## Centre for Multilevel Federalism Institute of Social Sciences New Delhi



IFP - 7 & 8

# INDIAN FEDERALISM PERSPECTIVES

In this important contribution to the discussion on the report of the Fifteenth Finance Commission, Indira Rajaraman gives us a nuanced analysis of the long-term implications of those recommendations that have been accepted. The ones which have not are also worthy of being noted, as this is rather unusual. The Report was eagerly awaited as it came against the backdrop of a pandemic and growing uncertainty on the prospects for growth in the years ahead. The unusual terms of reference handed down to the Commission aroused fears in the minds of those seeking a fair deal for states, with due respect to fundamental federal principles.

The contextual impact of the pandemic on provisions for healthcare in the Report is evident. So also for the WASH sector. Many voluntary organisations working in this area have however questioned the wisdom of new government regulations that make their work difficult, notably draconian rules for FCRA contributions. This is a typical case of different arms of the government working at cross-purposes, or ideology overriding sound policy.

A skillful combination of incentives and nudges along with a not so subtle framework of pre - conditions, this Report will long be discussed for what it has attempted to do for Indian Federalism, and what in fact it has done to the fragile finances of states. Power sector reforms are made a prerequisite for access to enhancement of borrowing powers. With the Centre passing on the responsibility for purchasing Covid vaccines from the market to the states, and the threat of a third wave looming, already strained state budgets are going to be hard pressed to cope with these additional burdens.

In this context the 'failed state' paradigm assumes significance. If the central state fails, it could take down some of the weaker states. State failure in meeting its basic obligations and responsibilities towards citizens is looming large. The Constitution provides for many eventualities, but what it doesn't provide for is a failure of the central state. To recall the immortal words of W.B.Yeats, "Things fall apart, the Centre cannot hold; Mere anarchy is loosed upon the world". Perilous times ahead for the Union, and this paper makes it easier for us to understand what may lie ahead.

Please write to us at cemufed.india@gmail.com to join our mailing list and also do share this link with your colleagues and collaborators interested in federalism.

Balveer Arora 27 May 2021

# The Fifteenth Finance Commission (XVFC) Report Indira Rajaraman

Dr. Indira Rajaraman was a Member of the Thirteenth Finance Commission. From 1994 until her retirement in 2007 she held the Reserve Bank of India Chair at the National Institute of Public Finance and Policy, Delhi, and from 1976 to 1994 she was on the Economics faculty of the Indian Institute of Management, Bangalore. She was a Visiting Scholar at Harvard and Stanford Universities (1984-85), and at the Fiscal Affairs Department of the International Monetary Fund (2004).

Dr. Rajaraman's research papers have appeared in journals and books published by Elsevier, Springer Verlag, John Wiley, the Brookings Institution and Oxford University Press, on a wide range of development issues. She writes regularly in the financial press.

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### **Abstract**

The Fifteenth Finance Commission (XVFC) conducted its deliberations during the uncertainty of the covid pandemic, and the period following release of its final report has again been engulfed by a renewed wave of the pandemic. recommended devolution of 41 per cent of (net) tax revenue of the Union government to states for the period FY22 to FY26 stands accepted in the Action Taken Report (ATR), but in a departure from long established convention, two of the five grant categories recommended stand rejected. Although this merely reduces statutory transfers for the current year FY22 from 4.03 per cent of projected GDP to 3.98 per cent (the accepted grants dominate in the first year), there are larger implications explored in the paper. The ATR accepts the fiscal deficit path for states as recommended, at 4 per cent of state domestic product for FY22, winding down to 3 per cent in two years. The XVFC has taken three notable initiatives to address the needs of covid-troubled India. First, 65 per cent of the total health provision goes to local governments – rural panchayats and urban municipalities – to address the most serious lacunae at the primary health stage in physical infrastructure and diagnostic facilities. The second is a usage carve-out, averaging at 61 per cent, in the basic grant to local government, for water and sanitation, without which there can be no protection from this or future communicable The third is the embedded incentive in allowing states an annual enhancement of their borrowing cap by 0.5 per cent of state domestic product, conditional on power sector reform. Luckily, all these have survived the axe of the ATR.

### 1. Introduction

The report of the Fifteenth Finance Commission (XVFC) was tabled in Parliament on 1 February 2021, along with a formal Action Taken Report (ATR) on its recommendations<sup>1</sup>, at the presentation of the Union Budget for the year 2021-22

(FY22). Article 270 of the Constitution guarantees a share for states in the tax revenues of the Union government (the Centre), to be specified after 'considering' the recommendations of Finance Commissions, spanning a five-year horizon. Finance Commissions are also asked to prescribe the principles which should govern (absolute) grants-in-aid to states for further revenue support if required, these grants being permissible under Article 275. Once accepted by the ATR, the tax share and grants become statutory transfers mandated under the law.<sup>2</sup>

The final report of the XVFC covers the five years FY22 to FY26.<sup>3</sup> An interim report was issued for FY21<sup>4</sup>, an unusual though not unprecedented<sup>5</sup> break in what is typically a consolidated five-year horizon, on account of the conversion of the state of Jammu and Kashmir into two Union Territories (directly funded and administered by the Union government) just a few months before the report of the XVFC fell due. Its further horizon was consequently extended by a year to FY26.<sup>6</sup>

Although their recommendations are not binding on the Union government, the Constitutional mandate of due consideration has led to the convention of the government of the day formally accepting all quantified prescriptions, in respect of both tax shares and grants, in the ATR tabled along with the report in Parliament. This time. the ATR accepted the tax shares of states as prescribed, but did not accept all the recommended grants.

Section 2 of the paper presents the transfers recommended in the XVFC final report for FY22 to FY26, and the acceptances and rejections in the ATR. Ironically, the revenue deficit grant (to cover projected current account deficits even after devolution of tax shares from the Centre) stands accepted even though paragraph 5 of the terms of reference (TOR) questions the need for such grants.<sup>7</sup>

Section 3 covers the provision for health, which was clearly a major task before the commission, in the covid context. Section 4 covers the suggested path limits on fiscal borrowing by

states, which are fully accepted. On the overall fiscal roadmap, the recommendation for an Intergovernmental Group to craft a new FRBM framework has been relegated in the ATR (paragraph 23) for separate examination.

Section 5 looks at the performance conditionalities in the report, another task placed upon the Commission in paragraph 7 (i) – (ix) of the TOR. The section is mostly confined to those conditionalities embedded in grants accepted by the ATR (such as the local body grant).

Section 6 looks at some new features of the XVFC report, including very detailed prescriptions for tax reform, and for a new fiscal architecture. These recommendations were in response to paragraph 7(v) of their terms of reference (TOR),asking in particular for the design of a Public Finance Management System.<sup>8</sup>

Section 7 concludes.

# 2. Recommended transfers and the ATR response

The XVFC prescribes the share of states in the tax revenues of the Centre, and absolute transfers under five grant heads: revenue deficit grants, disaster management grants, grants to local municipalities bodies (urban and rural panchayats, called "local grants"), sectoral grants and state-specific grants. The five grant heads conform broadly to the pattern of prior finance commissions, although the fourteenth finance commission eschewed the latter two grant categories. As it happens, these are the very two grant categories rejected this time by the ATR.

Table 1 below shows the absolute equivalent of the tax shares of Union taxes, as projected by the report. Actual flows will be determined by tax collections at the Centre in each of the five years. The aggregate transfer as projected including grants was Rs. 52.58 lakh crore, of which the tax share accounts for a little over 80 per cent - on average over the five years.

Table 1 also displays the projected transfers after the ATR exclusions. The disaster management, revenue deficit<sup>9</sup> and local grants, the first three listed in table 1, stand formally accepted in the ATR. The local grant is sufficiently important in terms of the weight given to it by the XVFC and its structuring that it is examined in a separate section further below.

The sectoral and state-specific grants rejected add up to Rs. 1.80 lakh crore (table 1), which at 3.4 per cent of the total flows recommended, including the tax share as projected, is not significant in any quantitative sense.

Table 2 displays transfers budgeted in the Union Budget for the first year, FY22. The sum of the projected tax transfer and ATR-accepted grants is at 3.98 per cent of projected GDP for FY22; it would have been lower at 3.95 per cent at the projected numbers for the tax transfer in the XVFC report (see Source and Notes to the table). The rejected grants if accepted would only have jacked this up to 4.03per cent, not a very significant difference. This is because the revenue deficit grant is very large for FY22, but

much lower in subsequent years, in which the rejected grants loom larger.

In addition to the statutory flows, the Union Budget makes a provision of 1.7 per cent for transfers to states under Centrally Sponsored Schemes. Together that adds up to Central transfers to states projected at 5.7 per cent of GDP for FY 22.

Even though insignificant in terms of its impact on the total statutory transfer to states as a percent of GDP, this partial acceptance in the ATC is a notable departure from the established convention accepting all quantified transfer recommendations. The ATR is careful to say that due consideration will be given to the sectoral grants not accepted while designing non-statutory transfers under the heads of Centrally Sponsored Schemes (CSS), and Central Plan Schemes.<sup>10</sup> This runs counter to the explicit criticism in the XVFC report of CSS schemes, para 2.35 of which reads: "Concerns arise because, even after some recent consolidation, India's specific-

Table 1: Quantified transfers as recommended by XVFC: FY22 to FY26

	Rs lakh crore (unless %)	% of total recommended transfers
Five years: Recom	mended transfers by XVFC	
Tax transfer to states as projected	42.25	80.35 %
Total grants (table 10.12), of which	10.33	19.65 %
Revenue deficit grants	2.95	5.60 %
Disaster management grants	1.23	2.33 %
Local government grants	4.36	8.30 %
Sectoral grants	1.30	2.47 %
State-specific grants	0.50	0.94 %
Total provision: tax share plus grants	52.58	100.00 %
Annual average of overall sum	10.52	
Five year	rs: ATR response	
Grants not accepted (sectoral + state- specific)	1.80	3.4 %
% of Total recommended grants	1.80/10.33 = 17.4 %	
Accepted total grants	8.53	
Accepted total transfers by ATR	50.78	

**Source and Notes**: Report of the XVFC Finance Commission, final report, Volume I; tables 10.12 and 10.13. A small portion of total grants, amounting to Rs. 16,400 crore (0.164 lakh crore), was excluded from table 10.13 which shows state-wise allocations, since they were based on nation-wide performance rewards for smaller units within states (districts or cities), and were therefore not allocable a priori to states.

Table 2 Transfers recommended and accepted by ATR as projected for FY22

Union Budget FY22 projections	Rs lakh crore; unless %
GDP projected for FY22	223
Tax share to states	6.66
ATR accepted grants for FY22	2.21
Tax transfer plus ATR-accepted grants FY22	8.87 (3.98 % GDP)
XVFC: Total grants recommended for FY22	2.33
Tax transfer plus all recommended grants FY22	8.99 (4.03 % GDP)

**Source and Notes**: See source and notes to Table 1.

Union Budget figures, from Budget at a Glance; accessible at https://www.indiabudget.gov.in; GDP as projected for FY22 (ibid.,) based on the first advance estimate for FY21 at an assumed nominal growth rate of 14.4% in FY22; the Second Advance Estimate http://mospi.nic.in/sites/default/files/press\_release/PRESS%20NOTE%20SAE%2026-02-2021.pdf (accessed 26 February 2021) with the same assumed nominal growth rate works out to 224 trillion; the percentages to GDP remain as shown. Year-wise tax transfers in XVFC report, table 6.5, project the tax transfer for FY22 at 6.59 lakh crore, slightly lower than Union Budget projected estimates; year-wise figures for grants accepted in the ATR in table 10.12, XVFC final report, Volume I, correspond exactly to the Union Budget figures.

purpose transfers have been channelled through a large number of discretionary cost-sharing Centrally sponsored schemes (CSS) and nonmatching Central sector schemes. They are not generally linked to outcomes, and are input- or process-based, and give rise to the usual concerns associated with such conditionalities. The concerns result, in part, from the large number of schemes. their concurrence with responsibilities and their burdensome matching requirements, especially for States with lower fiscal and institutional capacity." When this passage in the report, critical of CSS, is juxtaposed against Para 19 of the ATR which states in respect of the recommended sectoral grants (as listed in paras 10.31 to 10.92 of Chapter 10 of Volume-I of the XVFC Report): "Government will give due consideration to sectors identified by the Commission while formulating and implementing existing and new Sponsored and Central Centrally Schemes", the ATR quite clearly rejects not just the sectoral grants, but also the recommendations that the number of CSS with "burdensome matching requirements" be reduced.

CSS, by virtue of not being statutorily mandated,

are not by that token necessarily capricious. The two issues of concern are first, that the parameters governing these schemes can be altered unilaterally by the Centre, in ways that can be fiscally adverse for states, and second, that the timing of these flows are uncertain (Rajaraman, 2020) unlike the strict time-table governing statutory flows.<sup>11</sup> The biggest problem is the uncertainty in flows.

Table 3 lists the constituents of the XVFC sectoral grants not accepted in the ATR; a similar listing of the state-specific grants is not done here because these are aggregations of diverse small projects in each state.

Of the eight sectoral constituents, there are three big provisions, one for agricultural reforms which carries performance conditionalities and is therefore dealt with in that section further below; health, which is covered in the next section; and PMGSY road maintenance

The PMGSY is a path-breaking Central Plan scheme begun in the year 2000. All-weather road connectivity for unconnected villages, a gravely

Table 3: Components of sectoral grants recommended by XVFC: FY22 to FY26

X	FC sectoral grants to states	Rs. crore	% of sectoral total
1	Health (to states)	31,755	24.4
2	School education*	4,800	3.7
3	Higher education	6,143	4.7
4	Agricultural reforms	45,000	34.6
5	PMGSY road maintenance	27,539	24.2
6	Judiciary	10,429	8.0
7	Statistics	1,175	0.9
8	Aspirational blocks*	3,150	2.4
	Total	1,29,987	100.0

**Source**: XVFC report, Volume I, table 10.12. \*These grants are not included in the state-wise allocations in table 10.13 because they are in the nature of rewards in a national performance ranking. The total sectoral provision allocated to states in table 10.13 amounts to Rs. 1,22,037 crore, with these two provisions excluded.

neglected task in turning India into a single connected market, was finally begun. funding encompassed maintenance for the first five years to be covered by the private contractor building the road, a well-structured incentive to build a sturdy road in the first place. After the first five years, maintenance devolved upon states. Road maintenance has in general been in the roster of sectors for which finance commissions give grants to states. The Thirteenth Finance Commission factored in for the first time the maintenance requirements of PMGSY roads that had passed the five-year mark. The Fourteenth Finance Commission departed from the tradition of giving sectoral tied grants, on the grounds that the unconditional tax share was raised by them from 32 per cent to 42 per cent in aggregate, giving sufficient wherewithal for states road maintenance

Restoration of the road maintenance grant, specifically for PMGSY roads, marked the recognition by the XVFC that state governments may not see it as a high priority item in their bid to secure voter attention. This has been an old observed proclivity of governments everywhere in the developing world, to see new infrastructure as more rewarding from a vote-catching perspective, rather than maintenance of infrastructure created in the past.<sup>12</sup>

Rejection of all sectoral grants by the ATR therefore runs the danger of a large class of

infrastructure, spatially spread and therefore critical from the perspective of regionally balanced growth, falling into disuse, and rendering infructuous infrastructure built in past years with scarce taxpayer resources. The statement in the ATR that the XVFC recommendations will be considered while designing CSS and Central Plan schemes cannot apply to PMGSY maintenance, for which there is no present scheme in operation.

### 3. The total provision for health

The sectoral grant for health, listed in table 3, is only one of the three components into which the total health provision of Rs. 1.07 trillion was split (table 4). The largest constituent is the local grant, which stands accepted in its entirety. The local grant accounts for roughly two-thirds of the total health provision, and in that sense the rejection of the sectoral and state-specific components is not quantitively that significant. In part the rejection of these two components may have been because of the need for an additional budgetary provision for FY22 of Rs. 35,000 crore for vaccinations, which is roughly of the same order as the sectoral grant recommended, and a vaccination provision cannot be subordinated to the same formulae for apportionment between states as the XVFC might have adopted.<sup>13</sup>

The accepted portion of the total health provision (going to local governments) is among the best

Table 4: Components of the XVFC three-part provision for health: FY22 to FY26

XVFC health grant	Rs. Crore	% share
Health grant to local bodies (accepted)	70,051	65
Health (sectoral) grant to states (not accepted)	31,755	30
Health (state-specific) grant to states (not accepted)	4,800	5
Total health grant	1,06,606	100
Total health grant % of total recommended provision	2.03 %	

**Source and notes**: XVFC report, table 7.5 for the constituents of the local grant; table 10.12 for the constituents of sectoral grants to states; and para 9.49 for the health portion of the state-specific grants to states (which are not tabulated by sector anywhere). The total health provision is 2.03 % of total recommended transfers aggregated across tax shares and absolute grants.

features of the XVFC report. The report specifically commends the Kerala model of transferring state budget provisions for primary health to local governments, and rightly recognises that it is only when that is done that primary health care will actually be spatially accessible to residents of village habitations. The local grant for health is very carefully broken down by the level of local body to which it will The total is for a mix of physical accrue. structures, where these do not exist, and for diagnostic infrastructure and a core primary health team for first-level primary health centres. When these centres were outposts of the state health department independent of supervision by local government, theft and looting were commonplace. Now, with local ownership and responsibility, the hope is that primary health care will actually become a ground reality, and not a hollow promise. The shift in focus to local government is particularly important for women, young children, and the disabled and elderly.

At the same time, it has to be noted that for these primary health centres to be functional, the medicines and other consumables will come from other funding streams, such as the state's own health department flows. The effective merger of these multiple streams, in conjunction with the National Health Mission, and the new CSS started in FY22, the PM Atmanirbhar Swasth Bharat Yojana, will together determine the effectiveness of the whole.

A final caveat about the Kerala model of devolving health care to local bodies, is that the manpower deployed at local level continue to belong to a state service, with implications for salary and pension liabilities going forward, as distinct from a local body cadre of technicians, who could be subordinated to different service conditions and salary scales than a state-level service.

### 4. The fiscal road map

The recommendations of the XVFC on the fiscal path going forward are detailed in Paras 22 and 23 of the ATR. The ATR response to the recommended fiscal path as in the case of transfers is partial; the whole has not been accepted.

Para 22 of the ATR sets out the stated recommendations on the borrowing limits on states, at 4 per cent of GSDP in 2021-22, 3.5 per cent in 2022-23 and at 3 per cent of GSDP from 2023-24 to 2025-26, along with a performance-based additional 0.5 per cent of GDP for each of the first four years of the award conditional on power sector reforms.<sup>14</sup> The structuring of the power sector conditionality for extra borrowing is in para 10.103 of the XVFC report (Table 10.10 has the indicators and their weights). The statement of acceptance reads: "The Government accepts in-principle, the recommendations in

respect of the quantum (as a per cent of GSDP) of net borrowing ceilings for the States." The qualifying "in-principle" has perhaps been inserted to reserve room for modification in the implementation rules.

As it happens, the speech of the Finance Minister while introducing the Union Budget for FY22 states that a portion of the 4 per cent ceiling for FY22 will be earmarked to be spent on incremental capital expenditure (para 142 of the speech).<sup>15</sup>

Para 23 of the ATR reads: "The Commission has recommended that the FRBM Act needs a major restructuring and recommend that the time-table for defining and achieving debt sustainability may be examined by a High-powered Intergovernmental Group. This High-powered Group can craft the new FRBM framework and oversee its implementation. It is important that the Union and State Governments amend their FRBM Acts, based on the recommendations of the Group, so as to ensure that their legislations are consistent with the fiscal sustainability framework put in place." On this, the response - a follow-on sentence to the statement of acceptance with respect to state borrowings reads: "Other recommendations related to the fiscal road map for the States and amendments to the FRBM Act will be examined separately." The Budget speech, para 141, reads: "We plan to continue with our path of fiscal consolidation, and intend to reach a fiscal deficit level below 4.5 per cent of GDP by 2025-2026 with a fairly steady decline over the period." This statement, covering as it does the entire horizon of the XVFC, suggest that there is no intent to set up a set up a committee to design a fiscal sustainability framework.

The excellence of the detailed structuring of the power sector conditionality in the XVFC report is second only to the health grant going to local bodies. In this case, the interim report of XVFC, for FY21, had already listed the indicators that would be used for performance conditionalities in the final report.<sup>16</sup> These were then put into operation by the Ministry of Finance for the conditional enhancement of state borrowing granted in FY21 as per the Atmanirbhar

announcement on 17 May 2020: (a) reduction in aggregate technical and commercial (AT&C) losses; (b) reduction in the gap between average cost of supply and average revenue realised (ACS-ARR); (c) reduction in payment of cash subsidy by adopting DBT. These have been modifed in the final report to include the reduction in tariff subsidy as a percentage of revenue from the sale of power. The XVFC has in addition recommended as an entry level condition, that eligibility for this extra borrowing requires that all DISCOMs in the State have upto-date audited accounts (all except the first year, FY22). This may prove to be an insurmountable obstacle, since very few states might pass the test. A concerted effort between the Centre, through the office of the Comptroller and Auditor General (CAG) and its network of state auditors, is needed to assist states in meeting this conditionality. Other problems with conditionalities are examined in the next section

Power sector reform has been attempted several times, most recently by the UDAY scheme started in December 2015 under which states were allowed extra borrowing for two years (FY16 and FY17) conditional on indicators of performance. In the first of a series of Atmanirbhar announcements in May 2020, a provision of Rs. 90,000 crore was made for loans to DISCOMs underwritten by states. There is no publicly available information on how much of that was taken up by states. Power sector reform is key to kickstarting growth in India, and power is also one of the major sectors generating non-performing loans in the banking sector.<sup>17</sup>

# 5. Performance, usage and entry conditionalities

Performance conditionalities are scattered throughout the report, and are indeed mandated in item 7 (i)-(ix) of the TOR of the XVFC. For the power sector, they were embedded in the state borrowing caps, and have been dealt with in the previous section.

Performance conditionalities under consideration for sectoral grants were listed in the interim report, and in the case of agriculture, were configured in terms of legal enactments to be completed by states within the interim year so as to qualify for rewards during the horizon of the final report. However, the enactment of Farm Laws by the Centre in September 2020 during the interim year, replaced two of the three state laws recommended by the XVFC. That important development is covered in the first sub-section below which examines the (rejected) grant for agricultural reform.

The second sub-section covers the local body grant, which was accepted by the ATR in totality, along with its attached conditions. It is important to note that to the extent performance conditionalities are embedded in any of the accepted transfers (such as the local body grant), total transfers may be less than the recommended figure, without any statutory violation. Performance conditionalities embedded in the (rejected) sectoral grants are not dealt with here, because they have not become accepted policy.

### • The Farm Laws

Reform of agriculture was an important issue addressed by the XVFC, which appointed an expert committee to design their recommendations. Performance conditions for passage of farm laws by states were recommended in the interim report of the XVFC. Three laws were prescribed for passage by states, along the lines of the model recommended by the NITI Aayog.

To quote the final report (para 10.47): "In our first report for the year 2020-21, we had recommended that States will be eligible for financial incentives if they enact and implement all features of three new Acts prepared by the Ministry of Agriculture and NITI Aayog: (a) Model Agricultural Produce and Livestock Marketing (APLM) Act, (b) Model Contract Farming Act and (c) Model Agricultural Land Leasing Act." Paras 4.32 to 4.34 of the interim report prescribe that states prepare to enact these to be eligible for grants from 2021-22, but the ATR on the interim report did not respond to this recommendation. There was no compulsion as visualised in the interim report, only a financial

incentive. In that sense, perhaps there was no call for the ATR to refer to it at all.

The XVFC goes on to say (para 10.48): "It is pertinent to mention that out of these three policy reforms recommended by us, the Union Government has passed two Acts - (a) The Farmers Produce Trade and Commerce (Promotion and Facilitation) Act 2020 and (b) The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act 2020. We feel that with these two laws already in place, there is no need for the Commission to incentivise States to adopt the Model APLM Act and the Model Contract Farming Act. However, the Model Agricultural Land Leasing Act still remains on our agenda."

One of the members of the XVFC, Ramesh Chand, was also at the time member of the NITI Aayog, the think tank appointed by the Central government to replace the erstwhile Planning Commission. It seems unlikely therefore that the interim report suggestion for state enactment was at variance with the stand of the government at least until November 2019. Clearly, there was a major change in the stance of the Centre between the time of submission of the interim XVFC report in September 2019, and the Central ordinances on the farm laws in June 2020 that preceded the actual laws passed in September 2020. Since the XVFC worked strictly according to its limits as defined under the Constitution, they presumably thought that was constitutional way to proceed. Facing as they did the Central enactments on two of the three acts recommended by them, they merely focused on the third of their three recommended laws, and withheld any strictures on the action taken by the Centre.

It is impossible to speculate on why the Centre might have thought it appropriate to enact those laws itself, but one possible reason might have been the exogenous shock of the covid-19 pandemic, which greatly empowered national governments all over the world, because of the urgent need for responses which took the form of locking down the economy for varied periods of time. Since these actions were rarely taken in

federal nations with the consent of subnational governments, the new environment might have encouraged actions which might not have been done under normal conditions (see also Mitra, 2021).

The performance-based sectoral grant for agricultural reform is split into four segments, one of which is enactment of the tenancy law, the other three being sustainable and efficient use of water in agriculture, export promotion and providing a push to more remunerative crops like oilseeds, pulses and wood products. The modalities by which performance was to be assessed are given in Annex 10.3, and the allocation of amounts between states in Annex 10.4.

These provisions, like all performance conditionalities attached to sectoral grants, stand inactivated by the ATR.

### • The local grant:

The quantitative importance given to local bodies, by assigning them 8.3 per cent of the overall transfer provision is in itself significant.

The primary health component of the local grant as a first-time innovation has already been alluded to. Just by itself the health transfer through the local body provision accounts for 1.3 per cent of the total provision across all tax and grant transfers as recommended (table 4).

Table 5 below sets out the components of the local grant, which assumes significance both because of its size, because of its structuring, and most of all, because of its acceptance in full by the ATR.

Entry level conditionalities apply for receipt of the local body grant. The grant will only flow to local bodies in a state where some stipulations are satisfied in respect of State Finance Commissions (para 7.58); audited publicly available accounts (para 7.76); and additional requirements for urban local bodies in respect of property taxation (para 7.101). Except for the first, percentage compliance is specified for local bodies within a state, in table 7.8 for rural local bodies, and in table 7.12 as a matrix array for the auditing and property taxation conditionalities for urban local bodies. The health component

Table 5 Total size of local grant recommended by XVFC and accepted by ATR FY22-FY26

		Total FY22- FY26 Rs. crore
1	Total grant for rural and urban local bodies, of which	4,27,911
(a)	Grants for primary health*	70,000
(b)	To be disbursed to local bodies, of which	3,57,860
	Rural local body share	2,36,805
	Urban local body share	1,21,055
2	Grants for incubation of new cities	8,000
3	Grants for shared municipal services	450
	Grand total for local bodies	4,36,361

**Source and Notes**: Table 7.5, XVFC Report Volume I. Para 6 of the ATR specifically mentions the quantum of the local body grant at 4,36,360 crore, as the sum, which along with other recommendations on entry level conditionalities and tied components summarised in paras 7 to 12 of the ATR, has been fully accepted. This implies full acceptance of the second and third components in the table, which are not included in the grand aggregate of all transfers shown in table 10.13 because they are not allocable between states.

\*The wording suggests otherwise, but this provision is indeed disbursed to local bodies for primary health care, but directed towards particular local bodies to close identified gaps in physical infrastructure and diagnostic facilities, and upgradation of some pre-existing facilities, and therefore differently distributed from the general provision in item 1(b) in the table.

alone is free from these (para 7.147), and only requires a detailed plan at state-level for utilisation of the components of the health grant - physical infrastructure and diagnostic facilities (table 7.17 of the final report).

Aside from these entry level conditionalities which have to be satisfied at state-level (in terms of percentage compliance), there are usage conditionalities applying to stipulated

percentages of the rural and local body grants, which are sufficiently complex that they are shown below in table 6, as applicable for FY22.

Table 6 also displays the portions of the local grant marked for health and water and sanitation reported in the Union Budget total for health related expenditures (see notes to the table). The inclusion of these was perfectly legitimate in a Union Budget statement of the total outlay,

Table 6 XVFC Performance and usage conditionalities (local grant) and corresponding provisions in the Union Budget for FY22

Component	Subtotals	XVFC Provision FY22 Rs. crore	Annex 1, Budget speech FY22 Rs. crore
Primary health grant		13192	13192
Disbursable to local			
bodies	Tota1	67015	
of which	RLB	44901	
38	ULB	22114	
of which		12	
	Million+ cities (P)*	6978	
3	Cities < 1 mill pop	15136	
Usage	Water and Sanitation		
60% RLB	8	26941	
60% Cities<1 mill pop	-	9082	
Total	Excl Million+ cities	36022	36022
67% Million+ cities		4761	
Total	Incl Million+ cities	40784	
Usage	Free		
40% RLB		17960	
40% ULB	ž.	6054	
33% Million+ cities	3	2217	
Total free	9	26231	

**Source and Notes**: (P)\* is for the performance conditionalities attached to the Million Plus City Challenge Fund for cities with a million or more population (see Annex 7.6 of XVFC Final Report, Volume II). Since the Union Budget estimate for grants to states exactly equals the XVFC total for grants accepted in the ATR (see notes to Table 2), this conditional component is indeed fully provided for. However, Annex 1 of the budget speech listed only the unconditional provisions for health and water and sanitation. The water and sanitation carve-outs are shown as reported and differ slightly from what is obtained by applying the stated percentages to the total. The overall share is 60.88 per cent.

although it was (wrongly) criticised in some quarters.

### • The problem with conditionalities

Conditionalities are imposed in order to nudge recipients towards desired levels of performance or types of usage. However, they impose process delays in the flow of funds, which can in and of themselves make fund flows less effective. Even when there are no conditionalities of any kind, there are still purely administrative requirements like usage certification that need to be satisfied for all tranches other the first in any tranched flow, and even that can impose delays on account of tardy submission at the recipient end, or tardy examination of certification at the disbursement end.

Fortunately, the tax share, which is the dominant component of the annual transfer, is entirely unconditional, and flows on the designated dates. Entry-level conditionalities, in the form of audited accounts for local bodies and power sector DISCOMs or local governments, are clearly essential, but when applied mechanically, they can disqualify some of the worst governed parts of the country from access to needed funds. Likewise, performance grants can delay fund flow since examination of claims to performance need to be verified. Statutory grants hedged by performance conditions have in the past been withheld ostensibly for failure to adhere to prescribed conditions, but more likely for reasons of fiscal stress at the Centre (Rajaraman and Gupta, 2016).

Statutory fund flows as recommended by finance commissions remain in general the most disciplined in terms of adherence to preannounced timings, as contrasted to flows through non-statutory channels, as for example under Centrally Sponsored Schemes. So the replacement of statutory with non-statutory flows can seriously erode the role these play in fortifying the revenues of states.

There are performance conditionalities within the transfers accepted by the ATR, in the local body grant going to large cities with a million or more

population. In addition, across all components of the local body grant, there is a 61 per cent carveout for water and sanitation. Normally, usage conditionalities of these kinds cause delays in the fund release process, because usage of a particular type is more difficult to certify than general usage. For this reason, the Thirteenth Finance Commission eschewed all certification in the basic grant going to local bodies.<sup>18</sup> But in the current context, the need for water and sanitation is so paramount, that the conditionality is needed, although once again Centre and states have to work together to ensure procedural delays are reduced to a minimum.

### 6. New features

### •A new fiscal architecture and tax reform:

Prominent among the new features of the report is the fiscal architecture for the country set out in detail in Chapter 13 of the report (the TOR asked for recommendations on a public finance management system). There are three pillars set on a plinth, which is the information technology platform. The need for a good platform can scarcely be overstated, in view of the critical role played by failure of the IT base to uphold the complicated structure of the GST when it was first introduced.

The three pillars are:

- 1. Fiscal Rules
- 2. Public Finance Management System
- 3. A Fiscal Council

Fiscal Laws have been enacted at both Centre and state-levels since 2003<sup>19</sup>, but they have been bypassed through the device of delaying payments to suppliers of goods and services. Fiscal Rules have therefore degenerated into practices which actually threaten the stability of the financial sector, as suppliers of goods to government face mounting working capital requirements in the face of non-payment.<sup>20</sup>

The recommendations for improvement in the Public Finance Management System are listed in fair detail.<sup>21</sup> Even so, they do not deal with the key failure in non-statutory Central flows to states, and that is the complete uncertainty at the

receiving end on when the funds will actually arrive. Processes for fund release both between Centre and states, and within states from govt to the ultimate spending point, critically need to be resolved. The problems with Centre-state flows under the National Health Mission, especially in the covid context, are dealt with at length elsewhere (Rajaraman, 2020). The XVFC report does endorse the adoption of internationally accepted accounting and reporting standards, and the transition to accrual accounting which will certainly improve things. However, accrual accounting will still not necessarily enforce cash flows on pre-announced dates, since accrued payments are conditional upon approval of received goods and services; even that approval is seriously delayed. Fund flow uncertainty is what has destroyed the intended achievements of Central schemes. No amount of outcome reporting will solve that key fund flow issue. Finally, perhaps the most notable omission in the recommendations of XVFC is the lack of any reference to the need for multi-year commitments consequent upon public investment projects, not to mention the need to factor in maintenance expenditures after completion (the revenue consequences of capital expenditure).

The XVFC report also deals with tax reform, and paras 3 to 17 of the Chapter 14 of recommendations give full attention under three heads:

Administrative/Operational improvements: Improvements to the GST IT platform; mutual information flow between GST and Income Tax; and at state level, merger of registration and stamp duty data with property records.

Tax Policy: Correction of the inverted duty structure between intermediate and final products in the GST rate structure;<sup>22</sup> and broad banding of customs duty and zero rating of imports for global value chains. The report also recommends raising the limit of the profession tax, which is now Constitutionally capped at Rs. 2500 per annum. The report recommends that the Constitution be amended so that the limit itself does not call for an amendment every time it is

changed, as long as it adheres to FC recommendations. The report recommends that the limit be moved to the present-day inflation adjusted equivalent of the 1988 level of Rs. 2500 per annum, which works out to Rs. 18000 per annum, and that the tax be levied by ULBs.

Other (miscellaneous) recommendations: The report advises that over reliance on consumption-based taxes like the GST should be offset by progressivity of income and asset taxation, although flattening the rate structure in income taxation has been a standard feature of tax advice from the IMF.

There is no mention of the need for greater global fairness in digital service taxation, where impatience with the OECD Base Erosion and Profit Shifting (BEPS) initiative has led to several countries taking unilateral steps. There is a fundamental inconsistency between the IMF call for greater tax effort by countries like India, and the failure of the IMF to take a stand on their bid to get a fair tax share of the income earned within their jurisdictions by big tech giants like Amazon, Facebook and Google.

### • An alternative total for transfer to states:

A new feature of the XVFC report is the carveout from total grants of a component not allocable to individual states. The total size of recommended grants in table 1 was Rs. 10.33 lakh crore. Of this, Rs. 16,400 crore was not apportionable between states, because they were either offered nation-wide for states to compete for, or for all states to gain from (like a new data centre for local government); see table 7. This yields an "alternative" recommended transfer size of 52.42 lakh crore, as against 52.58 lakh crore for total recommended transfers as reported in table 1 (see notes to table 1).

Although an interesting innovation, to have statutory provisions of this kind that are not allocable between states is possibly a violation of the constitutional mandate of the finance commission. Even so, the non-allocable provisions for incubation of new cities and a new national data centre stand accepted in the ATR,

Table 7 Non-apportionable components of XVFC grant provisions FY22 - FY26

Local grants, of which	8450
Incubation	8000
New data centre	450
Sectoral grants, of which	7950
School education	4800
Aspirational districts	3150

Source: XVFC report, tables 7.5 and 10.12. See also notes to tables 1 and 3.

along with the allocable portions of the local grant. The two sectoral grants stand rejected in the ATR, along with other sectoral grants.

# • The factor weights in the horizontal distribution of the tax share

Of the six factors with weights summing to 100 in the formula which determines the shares of states in the overall tax devolution, the dominant is Distance. as with commissions. The XVFC gave it a weight of 45 per cent, but what matters (and is rarely examined) is the manner in which it is measured. Income distance is measured in the XVFC report from the third highest ranked state in per capita income (Haryana). But, adopting the same method as the Twelfth Finance Commission<sup>23</sup>, states at the top end (including Haryana itself, and two higher-ranked states of Goa and Sikkim) are assigned the same distance as Kerala, the fourth highest. This reduces the measurement of income distance to a travesty of what it purports to measure, essentially flipping the sign of a negative distance to positive. The fundamental problem stems from the enormous disparity in per capita The ratio of highest to income across states. lowest per capita net state domestic product by the latest CSO estimates for 2019-20 stands at 10. There is the infeasibility of having such a large disparity worked into the dominant factor determining the shares of states in overall tax devolution, compounded by the fact that the states at the high end are at the small end of the size spectrum. The problem was resolved by the Thirteenth Finance Commission by assigning to the topmost states in the ranking an income distance of Rs. 100 per capita from a notional benchmark above them all, and then measuring

the rest of the states from the per capita income of the assigned benchmarked state.<sup>24</sup>

### 7. Conclusions

The XVFC has responded to the covid challenge, with an excellent calibrated provision for the health and power sectors, water and sanitation. However, two pieces of the health provision, amounting to one-third of it, were among the two grant categories not accepted by the Action Taken Report (ATR) tabled in Parliament, a first-time departure from the convention whereby all quantified transfers recommended by finance commissions are accepted by the government of the day.

The total statutory transfer to states as recommended by the XVFC report amounts (as projected) to Rs. 52.58 lakh crore over the five years FY22 - FY26. The ATR-accepted total stands at Rs. 50.78 lakh crore. The reduction by Rs. 1.80 lakh crore, amounts to 3.4 per cent of the total, not quantitatively very significant. For FY22, the difference is even smaller. The total accepted statutory transfer to states for 2021-22 by Union Budget projections, amounts to 3.98 per cent of projected GDP. If all transfers had been accepted, it would have been 4.03 per cent, a negligible difference. That is because the accepted grants loom larger in the early years of the five-year horizon.

However, there are larger implications to the rejection. The stated intent in the ATR is to merge the rejected grant heads into Centrally Sponsored Schemes (CSS), but flows under the CSS are not subjected to the same discipline as statutory flows in terms of timing (although those too have been

eroded from time to time). Further, there are no CSS to cover maintenance costs of access roads in rural India built under the Pradhan Mantri Gram Sadak Yojana, one of the axed grant heads. And one of the rejected grants for agricultural reform incentivises states to enact a tenancy law along the lines of the model laws designed by NITI Aayog. This is an essential requirement for reform of the agricultural sector. Also rejected is a health grant to states, although fortunately, 65 per cent of the total provision for health is embedded in the local grant which has been fully accepted.

The ATC has accepted the XVFC recommended cap of 4 per cent on state borrowing in FY22, going down to 3 per cent in two years, supplemented by an extra 0.5 per cent conditional on power sector reform, an essential requirement for both the real sector as well as the health of the banking sector. The power sector conditionality is carefully calibrated - an excellent contribution of the XVFC. However, the entry level conditionality, that all DISCOMs in a state must have formal audited accounts in the public domain, will be difficult for most states to meet. The Centre has to take a pro-active stance in helping states meet this condition.

Another excellent feature of the XVFC report is the large and well-structured provision for transfers to local governments – rural panchayats and urban municipalities. At Rs. 4.36 lakh crore over five years, it accounts for 8 per cent of the total recommended transfer. Of the local grant, Rs. 70,000 crore is the health component to plug gaps in physical infrastructure and diagnostic facilities at local level, and this is fortunately unconditional. If properly implemented, and merged with other flows from the state budgets for medicines and other consumables, this could for the first time make primary health care more accessible for rural residents, a huge contribution.

The local grant for general disbursement carries, as in the case of DISCOMs, entry-level requirements of audited accounts for local bodies, along with some others (all clearly specified). Once again, as for the power sector, the Centre will have to work pro-actively with states to help

meet these conditions or else the local grant will never flow. The health grant to local governments however remains unconditional, to guard against withholding of funds for procedural or other reasons.

There are performance conditionalities for cities with a million or more population. Performance conditionalities suffer from a huge execution disadvantage. The Central ministries concerned frequently do not have the manpower at hand to examine the kind of state-level data they have to sift through in order to determine entitlements in accordance with the conditionalities. The 61 per cent usage carve-out for water and sanitation is once again totally commendable, but these can cause delays in the fund release process, because usage of a particular type is more difficult to certify than general usage.

These obstacles need to be recognised and addressed through Centre-state co-operation if the vision of the XVFC, to secure the health infrastructure of India, is to be fully realised.

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<sup>1</sup>Article 281 of the Constitution requires an "explanatory memorandum" on the action taken on Finance Commissions, to be tabled in Parliament along with the Finance Commission report itself. The ATR and the final report are at

https://fincomindia.nic.in ShowContent.aspxuid1=3&uid2=0&uid3=0&uid4=0

<sup>2</sup> See Rajaraman, Indira, "The Indian Constitution Enshrines Fiscal Provisions that bind the Indian Federation Together", a Brains Trust Talk, https://youtu.be/b4GD0wwtDgY accessed 11 March 2021, for the important role these Constitutional provisions have played in holding the Indian Federation together. Other (non-statutory) grants for any public purpose from the Centre, or states, are permissible under Article 282, even if "the purpose is not one with respect to which Parliament or the Legislature of the State, as the case may be, may make laws".

<sup>3</sup>The XVFC report is a comprehensive fourvolume reference resource on the fiscal health of the Indian federation with prescriptions in Volume I, Annex tables Volume II, and Union and state finances in great depth in Volumes III and IV respectively.

<sup>4</sup>The interim report and Explanatory Memorandum listing the action taken on it, can be found at the same location as the final report; see footnote 1.

<sup>5</sup>A gap year 1989–90 between the end of the Eighth Commission award period in 1984-89 and the start of the Ninth Commission award period 1990-95, was covered by carrying forward the Eighth Commission shares.

<sup>6</sup>Article 280 of the Constitution specifies the formation, duties, and periodicity of appointment of Finance Commissions.

<sup>7</sup>Para 5 of the TOR reads: "The Commission shall review the current status of the finance, deficit, debt levels, cash balances and fiscal discipline efforts of the Union and the States, and recommend a fiscal consolidation roadmap for sound fiscal management, taking into account the responsibility of the Central Government and State Governments to adhere to appropriate levels of general and consolidated government debt and deficit levels, while fostering higher inclusive growth in the country, guided by the principles of

equity, efficiency and transparency. The Commission may also examine whether revenue deficit grants be provided at all."

<sup>8</sup>Para 7(v) reads: "Progress made in increasing tax/non-tax revenues, promoting savings by adoption of Direct Benefit Transfers and Public Finance Management System, promoting digital economy and removing layers between the government and the beneficiaries."

<sup>9</sup>The revenue deficit grant is the only grant component which, although Constitutionally sanctioned under Article 275, carries a perverse incentive for fiscal discipline. This has been resolved by past Finance Commissions in an assortment of ways, including placing artificial limits on particular categories of expenditure, and imposing uniform revenue buoyancy targets. There can be ludicrous mismatches post facto, with some states on the recipient list showing a revenue surplus before receipt of the top-up, and others not on the list showing huge deficits; see V. Bhaskar, 2015.

<sup>10</sup>Para 19 of the ATR response to the sectoral grants. Para 20 on the recommendation for state-specific grants in the ATR states: "Keeping in view the untied resources with the State Governments and the fiscal commitments of the Central Government, due consideration will be given to the above recommendation." Since these grants are for small projects in each state, and since in keeping with the spirit of unbiasedness of finance commissions, these grants have to be adopted in their entirety, or not at all, the issue of due consideration does not arise.

<sup>11</sup>If the statutory absolute grants are conditional on performance, the timing of those flows may correspondingly be uncertain on account of the processing time needed to assess whether conditionalities have been met, but this uncertainty may even extend to unconditional flows; see Rajaraman and Gupta, 2016.

<sup>12</sup>Devarajan et.al. 1996 found a startlingly counter-intuitive positive relationship between an increase in the share of current public

expenditure over capital expenditure, and growth. The results become plausible if the kinds of current expenditure squeezed out at the margin (maintenance of capital expenditure) render past expenditure on infrastructure infructuous. The study points to the larger conceptual error in lumping together all revenue expenditure, a heterogeneous collection of expenditure heads, in econometric estimation.

<sup>13</sup>The state-specific grants are also not apportioned according to any formula, but are an aggregation of specific needs. The year-wise flow by state is however shown in Table 10.11 of the XVFC Report.

<sup>14</sup>XVFC Final Report, Volume I, Para 12.61-12.63; 99 in the list of recommendations p. 414.

<sup>15</sup>Budget speech of the Finance Minister, accessible at https://www.indiabudget.gov.in

<sup>16</sup>Paras 4.37- 4.39 of the XVFC Interim Report for 2020-21, November 2019.

<sup>17</sup>In the latest Reserve Bank of India Financial Stability Report (#22, January 2021), the power sector is ranked second in impact on system level Capital Reserve Adequacy Ratio of a one standard deviation shock on gross non-performing assets originating in the sector (table 2.2). See also Rajaraman, 2021.

<sup>18</sup>However, all transfers call for a utilisation certificate (no details by type of usage, unless specified) on prior tranches. The Thirteenth Finance Commission Report, para 10.160, prescribed a basic grant, the dominant component of the local grant, merely requiring a utilisation certification of disbursement to local bodies within the state.

<sup>19</sup>Karnataka was the first to enact a fiscal law limiting deficits in 2002, followed by Punjab, Tamil Nadu and Kerala in 2003 (see Table 3 of Rajaraman, 2006). The Centre enacted a law in August 2003, but it became operative only after the rules were notified a year later, after a change of government.

<sup>20</sup>The Infrastructure Leasing and Financial Services (ILFS) conglomerate defaulted on its bank loans in September 2018 precipitated inter alia by delayed payments from the Central government; see Rajaraman, 2018.

<sup>21</sup>Box 13.2 and paras 13.23 to 13.50, XVFC Final Report, Volume I.

<sup>22</sup>They also recommend under a third head of miscellaneous recommendations a three-rate structure for the GST at 5% (merit goods), a standard rate merging those presently taxed at 12 and 18%, and a demerit rate (unspecified), and a reduction of exemptions. There is no mention of the need to bring back the provision for a reverse charge mechanism (RCM) to incentivise business dealings across the GST registration divide, which has seriously affected small business in India; see Rajaraman, 2019.

<sup>23</sup>And also by the Fourteenth Finance Commission (see para 8.29 of their report).

<sup>24</sup>See paras 8.30 to 8.34 of the Thirteenth Finance Commission Report, which also makes other changes in the formula towards making it a fairer measure of what income distance purports to measure.

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