

# Ethnic Conflict Resolution in India and Constitutional Incrementalism

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*“India regularly confounds its critics by its resilience, its survival inspite of everything. I don’t believe in the Balkanization of India... It’s my guess that the odd functioning anarchy will, somehow or other, keep functioning for another forty years, and no doubt another forty years after that. But don’t ask me how”.<sup>1</sup>*

This is exactly the puzzle. India is an enigma to the world.

Truly, India baffles her observers by her veritable feast of peculiarities. She represents the world’s largest democracy, paradoxically, with an equally huge range of complexities which are by no means petite: there are numerous religious communities often engaged in conflicts and hostilities, although as many as twenty-two languages have been officially recognized, demands are afresh for recognizing some more of them; regional disparities are acute. Coupled with these problems are problems of illiteracy, lack of awareness among the poor masses, class and caste differences, sub-regional conflicts leading to frequent clashes and incidence of violence among the warring groups and to top it all increasing marginalization and social exclusion of the *dalits*, scheduled castes and scheduled tribes despite several constitutional provisions and government policies to provide for affirmative action and include the marginalized into mainstream life.

Since her colonial days, India has encountered problems of language, religion, tribes, and more seriously questions of identity; yet the country has managed to stay united. The complex Indian societal mosaic has witnessed and is still witnessing spells of sub-nationalist (Harit Pradesh in western Uttar Pradesh, Vindhyaachal in Madhya Pradesh, Vidharba in Maharashtra, Kodagu in Karnataka etc) and political extremist movements often challenging the legitimacy of the state. However,

it has managed to survive all the odds, maintaining its consistent democratic tradition, manifested in periodic elections, local self-governing institutions, different modes of people’s participation, political dialogues between the government and the ethnicities despite predictions of disintegration forecast by scholars.<sup>2</sup>

How does India put up with the challenge of forging national unity amidst its intricate diversity? What is the puzzle behind her comparative success as an integrated state? The paper seeks to examine the reasons for India’s relative success as a multicultural state amidst all odds and addresses the question of accommodation of ethno-regional diversity in a single political framework, a challenge to the framers of the constitution when the country had just witnessed partition based on religion. There were other fissiparous tendencies at work in different parts of India during independence and she has endured all challenges in the last 75 years. The question is how? The contained and incrementalist accommodation of diversities in the Indian Constitution might well be the key to India’s remarkable survival.

The paper argues that an incrementalist approach to constitution-making enabled the accommodation of ethnic conflicts through approaches of deferral of controversial issues to future political institutions. The paper will analyse the Constituent Assembly Debates (henceforth CAD) on the issue of accommodation of ethno-regional conflicts and the approach adopted by the framers to leave some ethnic issues to the future Parliament through appropriate constitutional provisions. The focus will be on the interventions made by the representatives of the different provinces in the debates of India’s Constituent Assembly. This analysis is significant because India’s Constitution is one of the most enduring post-colonial constitutions despite the complexities of time. Incrementalism, as I shall show, provided a fine balancing act that maintained the overall

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coherence of different groups and communities though dissenters could voice their opinions but ultimately agreed on a broad consensus. These incrementalist strategies allowed the Indian state to reconcile the problem of accommodating linguistic, ethnic, cultural identities within a democratic framework without undermining the integrity of the country and proving her critics wrong who had prophesied the balkanization of India way back in the 1960s. The Indian drafters recognized that given the nature of multi layered identities and their aspirations, all the issues could not be resolved instantaneously, neither they attempted to do so, and rather kept the issue flexible. They acknowledged that some gaps were unbridgeable and could be resolved in future India. Had it not been so the Union Parliament would not have been able to reorganize the internal boundaries based on language in the 1960s, reorganization of the North-East between 1960s to 1980s or the creation of the three new states in 2000 or Telangana in 2014 or the very recent signing of peace accords with the Bodos and the Bru community in 2020 and 2021 respectively.

### Constitutional Incrementalism

What is constitutional incrementalism and how can it be regarded as an approach towards resolution of ethnic conflicts in a deeply divided multicultural society? Incrementalism as a theory of constitution-building demonstrates that it is both a principle and a rationalist strategy. It represents an approach rather than a strict model since it may be manifested through various constitutional strategies such as avoidance of decision-making, using ambiguous and vague legal language and including contradictory provisions in the Constitution. According to Hanna Lerner, "All constitutional strategies included in the incrementalist toolbox are intended to defer to the future controversial choices regarding the foundational aspect of the constitution in order to permit some form of agreement on a constitution to be reached. The incrementalist approach does not mean that decisions regarding the structure of governmental institutions are deferred to the future. Rather decisions on the institutions of government and regulation of power are clear, and they allow for the democratic order to function".<sup>3</sup> Lerner notes that there are four principles to the incrementalist approach to constitution-making—non-majoritarianism, a non-revolutionary approach, representation of ideological disagreements and transferring the problems from the constitutional to the political sphere.<sup>4</sup>

Although democracies are mostly based on the majoritarian principle yet in India the framers never intended to impose the wishes of the majority on a minority group as the CAD reveal. Though the composition of the

CA was heavily dominated by Hindus but they never adopted a Hindu majoritarian stance. The decisions were based on a consensus. And if a consensus was not available then the best route taken was postponing the decision with a scope in the Constitution for subsequent revisions and reform. Drafting a new Constitution is in itself a revolutionary project and a vehicle to transform dreams and aspirations into reality. However, "the incrementalist approach rejects the revolutionary understanding of constitution drafting, preferring to leave the future unfettered by principled constraints. It rests on the understanding based on Burkean gradualist perception of constitutional change". According to Burke, "a constitution is made by what is ten times better than choice, it is made by the peculiar circumstances, occasions, tempers, dispositions and moral, civil and social habitudes of the people, which disclose themselves only in a long space of time".<sup>5</sup> The third principle of the incrementalist approach refers to the representation of ideological disagreements in the Constitution. "Instead of providing clear cut decisions, the Constitution embraces the conflicting visions of the state by including vague and even contradictory provisions. Fourthly, Incrementalism focuses on transferring decisions to the political sphere – "By refraining from making decisions that require choosing from among the competing visions of the state, the incrementalist constitutional arrangements transfer such decisions to the political realm. Recognizing that decisions with respect to sensitive societal issues require long term public and political debate, the incrementalist strategy channels the debate over these issues to the arena of ordinary parliamentary politics."<sup>6</sup> The rationale is that the domain of ordinary legislation allows for greater flexibility in accommodating the demands of the conflicting groups, and more room for innovative and nuanced solutions to intricate and complex ideational tensions which might have otherwise sparked off fissiparous tendencies if the attempt was to assimilate diverse ideologies and impose them on the population.

This is not to say that incrementalism seeks to escape from facing the ground realities. The incrementalist approach involves such strategies as avoidance of clear decisions, the use of ambivalent and vague language or the use of contrasting provisions in the constitution. Incrementalism had eschewed the unsettling repercussion of revolutionary change which would have otherwise followed the Partition of India.

Against the above backdrop, it is very important to understand the constitution-making process in India at a time when the country was witnessing the pangs of Partition. The drafting process of three years should not be seen as a formal process of drafting a constitution but a reflection of the anxieties, apprehensions of the framers

who had multiple problems to resolve. "Constitutional incrementalism allowed the Constituent Assembly to circumvent potentially explosive conflicts by shifting the burden of resolving...contentious debates to the new political institutions it created. The inclusion of incrementalist arrangements in the constitution was meant to afford the political system greater flexibility for future decisions about controversial questions."<sup>7</sup>

### Nature of Diversity In India

It is imperative to understand the nature and dynamics of cultural identities in India to gauge the reason for the adoption of constitutional incrementalism to accommodate the claims of the various identities. As a South Asian State, India exhibits a mosaic of socio-cultural heterogeneity, diversities and pluralities, integrated in a multicultural federal polity. This plural culture has evolved across centuries, through a continuous process of adaptation and fusion of the diverse cultural influxes coming with the hordes of invaders –the Aryans, the Sakas, the Huns, the Pathans, the Mughals and the Europeans. And this evolved the composite culture of India which is often ascribed with lexical expressions as 'unity in diversity', 'bouquet of flowers' or 'vegetables in a salad bowl', etc. Jawaharlal Nehru in *The Discovery of India* observes, "We are an old race, or rather an odd mixture of many races, and our racial memories go back to the dawn of history."<sup>8</sup>

India's broad regions, socio-culturally speaking, are distinct from one another. For instance, southern India (the home of Dravidian culture), which is itself a region of many regions, is evidently different from the north, the west, the central and the northeast. Even the east of India is different from the North-East India comprising today seven constituent units of Indian federation with the largest concentration of tribal peoples. The Indian multicultural mosaic may be complicated and multi-layered but definitely, not chaotic. Most of the states though contain a dominant linguistic and religious group, yet other linguistic and religious minorities do coexist.

Diversity of religious belief constitutes the most significant characteristic of the Indian population. There is probably more diversity of religions in India than anywhere on the earth. Although, mainly dominated by the 'Hindus' (over 80%) who are regionally rooted and plural in customs and beliefs and are divided into castes. India also contains significant number of Muslims (about 13%) spread over the country with more than a million in as many as 13 states (out of 28), Sikhs, Jains, Buddhists, Christians and so on.

In the Indian subcontinent, the idea of religious minorities is confusing. That is to say, though dominated

by Hindus, there is considerable variation by state. Muslims make up the majority of the population in Lakshadweep (95.5%) and in Jammu and Kashmir (67.0 %), moreover Muslims are found in almost all the states of the country. In Assam, Bengal, and Kerala, they account for one-fifth or more of the population; in four others they are a tenth or more of the total; in nine others, they are between 5 per cent to 10 per cent of the population; there are districts in the country where they are in a majority and there are many others in which they constitute large, though not the majority, elements of the district totals.<sup>9</sup> Christians predominate in Nagaland (90.0%) and Mizoram (87%) and Sikhs are the majority in Punjab (59.9%). Buddhists are most prevalent in Sikkim (28.1%) and Jains in Maharashtra (1.3%). Except Punjab, post-Partition, we do not find any case of religion playing a dominant role in ethno-nationalist movement. This has been rendered possible, primarily, because of the observance of the elaborate constitutional provisions coupled with institutional innovations in the form of reorganization of territories and various autonomous arrangements within the territorial boundaries.

India is not only multi-ethnic, multi-religious but also multi-linguistic. Linguists are not unanimous about the total languages spoken in India. Dr. George Grierson in the *Linguistic Survey of India* lists 179 major languages and 544 dialects.<sup>10</sup> The *Linguistic Survey of India* conducted in the first decade of this century recorded that "language change every 20 miles in India".<sup>11</sup> The Constitution of India listed fourteen languages, Assamese, Bengali, Gujarati, Hindi, Kannada, Kashmiri, Malayalam, Marathi, Oriya, Punjabi, Sanskrit, Tamil, Telugu and Urdu into its Eighth Schedule in 1950. Since then this has been expanded thrice, once to include Sindhi, another time to include Konkani, Manipuri and Nepali and third time to include Bodo, Santhali, Maithili and Dogri and today the Constitution recognizes twenty-two Scheduled languages. Each of the Indian states, besides having a dominant linguistic majority contains significant amount of other language speakers despite the linguistic reorganization of states. Indian multilingualism dates back historically to ancient times when ethnic groups and races came in contact with one another through migration from one region to another.<sup>12</sup> Although political compulsions and social restructuring might have contributed a little to its growth, multilingualism in India was largely a product of close contact between four language families from the earliest recorded history.<sup>13</sup> And this tradition continues even today so that presently there is not a single state that can be said to be monolingual.

Any discussion on Indian diversity is incomplete without her tribal population. The tribes are presumed to be the oldest ethnological sector of the national



population, popularly designated as *adivasis* (original inhabitants). The demographic distribution of tribes can be divided into four main regions —South, Central, East and North-East. The concentration of tribal population stretches along the Himalayas, Himachal Pradesh and Uttar Pradesh in the north-western part up to Assam, Meghalaya, Tripura, Arunachal Pradesh, Mizoram, Manipur and Nagaland in the North-East. Another stretch of tribal zone can be found in central India in Madhya Pradesh, Chattisgarh, Orissa and to a large extent in Bihar, Jharkhand and in the southern states of Kerala, Tamil Nadu and Andhra Pradesh. These ethnic identities have their 'distinct culture' as reflected in their folk art, folk literature, traditional crafts and ethos and are very assertive about the protection and promotion of their distinctiveness.

### **Constituent Assembly Debates and Accommodation of Ethnic Identities**

With Independence, the framers of the Constitution faced the upheaval task of consolidating the "territorially truncated country characterized by enormous diversity"<sup>14</sup> into a single unified state. After deliberating for nearly two years and eleven months the Constituent Assembly drafted a constitution that provided for a 'Union of States'.<sup>15</sup> Now, the Constituent Assembly was faced with the predicament of either reorganizing it itself or 'of empowering the central authority created under the constitution to undertake it'.<sup>16</sup> The Constituent Assembly chose the latter course through constitutional incrementalism to avoid further controversies and indefinite delaying of the constitution.

"The Constitution envisaged the creation of a layered territorial and administrative order but said little about the kind of federal units the Indian union was to have, or the basis on which they would be created, i.e., geography, demography, administrative convenience, language or culture. That decision was left entirely to the wisdom of Parliament. Nor did the Constitution envisage the province-states to have their own separate Constitutions as for example in the United States of America".<sup>17</sup> The framers envisioned that in future owing to the existence of multicultural identities, self-determination movements might arise. That may be precisely the reason why the framers provided scope in the Constitution for the creation of new federal units within the Indian union. Unlike the American federation, India became an indestructible union of destructible states.

The Indian Constitution beginning with Article 1 provides that "India, that is Bharat, shall be a Union of States". Explaining the usage of the term 'Union', Ambedkar said, "though India was to be a federation,

the federation was not the result of an agreement by the states to join in a federation, and the federation not being the result of an agreement no state had a right to secede from it".<sup>18</sup> Article 3 has empowered that the Parliament "may by law form a new state by separation of territory from any state or by uniting two or more states or part of the States or by uniting any territory to a part of any state..." The spirit behind the adoption of this federal structure with a strong Centre was to ensure the territorial, political social economic unification of the diverse Indian society for the all-round development of the people of this country. In fact, Article 3 was specifically inserted because the framers knew it well that the problem of managing diversities might arise in future and that is why they empowered the Parliament to effectively accommodate the ethnic identities through territorial solutions whenever the need arises. Compared to the Indian Parliament regarding alteration of state boundaries the powers of the American and Australian Parliament is much restricted. Article IV, Section 3 of the American Constitution provides that no new state can be formed "without the consent of the legislatures of the states concerned as well as of the Congress". Similarly, Sections 123 and 124 of the Australian Constitution provides: "The Parliament of the Commonwealth may with the consent of the Parliament of a State, and the approval of the majority of the electors of the state voting upon the question, increase, diminish or otherwise alter the limits of the state, upon such terms and conditions as may be argued on and may, with the like consent, make provision respecting the effect and operation of any increase or diminution or alteration of territory in relation to any State affected". It, therefore, may be deduced that Article 3 of the Indian Constitution gives more power to the Indian Parliament than the American or Australian Constitution. It was believed that Parliament representing the voice of Indians should be given exclusive power on territorial readjustment. Thus, the territories of the States as on 26.01.1950 were not frozen and the constitution provided for prospective changes including alteration of boundaries.<sup>19</sup>

K.R. Bomball, one of the eminent scholars on Indian federalism, observes that "the intention of the framers behind adoption of Article 3 was not the annihilation of state autonomy but was the only practical solution and experience has proved that the wishes of the people have been respected".<sup>20</sup> The increase in the number of states since independence only proves the farsightedness of the framers. In the words of Frank Anthony, a member of the Constituent Assembly, "If we are frank with ourselves, we must admit that in this vast country there is an inherent potential of divergence and disintegration. Because of that I feel that the maximum possible power

that can be given to the Centre must be given in the interests of the integrity and cohesion of the nation.”<sup>21</sup> In the *Babulal Parate v. The State of Bombay*, it was pointed out that: “...Unlike some other federal legislatures, Parliament, representing the people of India as a whole, has been vested with the exclusive power of admitting or establishing new States, increasing or diminishing the area of an existing State or altering its boundaries, the legislature or legislatures of the States concerned having only the right to an expression of views on the proposals.”<sup>22</sup> In accommodating the competing views of ‘the people’, such formulations promote consensual, rather than majoritarian democracy.<sup>23</sup>

The framers were confronted with the problem of reconciling democratic tradition as well as preservation of rich cultural diversities. Simultaneously, they were also confronted with the question of the ‘basis’ or ‘criterion’ of state formation. More over, all the members were not unanimous regarding the concept of granting statehood status to the identities because in their opinion it would lead to disintegration the country. Nevertheless, since the 1960s, other forms of decentralization like state, sub-state and autonomous councils were created within the constitutional framework to provide autonomy to the diverse entities. In order to offer further scope for accommodation, the Constitution provided for the Fifth and the Sixth Schedule which empowered the people towards newer and newer forms of self-rule and shared-rule.

The question of accommodation of ethno-cultural identities assumed significance in the process of constitution making and was intensely discussed in the Constituent Assembly, given the fact that the country was witnessing linguistic movements, the tribes were also deliberating on their choice of autonomy and secession, within or outside India. For instance, the Khasis were divided on the question of whether to demand a separate sovereign Khasi state or separation from Assam or a federal status with Assam. Similarly, the Nagas were divided on the question of autonomy and independence. The Mikirs were in favour of autonomy in local matters within the state of Assam. The Garos favoured similar treatment of hills and the plains. Then there was the question of integration of princely states. Article 1, 2 and 3 are extremely significant in the context of their incorporation and the rationale behind it. It was the best example of constitutional incrementalism as we will see when we go through the text of the articles and the arguments and counter arguments given by the framers. Article 2 of the Indian Constitution provided that Parliament may by law admit into the Union or establish new states on such terms and conditions as it thinks fit. Article 3 states that Parliament may by law form a new state by separation of

territory from any state or by uniting two or more states or parts of states. It may increase the area of any state; diminish the area of any state, alter the boundaries of any state and alter the name of any state. The provisions of Article 2 suggest that there are no specific criteria for the creation of statehood. Statehood may be created on different criterions within the pluralistic Indian society. Secondly, Article 2 and 3 explicitly give power to the Centre to redraw the state boundaries according to the needs of time, creating a powerful Centre. What happens to the affected states? Why were the internal boundaries not sealed in 1950? Why did the framers not use the Constituent Assembly to finalize the internal map of India? Was it deliberate? All these questions were intensely deliberated. The first issue raised was whether the consent of the affected states should be taken or not. Prof. K.T. Shah, one of the eminent members of the Constituent Assembly, was of the view that during reorganization of territories, the view of the affected people should be taken either by ‘direct referendum’ or at least by the legislature of that state since the essence of democracy implies that nothing should be imposed from above. He emphatically maintained that the alignment of states should be “... altered only as and how the people primarily affected desire them to be altered, and not in accordance with the preconception, the nation, of such adjustment that those at the Centre may have, even if some of those at the Centre are the representatives of the people concerned.”<sup>24</sup>

In fact, K.T. Shah provided for two-fold scheme of redrawing of state boundaries —first, boundaries should be altered only when the ‘people’ of the region want it to be; second, or on the recommendations of a ‘competent’ Boundary Commission or any other statutory, constitutional or semi-judicial authority set up for the purpose. Whatever may be the method, he emphatically maintained that all proposals of alteration or creation of new states should originate with the people. Pandit Hirday Nath Kunzru, another member, on the other hand, maintained that for alteration of state boundaries “consent of the States should not be necessary for a reorganization of their territories. Consultation with them should be quite enough”.<sup>25</sup>

Dr B.R. Ambedkar argued, both ‘consent’ and ‘consultation’ were necessary since at the time of independence the federal units were divided into ‘provinces’ and ‘states’. “The States are sovereign States and the provinces are not sovereign States. Consequently, the government need not be bound to require the consent of the provinces to change their boundaries; while in the case of the Indian States it is appropriate, in view of the fact that sovereignty remains with them, that their consent should be obtained.”<sup>26</sup>

Divergent views emerged. On the question of provincial autonomy and statehood, Pandit Thakur Dass Bhargava, one of the eminent members of the Constituent Assembly categorically maintained that “every part of India should be given this facility, that, should it decide to secede from one part and to accede to another, then there should be no impediment in its way.”<sup>27</sup> He strongly contended that, “separation may be effected by holding a referendum of the people of the area desiring to separate”<sup>28</sup>, thus, fully favouring the right of self-determination of the people of the country. He recommended that Article 3 should be amended in such a manner so that instead of giving absolute powers to the Centre, the people should be given supreme power of deciding their own fate and that “even the smallest areas in the country may be able to achieve full freedom.”<sup>29</sup> Shri Raj Bahadur (United State of Matsya) contemplated that the primary objective behind Article 3 was “unification and of democratization of the entire Union.”<sup>30</sup>

While most of the members emphasized on the question of people’s consent and referendum, Chaudhuri Ranbir Singh raised a very vital question. The provisions of Article 3 required that the Centre take the consent of the State Legislature before it seeks to alter its boundaries. But the consent of State Legislature does not necessarily imply the consent of the people of the area who will be affected by the change. Moreover, since the State Legislature mostly represents the interests of the majority in that State, the minority population of that State even if they are in favour of a new State cannot ventilate their opinion in the absence of proper representation in the State Legislature. Moreover, it seems logical that the State Legislature will never give its consent to an alteration of state boundaries since it would reduce their influence and control.

Again, Shri Brajeshwar Prasad (Bihar) emphasized that “Article 3 is silent on two fundamental points: viz., (1) the constitutional powers of the new States formed under the provisions of this Article. It has been left to the majority party in the future Parliament of India to determine by the most convenient process of simple majority whether the new State thus formed will be placed in Part I, II or III of the First Schedule. (2) The conditions under which the Parliament can function under the provisions of this Article. The Parliament has the legal power to unite or break up States without any rhyme or reason. Its hands have not been fettered by any conditions under the provisions of this Article.”<sup>31</sup>

The deliberations resulted in Article 3 which assigns the responsibility of federalization of India to the Centre without indicating any specific criterion for grant of statehood, ultimately leaving everything at the wisdom of the future parliament, in the sense that Central

parliament may endorse diversity or deny it. If we go by the experience of the last few decades, recapitulating the various statehood movements, it appears that the reorganization of internal territories was more the result of people’s movements than the Centre’s use of exclusive power of uniting or breaking territories.<sup>32</sup> This is well illustrated in the speech of former Home Minister L.K. Advani while he was speaking on the floor of the Rajya Sabha during the discussion of the Madhya Pradesh Reorganization Bill, 2000: “In 1950 we had three categories of States, Part A, B and C. Thereafter, the States were reorganized on the basis of language mainly. As a result, several big States particularly the Hindi-speaking States like Uttar Pradesh, Madhya Pradesh and Bihar were created. The development in these States was imbalanced. For this reason and also for some other factors there have been several demands for creating new States in the country. *We have decided that we would support creation of only that new State in regard to which the local people make a demand and the concerned State Legislature passes a Resolution favouring the creation of a new State.* Only three States passed such Resolution, Uttar Pradesh for creation of Uttarakhand, Madhya Pradesh for Chattisgarh and Bihar for Jharkhand. Keeping in view of our decision, we committed ourselves to the creation of these three new States and included this issue in our election manifesto. I hope if like the other House, this House passes the Bill with consensus, 17.5 million people of the Chattisgarh region will only be too happy”.<sup>33</sup>

## Conclusion

However, it is interesting to note that in 1946 when Constituent assembly convened for the first time, incrementalism was not the goal; rather the members attempted to resolve the diverse concerns pertaining to autonomy and statehood within the confines of the Constituent Assembly. This is evident in the words of B.N. Rao, “One of the most difficult problems in the framing of India’s new Constitution will be to satisfy the demand for linguistic provinces and other demands of a like nature.”<sup>34</sup> Echoing similar apprehensions, Pattabhi Sitaramayya in his Presidential address at the Convention on Linguistic and Cultural Provinces, declared, “The issue of linguistic provinces must be taken up as the first and foremost problem to be solved by the Constituent assembly. The formation of a Constitution for a country would be meaningless if it was not open to the framers to determine the provinces of the country.”<sup>35</sup> It is, thus, evident that the tone of the Constituent Assembly in 1946 was not deferral of issues to the wisdom of future Parliament but a resolve to solve everything within the confines of the Constituent Assembly. The inability of



the Constituent Assembly to reach a broad agreement on reorganization of states despite the recommendations of Dar Commission, JVP Committee led to the pragmatic realization that all contentious issues cannot be settled in the process of constitution making and CA formally recognized the role of future Parliament to decide on the issue of reorganization of states. The creation of the first linguistic state of Andhra Pradesh amply demonstrated that “the formal provision of the *hegemonic authority of the center* (emphasis added) actually turned out to release the regional forces of autonomization in a manner that contributed to the durability of federalism.”<sup>36</sup> The adoption of incrementalist strategies for reorganizing the internal boundaries should not be seen as a constitutional constraint but as a realist arrangement. The key legal adviser of the Constituent Assembly, B.N. Rau, was of the view that “we have to bear in mind that conditions in India are rapidly changing; the country is in a state of flux politically and economically; and the constitution should not be too rigid in its initial years.”<sup>37</sup> Our Constitution not only promotes diversity but also provides scope for accommodation while in most of the other countries, the problem of identity protection has been dealt with through legislation as is found in Australia, Canada.<sup>38</sup> The Constituent Assembly has not only adopted incrementalism and deferral for ethnic accommodation but also in other controversial areas too like the issue of Uniform Civil Code which has been inserted in the Directive Principles of State Policy and is an obligation upon the future Parliament to enact a law on the same. Again, the issue of Official Language was also deferred following the heated debates between the Hindi speaking and non-Hindi speaking members within the august Assembly. Thus, it was a conscious decision to avoid hasty moves given the complexities of time.

Adoption of constitutional incrementalism serves as a significant exemplar of how to institutionally contain, accommodate and harmonize ethnicities within a single political framework devising and experimenting with diverse dynamic multicultural techniques of constitutional accommodation since it is well known that the concept of political unity is not absolute rather it is dependent on multiple factors, hence one size fits all solution may not be applicable to the various communities inhabiting the country.<sup>39</sup> The farsightedness of the framers can be gauged from the way they kept issues of internal reorganization open in future by giving the Parliament constitutional power to reshape the internal boundaries as and when needed has actually helped in resolving many ethnic tensions through grant of territorial autonomy to ethnic identities and the popular maxim of unity in diversity has actually been reframed to imply unity through diversity. The process of political

accommodation has been continuous and dynamic in nature, ranging from states, sub-states, autonomous Councils, District Councils, depending on the size and nature of the ethnic groups and more so all these institutional promotions of autonomy is well entrenched in democracy.

## Notes

1. S. Rushdie, *Imaginary Homelands*, Granta, London, 1991, p. 33,
2. See, Selig S. Harrison, *India, The Most Dangerous Decades*, Princeton University Press, Princeton, New Jersey, 1960, p. 320.
3. Hanna Lerner, *Making Constitutions in Deeply Divided Societies*, Cambridge University Press, Cambridge, 2011, p. 39.
4. *Ibid*, p. 41.
5. Edmund Burke, *Speeches*, as quoted in Lerner, p. 42.
6. Hanna Lerner, *Making Constitutions in Deeply Divided Societies*, Cambridge University Press, Cambridge, 2011, p. 39.
7. Hanna Lerner, *The Indian Founding: A Comparative Perspective*, in Sujit Choudhry, Madhav Khosla and Pratap Bhanu Mehta, *The Oxford Handbook of the Indian Constitution*, OUP, New Delhi, 2016, p. 61.
8. Jawaharlal Nehru, *The Discovery of India*, OUP, New Delhi, 2002, p. 55.
9. T.C. A. Srinivasavaradan, “Pluralistic Problems in the Federal system”, in Nirmal Mukherjee & Balveer Arora (eds.), *Federalism in India—Origins and Development*, Vikas Publishing House, Delhi, 1992, p. 131.
10. Rasheeduddin Khan, *Bewildered India—Identity, Pluralism and Discord*, Ananad Publication, Delhi, 1994, p. 38.
11. *Ibid*.
12. J.C. Sharma, “Multilingualism in India”, *Language in India*, Vol. 1: 8, Dec 2001.
13. *Ibid*.
14. Maya Chadda, “Integration through Internal Reorganization: Containing Ethnic Conflict in India” in *Global Review of Ethnopolitics*, Vol. 2. No. 1, September 2002, p. 46.
15. Article 1 of the Constitution of India says: India, that is Bharat, shall be a Union of States.
16. K.R. Bomball, *The Foundations of Indian Federalism*, Asia Publishing House, Bombay, 1967, p. 9.
17. Maya Chadda, “Integration through Internal Reorganization: Containing Ethnic Conflict in India” in *Global Review of Ethnopolitics*, Vol. 2. No.1, September 2002, pp. 46-47.
18. CAD, AUGUST 29, 1947 [http://164.100.47.194/Loksabha/Debates/Result\\_Nw\\_15.aspx?dbsl=144&ser=&smode=](http://164.100.47.194/Loksabha/Debates/Result_Nw_15.aspx?dbsl=144&ser=&smode=)
19. Ram Badan Rai v. Union of India, AIR 1999SC 166 (175)
20. K.R. Bomball, *The Foundations of Indian Federalism*, Asia Publishing House, Bombay, 1967, p. 9.
21. Constituent Assembly Debates, Vol. VII, p. 227.

22. AIR 1960 SC51: (1960)1SCR605:1960 SCJ 107.
23. Hanna Lerner, *The Indian Founding: A Comparative Perspective*, in Sujit Choudhry, Madhav Khosla and Pratap Bhanu Mehta, *The Oxford Handbook of the Indian Constitution*, OUP, New Delhi, 2016, p. 61.
24. *Constituent Assembly Debates*, Vol. VII, p. 438.
25. *Ibid.*, p. 442.
26. *Ibid.*, p. 440.
27. *Ibid.*, p. 444.
28. *Ibid.* p. 445.
29. *Ibid.*, p. 446.
30. *Ibid.*, p. 451.
31. *Constituent Assembly Debates*, Vol. VII, p. 463.
32. The 1990s witnessed the rise of coalition governments and the popularity of regional parties as partners in national coalition. Neither the states nor the people nor the regional parties have expressed concern over the need to substantially alter the provisions of Article 3 before 1990s or after. According to the Report of the Sarkaria Commission of 1988, only one state government had asked for removal of Article 3 and minor modifications were proposed by 2 states and 2 states were in favour of prior consent of the affected states (Dasgupta 2001: 59).
33. *Rajya Sabha Debates*, Wednesday, August 9, 2000.
34. B.N. Rao, 'Constitutional Precedents', first series p. 17, in Granville Austin, *The Indian Constitution: Cornerstone of a Nation*, OUP, New Delhi, 1999, p. 236.
35. *The Indian annual Register*, Vol. 2, p. 53 in P.K. Sharma, *Political Aspects of States Reorganization in India*, Mohuni Publications, New Delhi, 1969, p. 239.
36. J. Dasgupta, 'India's federal design and multicultural national construction in Atul Kohli, (ed.) *The Success of India's Democracy*, Cambridge, pp. 60-61.
37. B. N. Rau, *India's Constitution in the Making*, 1960 Orient Longman, pp. 360-366.
38. Australia has responded to the problems of diverse identities by enacting the Community Relations Commission and the Principles of Multiculturalism Act 2000. Canada has enacted a series of legislations to accommodate the needs of diversities like Multiculturalism Act, Canadian Human Rights Act, Official languages Act, The Pay Equity Act.
39. Jhumpa Mukherjee, *Conflict Resolution in Multicultural Societies: The Indian Experience*, Sage, New Delhi, 2014, p. xxi (Introduction).