe (Eds.), *The Transformation of the International Order of Asia* (pp. 50–71). New York: Routledge Press.

Table 1: Universities, Contestation, and Autonomy

University	Founding Year	Multiple Founders?	Contestation?	Autonomy at Genesis?
<i>High Autonomy Cases</i>				
Indian Institute of Science (IISc)	1909	Yes – Tata, Maharaja of Mysore, colonial government, and prominent Anglo and Indian academics.	Yes	High
Delhi University and other universities created after 1909	1922	Yes – Anglo and Indian politicians.	Yes	High
Maharaja Sayajirao University of Baroda (MS University)	1949	Yes – Maharaja of Baroda partnered with central gov't.	Yes	High
Indian Statistical Institute (ISI)	1949	No – Central gov't.	No	High
Indian Institutes of Technology (IITs)	1950s-60s	Yes – Central gov't partnered with gov'ts and universities in USA, USSR, UK, West Germany, and UNESCO.	Yes	High
<i>Low Autonomy (Politicization) Cases</i>				
Colonial universities created between 1857 and 1909	1857-1909	No – Anglo politicians.	No	Low – Controlled by colonial gov't.
Osmania University	1918	No – Nizam of Hyderabad.	No	Low – Politicized by Nizam.
All India Institute of Medical Sciences (AIIMS)	1956	Yes – Central gov't with funds from New Zealand.	No – New Zealand never contested.	Low – Politicized by central gov't.

School of Planning and Architecture (SPA)	1959	No – Central gov't.	No	Low – Politicized by central gov't.
Indian Institutes of Management (IIMs)	1961	Yes – Central gov't, local business leaders, university advisors from MIT, Harvard, and UCLA.	No – Attempted, but central gov't had more leverage.	Low – Power-sharing.
National Institute of Design (NID)	1961	No – Central gov't.	No	Low – Politicized by central gov't.
Media Lab-Asia	Late 1990s	Yes – Central gov't and MIT.	No – Central gov't did not need MIT.	Low – Politicized by central gov't.
<i>Low Autonomy (Capture) Cases</i>				
Indian Law Institute (ILI)	1956	No – Ford Foundation.	No	Low – Captured by Ford Foundation.
National Law School (NLS)	1987	No – Bar Council of India.	No	Low – Captured by BCI Trust.