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**THE INDIAN REPUBLIC AS GOVERNANCE GURU TO THE EUROPEAN UNION: DOES THE SUBCONTINENT OFFER THE CONTINENT A MODEL FOR MANAGING DIVERSITY?**

Malcolm MacLaren

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## ABSTRACT

The development and working of governance in post-colonial India provides insights into and lessons for the actual European project of integration. The Republic's founders coined the slogan 'unity in diversity', and their creation has enjoyed considerable (unexpected) success in managing linguistic, religious, ethnic, and territorial diversities. In contrast, the Union's leaders are still struggling to constitute a political community, as the failure of the draft constitutional treaty made clear.

Considering wider dimensions of managing cultural diversity, the paper follows the thesis that in political integration projects, law matters and politics does too, but that the political culture prevailing matters most. The success (or failure) of such attempts is ultimately determined not by the framework rules, institutions, and procedures but by the common (or divergent) values, attitudes, and goals of the political actors involved.

## KEY WORDS

diversity, governance, integration, political culture

## MALCOLM MACLAREN

Malcolm Maclaren is currently a *Habilitation* at the Law Faculty of the University of Zurich. From 2008-10, he was a Visiting Researcher at the Institute of Federalism of the University of Fribourg. From 2006-09, he was a Post-Doctoral Fellow in the Swiss National Centre for Competence in Research – "Challenges to Democracy in the 21st Century". From 2002-07, he was a Research Associate at the Institute for Public International and Comparative Constitutional Law at the University of Zurich. Malcolm Maclaren has earned a Dr.iur. from the University of Zurich, a LL.M. from the University of Frankfurt a.M., a LL.B. from the University of Toronto, a M.A. (Modern History) from the University of Oxford, and a B.A. (English & Latin) from the University of Toronto.

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## 1. Preface

The following paper was researched and written during my three-month visiting fellowship at the Institute for European Global Studies in the fall semester 2013.

The issue that the paper addresses is undoubtedly internationally important and contemporary. However, the management of cultural diversity in these two large, complex, and diverse political entities has yet to be rigorously studied in combination – and certainly not from the perspective of what ‘they’ can teach ‘us’.

Given the paper’s approach, I was very pleased to undertake it at the Institute. The Institute’s scholarly resources and orientation encourage a cross-polity, multi-disciplinary, and innovative perspective on Europe. In particular, the paper benefited greatly from the variety of scholars present at the Institute, enabling me to bring learning from law, political science, sociology, and history together into a more comprehensive analysis. Any misunderstandings and mistakes remain, however, my own.

## 2. Introduction

The genesis of the question in my title lies in an aside made by a politician from Europe at a conference in India a few years ago. Anna-Elisabeth Haselbach, then Vice-President of the Austrian Federal Council, compared the European Union with the Republic of India in an address to the 4<sup>th</sup> International Conference on Federalism (ICF) in New Delhi, describing the EU as another endeavor to develop unity in diversity.<sup>1</sup> With respect, I doubt that Haselbach had given her analogy between the Republic and the Union much thought; most likely it was intended merely to compliment the Conference’s Indian hosts and to congratulate the country on 60 years of independence. The aside caused me, however, to consider anew India’s experience with managing diversity and the potential of mutual learning as regards governance internationally. Does the Republic’s history and practice provide insights into and lessons for the actual European project of political integration? After all, leaders of the campaign for Indian independence did coin and constitutionally enshrine the slogan ‘unity in diversity’ that is now favored by politicians in Europe like Haselbach.

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<sup>1</sup> Anna-Elisabeth Haselbach, Statement of the Vice-President of the Federal Council of Austria to the 4<sup>th</sup> International Conference on Federalism, New Delhi 6 November 2007 (with author).

### 3. Objective

The following inquiry into Indian governance,<sup>2</sup> though country-specific, is designed with a cross-polity perspective in order to facilitate analysis of the wider dimensions of managing cultural diversity.<sup>3</sup>

In such contexts, there is an existential challenge concerning the polity to be met, namely “a need to reconcile unity of action (politics and citizenship) with diversity of being (culture and belonging)”.<sup>4</sup> How the challenge is met is the stuff of conflict<sup>5</sup> within the society concerned. It must be solved over the long- (if not also the short-) term and solved extra-constitutionally through dialogue and a meeting of minds among political actors. A culturally diverse political entity cannot survive, let alone be successful, otherwise. A political integration project constitutes a concerted public effort to promote political actors’ identification with and loyalty to an authority beyond any of their diversity. Its primary aim should be (and here is) ‘pluralist democracy’. A pluralist democracy is generally well-suited to address political conflicts arising from cultural diversity.<sup>6</sup>

My intent behind examining Indian governance is – unlikely as it may seem – to bring more clarity to the debate about European political integration, that is, to help define its origins, its present realities, and its possible futures. The EU’s open-ended enlargement<sup>7</sup> and its continuing economic crisis have put a great strain on the unity of its political system and its citizens.<sup>8</sup> What brings and holds the Union together must be reconceived, and a strategy to its realization in public affairs must be agreed if political integration

2 ‘Governance’ is understood here as that interactive process by which different state and non-state actors determine a political entity’s *modus vivendi* in pursuit of their own preferences. It is comprised of the thin norms of the state and the thick perceptions of a social group. A form that it takes is ‘constitutive constitutional politics’, namely public debate, inter-cultural negotiation, and (possibly) official agreement about the terms of the polity. Further see Sujit Choudhry: Old Imperial Dilemmas and the New Nation-Building: Constitutive Constitutional Politics in Multinational Polities, in: *Connecticut Law Review* 37 (2005), 937 et seq.

3 ‘Cultural diversity’ (or simply ‘diversity’) is to denote the existence of a multiplicity of collective communities in the society derived from religious, linguistic, ethnic, and territorial identities and pursuing distinctive preferences politically. Further see César Colino/Luis Moreno: Comparative Reflections on Diversity and Unity in Federal Countries, in: Rupak Chattopadhyay/Abigail Ostien Karos (eds.): *Dialogues on Diversity and Unity in Federal Countries* (= *Global Dialogue on Federalism Booklet Series*, vol. 7). Montreal 2008, 3 et seq.

4 Edgard Pisani: Canada, High-Risk Testing Ground for World Change, in: *Le Monde diplomatique* (English ed.), January 1998. URL: <http://mondediplo.com/1998/01/05canada> (November 19, 2014).

5 ‘Conflict’ is understood here as disagreement regarding political power in inter-cultural relations, which can range from mere competition over tension to outright violence.

6 A ‘pluralist democracy’ is a unified political system that can claim legitimacy as being multi-cultural and representative of all citizens. Through possibilities of inclusion it decreases the likelihood of grievances in the population and through possibilities of participation increases the opportunities to air such grievances constructively.

7 It is predicted that the Union will disintegrate if Turkey accedes to the EU. Exemplary see Giscard D’Estaing cited by Hans Vollaard: *A Theory of European Disintegration*, Paper, 4th Pan-European Conference on EU Politics, Riga 25-27 September 2008. URL: <http://www.jhubc.it/ecpr-riga/virtualpaperroom/017.pdf> (November 19, 2014).

8 Robert Menasse depicts the project as being at a fateful moment in its development, “[e]ntweder geht das Europa der Nationalstaaten unter, oder es geht das Projekt der Überwindung der Nationalstaaten unter”. Cited by Beat Ammann: Die europäische Zukunft steht noch bevor, in: *Neue Zürcher Zeitung* October 4, 2012.

on the Continent is to proceed.

Accordingly, the approach here will not be to identify what ‘we’ can teach ‘them’; any knowledge transfer will be carried out in the opposite direction. Post-colonial India puts into question the conventional discussion of governance and has, moreover, enjoyed some success at reconciling unity in diversity. What learning might this federation under parliamentary government and rule of law with its variety of languages, religions, ethnicities etc. offer the Union, another culturally diverse political entity facing transformation? The EU is a polity *manqué*, with a *demos* and *polis* that are still much in flux, but should it seek to become an ‘integrated union’ like the Indian Republic, it will have to solve similar problems (e.g. multilingualism and intergovernmental cooperation).<sup>9</sup>

My hypothesis is the following: consideration of political integration in the EU in view of the Indian Republic’s experience highlights that if achieving ‘unity in diversity’ is to become the animating principle of a culturally diverse political entity, it requires the support foremost of the political culture prevailing. Legal and political support are needed, but related provisions and arrangements – and their exclusive analysis – do not capture all the dynamics involved in managing cultural diversity. Political culture sets the boundaries of what related governance strategies can actually achieve.

#### 4. Current Research

Of late, the Subcontinent has captured particular attention internationally, including upon the 60<sup>th</sup> anniversary of India’s independence. ‘The secret of its success’ was the subject of considerable commentary, for the Republic has enjoyed unexpected success in reconciling political unity with linguistic, religious, ethnic, and territorial diversity.<sup>10</sup> For example, many participants – especially politicians – at the ICF in New Delhi claimed that India’s political system should be considered a model for other countries. Exemplary see the then Speaker of the Lok Sabha who stated that “India [...] now is considered to be the international symbol of Unity in Diversity”.<sup>11</sup>

That said, little of substance has been written on the wider applicability of India’s praxis of post-colonial

<sup>9</sup> Further see Malcolm MacLaren: ‘Thank You India’: Lessons from the 4<sup>th</sup> International Conference on Federalism, New Delhi, 5-7 November 2007, in: Malcolm MacLaren (ed.): *The Many Faces of India: Law and Politics of the Subcontinent* (= *Heidelberg Series in South Asian and Comparative Studies*, vol. 3). New Delhi 2011, 124.

<sup>10</sup> Inter alia see Ramachandra Guha: *India After Gandhi: The History of the World’s Largest Democracy*. London 2007; Martha C. Nussbaum: *The Clash Within: Democracy, Religious Violence and India’s Future*. Cambridge MA 2007. For a combined review see David Arnold: Sixty-Year Views, in: *Times Literary Supplement* August 24 & 31, 2007, 10 et seq.

<sup>11</sup> Somnath Chatterjee, Address of the Speaker of Lok Sabha to the 4<sup>th</sup> International Conference on Federalism, New Delhi 5 November 2007 (with author).

governance. Review of current research reveals a remarkable lacuna. The results of two recent meetings – “India and Worldwide Movement for Democracy: What India can Learn from Others’ Experiences and What It has to Give”<sup>12</sup> and “Cultures of Governance and Conflict Resolution: A Euro-Indian Workshop”<sup>13</sup> – and the conclusion of a book chapter – “Indian Exceptionalism or Indian Model: Negotiating Cultural Diversity and Minority Rights in a Democratic Nation-State”<sup>14</sup> – are typical. The meetings and chapter are ostensibly relevant, but each falls short of the promise of their titles. In particular, what the Subcontinent could teach the Continent as regards constituting the polity has yet to be the subject of detailed, sustained analysis.

I believe that how India copes with unity and diversity is of considerable interest not only in itself (e.g. as regards the nature of political power, negotiation / consensus, as well as collective identity). Developments in Indian law, politics, and culture can also be the basis for learning beyond the country’s borders. Such polities include not only deeply diverse and non-democratic regimes in its neighborhood but also democracies farther away. As I will demonstrate, the on-going debate about the EU’s future may be in fact enriched by bringing in the constitutive constitutional politics from a non-Western polity like the Indian Republic.

## 5. Methodology

At the outset of my inquiry, it should be noted that there is a sizeable schism in commentators’ perspectives on politics in India as a locus for transnational scholarship. One perspective supposes that “India’s problems and aspirations are like any others and the issues to be addressed are development, state

12 The New Delhi-based Institute of Social Studies and the Washington DC-based National Endowment for Democracy (NED) held a conference in 2007 premised on the notion that “the Indian experience has been quite instructive, particularly its institutional innovations. There is obviously a lot that India can share with the wider world”. See <http://www.issin.org/DisplayNews.asp?yr=2007&hed=News%20Archives&mainid=7&nid=59> (November 10, 2014). Unfortunately, the conference co-organiser does not show in his address why the possibility of mutual learning is ‘obvious’ and which ‘institutional innovations’ these are. Larry Diamond: Remarks to the International Conference on India and the Worldwide Movement for Democracy, New Delhi 6 December 2007, at: *National Endowment for Democracy*. URL: <http://www.ned.org/what-can-india-learn-from-others-experience-and-what-it-has-to-give> (November 10, 2014).

13 The results indicate that the workshop was more focused on learning about each other than from each other, that is, on “developing knowledge [...] and overcoming cultural stereotypes”. Danièle Smadja: Welcome and Opening Address, in: Balveer Arora/Peter Ronald deSouza/Angela Liberatore (eds.): *Cultures of Governance and Conflict Resolution: A Euro-Indian Workshop*, Brussels 2009, 12, at: *Community Research and Development Information Service*. URL: [ftp://ftp.cordis.europa.eu/pub/tp7/ssh/docs/euro-indian\\_workshop\\_2009\\_en.pdf](ftp://ftp.cordis.europa.eu/pub/tp7/ssh/docs/euro-indian_workshop_2009_en.pdf) (November 19, 2014). Similarly see Peter Ronald deSouza: Agreeing on the Operating Norms of the New Political Community: India and Europe, in: Balveer Arora/Peter Ronald deSouza/Angela Liberatore (eds.): *Cultures of Governance and Conflict Resolution: A Euro-Indian Workshop*. Brussels 2009, 35 et seq., at: *Community Research and Development Service*. URL: [ftp://ftp.cordis.europa.eu/pub/tp7/ssh/docs/euro-indian\\_workshop\\_2009\\_en.pdf](ftp://ftp.cordis.europa.eu/pub/tp7/ssh/docs/euro-indian_workshop_2009_en.pdf) (November 10, 2014).

14 The chapter’s author observes at its outset that “the experience of India may well provide some valuable input both for understanding the importance of a multicultural structure and for refining existing theories of multicultural accommodation”. She does not, however, apply findings from her case study of India elsewhere. Gurpreet Mahajan: Indian Exceptionalism or Indian Model: Negotiating Cultural Diversity and Minority Rights in a Democratic Nation-State, in: Will Kymlicka/Baogang He (eds.): *Multiculturalism in Asia*. Oxford 2005, 288-313.

building, political institutionalization, governability, class, democracy". An opposing supposes, again in the words of Mehta, that "India has a history of its own, its own unique problems, its own tradition".<sup>15</sup> Likewise, it should be noted that contemporary commentary on European political integration advocates largely an 'internalist' view. Some polities have been assessed as possible models of pluralist democracy (e.g. Canada and Switzerland). However, the tendency has been to explain the EU's challenges and character out of itself and to contrast Europe starkly to its 'Others'. Many commentators on the Republic and on the Union stress how each diverges in character from the classic nation-state, the classic democracy, and the classic federation.<sup>16</sup>

These objections to a straightforward comparison of governance in India and Europe are plausible and would make such a cross-polity inquiry problematic. The approach taken here is to juxtapose the experience of unity in diversity in the Indian Republic with that in the EU. 'Thick description' of efforts at political integration in the former offers, I believe, learning for the purposes of the latter, without comparing mistakenly 'like and unlike'. Specifically, sufficient similarities – empirical and conceptual – between the two culturally diverse political entities are found in the following facts:

- 1) the Republic and Union were initially conceived as responses to the excesses of nationalism, including ethnic cleansing, that had accompanied their births;
- 2) both remain composed of large, old (but rapidly changing) societies with distinct identities (e.g. linguistic, religious, ethnic, and territorial) at governance orders from the tribal to the supranational;
- 3) bearers of these identities (e.g. religious movements and nation-states) make claims for recognition and accommodation of their differences, which claims pose a challenge to governance;
- 4) official statements and policy programs in both the Republic and Union support the protection and promotion of cultural diversity; and
- 5) the two have undergone, have long and actively considered, and have likely not finished making transformative changes to the polity.

The dissimilarity between the Republic and the Union most relevant for present purposes is not that these claims were made in substantially disparate socio-economic conditions. In other analytical contexts, such dissimilarity might undermine the similarities; here, it does not. We are concerned with the mobilization of

<sup>15</sup> Pratap Bhanu Mehta: India's Disordered Democracy, in: *Pacific Affairs* 64 (1991/1992) 4, 545. This schism in commentators' perspectives is also manifest in the strategies of nation-building and state formation that have been advocated by Indian politicians. Exemplary are the contrasting visions for the Indian polity of Jawaharlal Nehru and Mahatma Gandhi.

<sup>16</sup> Mukul Kesavan puts it well, "[i]f India didn't exist, no one would have the imagination to invent it". Cited by Maclaren (2011), 124.

particularistic identities regarding access to power (i.e. cultural groups' representation and participation in public decision-making and the associated input legitimacy). Issues of status and wealth in society do not directly concern such political integration and are at most drivers, not causes, of the conflicts being studied (*infra*). The relevant dissimilarity lies in the fact that political and popular debate in the EU has to date not been concerned with issues of cultural diversity and collective identity anywhere near to the degree that the Indian Republic's has, even taking into account the debate over the draft constitutional treaty (*infra*). In India, there is a long tradition of study and treatment of such issues,<sup>17</sup> whereas 'modern' Europeans view particularistic (especially nationalist) conflicts as anachronistic and are instead concerned with inculcating the sense of a larger whole. This variance is not just scientifically noteworthy but is politically significant. The outcome of efforts at European political integration depends on the extent of citizens' feelings of identification with and of belonging to one political community and these feelings are the product of communication, exchange, and consensus in a common public sphere.

As stated earlier, a major premise of this inquiry is that the political culture prevailing in a given political entity contributes, along with the widely-acknowledged law and politics, to the experience of governance. By the compound term 'political culture' I mean the interaction between politics and culture, the operationalization in public affairs of individual, group, national, and supranational identities. These identities are expressed in the goals, attitudes, and values (ephemeral and long-standing as well as particular and collective) that inform governance. (N.B.: I do not consider culture *tout court* or Huntingtonian civilization to be the explanatory variable, e.g. subscribing to stories of "ineluctable, eternal India", "the mystical ways of India", or "the innate cohesion of Indian society".<sup>18</sup>) Narratives illuminate the present on the basis of the past and help to orient individuals into the future.<sup>19</sup> In the Indian and European contexts, the role of narratives in shaping political culture should be particularly emphasized. As noted, these constitute old societies with a multitude of histories, memories, and myths, conflicting as well as common or complementary. Moreover, as Kreis notes, "[w]enn aber in Krisenzeiten die Frage nach dem Wohin unausweichlich aufkommt, meldet sich auch stärker das Fragen nach dem Woher."<sup>20</sup>

Whereas common attributes such as a shared language have offered a bond to unite political entities,

17 Generally see Heinz Werner Wessler: Ist Indiens Vielfalt unmodern? Zur Auslegung des viel zitierten Slogan von der ‚Einheit in Vielfalt‘, in: Stephan Conerman (ed.): *Die multikulturelle Gesellschaft in der Sackgasse? Europäische, amerikanische und asiatische Perspektiven*. Berlin 2009, 173 et seq.

18 Subrata K. Mitra: *The Puzzle of India's Governance: Culture, Context and Comparative Government*. Abingdon UK 2006, 240, 241, 2. These stories are contested in themselves; their truth or falsity is impossible to prove; and their influence has been inadequately demonstrated. Moreover, they cannot have an effect on their own, only as sources of values, attitudes, and goals.

19 Further see Armin von Bogdandy: Europäische Verfassung und europäische Identität, in: *Juristen Zeitung* 59 (2004) 2, 54 et seq.

20 Georg Kreis: Europa – eine gemeinsame Geschichte?, in: *Neue Zürcher Zeitung* February 4, 2012.

cultural diversity poses a challenge to collective identity and by extension to political culture by putting into question the former's universality and the latter's unanimity.<sup>21</sup> (For example, is there overlap between "core beliefs and meaning systems", and / or are compromises possible among these so that a cohesive identity can emerge?<sup>22</sup>) Do citizens freely and willingly identify with the political entity to which they belong? The degree to which the population as an entirety shares subjectively a conception of the *demos* and *polis* manifests itself in political processes. (Specifically, are these characterized by consensus or confrontation?) The population's 'sense(s) of self(-ves)' and of own political power and status correlate in turn with the legitimacy of the polity and with the prospect of a culturally diverse society becoming a pluralist democracy.

## 6. Case Study: Strategies for Managing Diversity in the Indian Republic

The Republic of India poses an incomparable fact pattern of religious, linguistic, ethnic, and territorial diversity. On one account, Indian society comprises 1.1 billion people, 22 official languages, and over 2000 dialects; seven religious and a dozen ethnic groups, further divided into countless sects, castes, and sub-castes; as well as some sixty socio-cultural sub-regions spread over seven geographic regions in a country the size of a continent.<sup>23</sup> Nonetheless, it has had real success in adopting an inclusive polity. India is, in Khilnani's words, "an ungainly, unlikely, inelegant concatenation of differences" that, decades after its foundation, still exists as a single political unity.<sup>24</sup> Its achievement may not be comprehensive or total: the many contemporary examples of chauvinism, domestic insurgencies, social tensions, and federal disputes around the country contradict unqualified assertions of India's success. The fact remains that the Republic has shown great resilience in the face of challenges in past and continues to be a liberal democratic federation. A ready measure of India's achievement is had in contrasting its history to its neighbors'. For example, Pakistan has been plagued by repeated crises of governance and has been unable to establish a viable, peaceful democracy. Indeed, its experience is a cautionary tale of the consequences that may attend the imposition of uniformity in a culturally diverse political entity. Since

21 Isaiah Berlin depicts 'nation making' as being like 'building a political roof over one's cultural head'. Cited in Amit Ahuja/Ashutosh Varshney: Antecedent Nationhood, Subsequent Statehood. Explaining the Relative Success of Indian Federalism, in: Philip G. Roeder/Donald Rothchild (eds.): *Sustainable Peace: Power and Democracy After Civil Wars*. Ithaca, NY 2005, 254.

22 deSouza (2009), 36. Mitra supplements deSouza in observing that the other part of the negotiations to a multi-cultural *modus vivendi* involves the identification of issues to be excluded from politics and "left as quintessentially cultural". Mitra (2006), 256.

23 Akhtar Majeed: In Indien liegt der Schlüssel zur Konfliktlösung in der Verfassung, in: *Federations Magazine*. Special Issue of *Themes of the International Conference on Federalism* (2002), 21. N.B.: not only does India as a whole display astounding diversity, but so do its parts. Both the Union and the states must constantly mediate conflicts between different identities in the population.

24 Sunil Khilnani: *The Idea of India*, 2<sup>nd</sup> ed. London 2003, 179.

its founding, there has been in Pakistan, ‘the Land of the Pure’, an active political will to dominate, to assert a national identity over distinct identities (especially religious over ethnic and territorial). This will has inflamed conflicts among diversities and destabilized the state.

That said, detailing India’s extraordinary diversity is easier than explaining how exactly the Republic has been able to maintain its unity. That democracy continues to function on the Subcontinent, when it was widely predicted to fail and when it is faced with increasing political violence, is the so-called puzzle of India’s governance. A key reason for commentators’ difficulty is, I believe, their tendency to focus on the Republic’s rules, institutions, procedures, etc. and for that matter, on its leadership. While these have undoubtedly been important, it is the political culture that has ultimately determined political orientation and conduct in the Republic. Legal provisions and political frameworks can afford governance options, but actors must first agree on them and then make appropriate use of them.<sup>25</sup> Cohesiveness arising from shared values, attitudes, and goals has supported what political integration among cultural diversities India has experienced.

Analysis should therefore take into greater consideration the political culture prevailing. The truth of the preceding hypothesis is demonstrated in India since independence: a) in the ways that claims for recognition and accommodation of diversity have been typically treated (‘characteristics of governance’); b) in the ways that two challenges of diversity, ethno-linguistic and religious, have been addressed over time (‘terms of governance’); and c) in a way that the Republic has been politically organized (‘framework of governance’).

### **a) Characteristics of Governance**

Three ways that related conflicts have been resolved in the Republic are often cited in commentary as characteristic of its management of cultural diversity. When examined, they prove insufficient as explanations for the Republic’s successes (or failures). This insufficiency suggests in turn an alternative understanding emphasizing values, attitudes, and goals shared by political actors.

<sup>25</sup> How far India’s experience of governance since 1947 has been influenced by India’s colonial past and of how far strategies of managing cultural diversity are converging due to globalization of norms and best practices (D.6.5 Comparative Report on Empirical Basis for Global Governance, Europe and India – “Peacebuilding in Europe and India: Theory and Practice”, Cultures of Governance and Conflict Resolution in Europe and India. June 2013, in: *Project Core*. URL: <http://www.berghof-foundation.org/en/programmes/southeastasia/completed-projects/cultures-of-governance-and-conflict-resolution/> [November 10, 2014]) are not directly addressed here. I focus on the Republic’s legal provisions, democratic practices, dispute resolution mechanisms, and the like independently of their possible sources, i.e. on their own terms as being agreed and implemented by Indian political actors in response to their contemporary context.

## i) Apparatus and Institutions

Behera, for example, explains that the country's praxis as regards internal conflicts has been characterized inter alia by a "good" but "amendable" constitutional apparatus that has helped to meet political demands.<sup>26</sup> She recognizes that the effectiveness of this apparatus, however well designed, is contingent on the desires and activities of the actors within it. Space is offered for governance initiatives like *panchayat raj* institutions and autonomous hill councils, but India's governing elites must be and have also been "willing to experiment with introducing new, intermediary layers of governance" in order to share power.<sup>27</sup> Mitra's argument complements Behera's from a poli-sci perspective. He stresses the "benign elasticity of India's institutions", which negotiate effectively between the modern state and traditional society. These have proven responsive to local demands, undertaking initiatives in keeping with protest movements and sharing thereby state sovereignty.<sup>28</sup> These two explanations of India's democratic resilience are convincing – taken on their own terms. The large role of cultural influences in these political transactions<sup>29</sup> must be, however, taken into consideration. Such influences provide the bounds of and inform perceptions in decision-making. Here it is noteworthy that the Indian polity is able to make reference to "a rich legacy of peace ideas and values[...]. [These] provide both a tradition to follow and a standard to live up to".<sup>30</sup>

## ii) Styles of Negotiation

Particular styles of the central government in negotiating claims are cited in commentary as characteristic of Indian governance praxis.<sup>31</sup> Based on experience in the Kashmiri conflict, Behera recommends a mix of military and political strategies. These include marginalizing extremists and co-opting moderates, and keeping the options for talks always open, be the talks held with separatist or militant groups. Behera's recommendation, though not transferable *tel que* to non-violent conflict, points usefully to the importance

26 Navnita Chadha Behera: *Internal Conflicts and Governance: Understanding India's Practice*, in: Janel B. Galvanek/Hans J. Giessmann/Mir Mubashir (eds.): *Norms and Premises of Peace Governance: Socio-Cultural Commonalities and Differences in Europe and India*, Berghof Occasional Paper No. 32. Berlin 2012, 13.

27 Id., 14 (emphasis in original).

28 Subrata K. Mitra: *Power, Politics and Participation: Local Elites and the Politics of Development in India*. London 2002, 1, 9 et seq. Mitra sees Indian governance as pre-eminently an elite project, developing an explanatory "dynamic neo-institutional model of governance based on elite strategies". Mitra (2006), 16.

29 In the context of non-identity issues like human welfare it may be that "rational-choice neo-institutionalism can provide a more precise understanding of both continuities and discontinuities [of governance]". Mitra (2006), 240.

30 D.2.2 Report on the State of the Art of Governance and Conflict Resolution Literature, Cultures of Governance and Conflict Resolution in Europe and India. June 2011, 32, in: *Project Core*. URL: [http://www.mcrg.ac.in/Core/Core\\_State\\_Governance.pdf](http://www.mcrg.ac.in/Core/Core_State_Governance.pdf) (November 10, 2014).

31 Behera (2012), 15.

in negotiations of showing respect to other actors and of engaging in earnest dialogue with them. Indeed, I believe that public attitudes favoring public deliberation, mutual respect, and fundamental equality have supported Indian democracy, federalism, and constitutionalism (respectively).

### iii) Basis of Agreement

Finally, it has been rightly observed that a large consensus about what a project of political integration consists of must exist for the project to succeed. Particular argumentative traditions can facilitate the democratic decision-making process,<sup>32</sup> but they do not ensure that decisions are reached among discussants and that any such promote the polity, as required. Since the diverse political actors have stakes in the decisions and insist on their demands being taken account of, they must 'buy into' the decision-making. The sought-for integration will otherwise not find widespread support, and conflicting identities will not be reconciled.<sup>33</sup> Mitra's emphasis on the accommodative nature of domestic political negotiation underlines this argument: "Indian democracy both ordains and lives by the resonance between elite decisions and mass preferences."<sup>34</sup> This commentary – with due respect – begs the question as to the basis on which consensus (e.g. a sustainable peace agreement) is reached. I believe that unity has been achieved through agreement of (effectively all) political actors on ties of 'national purpose'. Put otherwise, the Republic's legitimacy, authority, and hence survival have been greatly facilitated by shared notions as to what it represents.<sup>35</sup>

### b) Terms of Governance

I will now take a look at the Indian governance of ethno-linguistic diversity and of religious diversity. The nature of the related conflicts and strategies varies. However, both diversities involve a challenge to pluralist democracy, namely as a form of governance and a way of living together. In addition, the way that they have been addressed since independence demonstrates the role that political culture can play in the management of cultural diversity in a polity. It again, rather than particular political personalities or public policies, has primarily mitigated or spurred division in India.

Several highly controversial issues of cultural diversity faced the country at independence and threatened

32 Exemplary see Sen who contends that India has a long and powerful argumentative tradition characterised by acceptance of heterodoxy, on-going dialogue, and pluralism. Amartya Sen: *The Argumentative Indian. Writings on Indian History, Culture and Identity*. London 2005.

33 Behera (2012), 14.

34 Mitra (2006), 1.

35 As Amartya Sen sums in an eponymous article, it was "the vision that worked". Id.: *The Vision That Worked*, in: *Times Literary Supplement*, August 8, 1997, 3 et seq.

its integrity and unity going forward. The Republic's founders propagated an India that lived in "harmony [...], common brotherhood [..., and] our composite culture", and they inveighed against symptoms of "the disease of nationalism".<sup>36</sup> Modernist politicians – foremost the first Prime Minister Nehru – have thought in terms of cultural blindness, citizen equality, and fundamental rights and sought to create a politically (and economically) strong India through a centralized, secular nation-state.<sup>37</sup> Subsequent developments have made plain that the balances the founders tried to strike between nation-state building and recognition of cultural diversity are unrealizable (at least as yet). The political reality is that these notions, novel in India, have still to be fully internalized in the general population. Accordingly, the introduction of elections and other popular political processes has proven divisive and destabilizing in the Indian polity. The spread of democracy has encouraged cultural diversities to make claims and corresponding diversities counter-claims.<sup>38</sup> The end result is that political integration in the Republic has been promoted to the degree that the élite and the masses of the national and majority diversities have been politically sensitive and responsive to sub-national and minority diversities in their inter-relations.

#### i) Re-Formation of Political and Administrative Units

The Republic's founders chose the word "Union" in the constitution's first article to describe the coming together of the states. As manifested in intense popular unrest and macro-institutional reforms since independence, ethno-linguistic diversity in Indian society could not, however, be brushed under the carpet of a unitary state, centrally organized with partly authoritarian features according to administrative convenience. If effective governance and even public order were to be maintained, local differences could not be ignored.

The founders' preferences had therefore to cede soon after to the disorderly reality of India's cultural minorities. Since 1956, state reorganization has sought to alleviate "a long suppressed sense of deprivation, frustration, and alienation felt by minority groups in society"<sup>39</sup> and to acknowledge the political salience of ethno-linguistic diversity. While the *demos* and the *polis* of the whole are deemed to be fixed, those of the parts are dynamic. Internal boundaries have been negotiated and redrawn to meet claims for political autonomy. In addition, special administrative provisions in the constitution and subsequent

36 Art. 51-A Indian Constitution; Mitra (2006), 217, respectively.

37 Generally see Javeed Alam: *The Nation and the State in India. A Difficult Bond*, in: Zoya Hasan/Eswaran Sridharan/Ramaswamy Sudarshan (eds.): *India's Living Constitution. Ideas, Practices, Controversies*. Delhi 2002, 83 et seq.

38 Further see A.S. Narang: *Nation Building and Minority Alienation in India (Policy and Practices)*, EURASIA-Net Final Conference on Trans Regional Platform and Joint Research Agenda on Protection of Minority Rights, 18-20 March 2010, Kolkata, 13, at *Mahanirban Calcutta Research Group*. URL: <http://www.mcrng.ac.in/PP29.pdf> (November 19, 2014). Also see: "[a]s the message of democracy spread, the search for the core values of India's public area became increasingly trenchant." Mitra (2006), 223.

39 Narang (2010), 4.

amendments have granted self-government to specific populations in the North-East. Both of these initiatives to re-form governance units seek to provide wide scope for particularistic identities and at the same time, participation in the country's political life, and both have been defined in keeping with "the largest possible measure of general agreement".<sup>40</sup>

The result is that where the Indian state has become inclusive, incorporating linguistic and ethnic diversities into government units, these are now no longer a cause of serious conflict and a threat to national unity. In contrast, central government initiatives to secure legitimacy in conflicts about cultural identity by reducing these to grievances about economic inequalities and seeking to alleviate 'material' competition have been largely ineffective.<sup>41</sup>

## ii) Religious Accommodation

As noted, the constitution-makers were generally loath to acknowledge cultural diversity. They consequently sought to exclude religion from politics, if not from society. While the constitution does not grant communal political representation, it does register India's diversity of religions and allows considerable scope for personal and collective development.<sup>42</sup> The constitution seeks to ensure in principle minority religions' equal treatment with Hinduism. It defines secularism broadly: secularism does not mean state antagonism to religion or simply a right to worship but encompasses a right to the 'practice' of religion.

Insofar as realization of this secularist ideal has been widely considered a national purpose, the strategy has been successful. The last two decades have witnessed an intensification of conflicts over religious pluralism and thus challenges to governance. This constitutional strategy of 'fuzzy multiculturalism' (Mitra) has been severely tested by identity politics. To be more specific, it has led to vociferous accusations of minority privileges and assertions of majoritarianism.<sup>43</sup> Hindu nationalists continue to propagate prejudice and practice intolerance, essentializing Indian civilization and striving aggressively for unity in conformity. In opposition, over 160 million Muslims (and other minority religious groups) call on the po-

40 Mitra (2006), 65.

41 Similarly see: "the elite policy makers in the government of India may well believe in all sincerity that a lakh of jobs in Kashmir will change the 'mental make-up or the mindset of the people'". Sumona DasGupta: Discussion, in: D.4.1 Workshop on Theme A, Cultures of Governance and Conflict Resolution in Europe and India. Berlin, July 2011, 12 et seq., in: *Project Core*. URL: [http://www.mcrg.ac.in/Core/Core\\_Workshop\\_Theme\\_A.pdf](http://www.mcrg.ac.in/Core/Core_Workshop_Theme_A.pdf) (November 10, 2014).

42 For present purposes it is moot whether the strategy was shaped by pragmatism, i.e. the consideration that religious neutrality might be majoritarian and destabilising, or by "a positive evaluation of the different religions". Mahajan (2005), 290. Generally see Rajeev Bhargava: *India's Secular Constitution*, in: Zoya Hasan/E. Sridharan/R. Sudarshan (eds.): *India's Living Constitution: Ideas, Practices, Controversies*. Delhi 2002, 105 et seq.

43 Further see Peter Ronald deSouza/Suhas Palshikar/Yogendra Yadav: *Summary: State of Democracy in South Asia: India*. New Delhi 2008, 6, at: *International Institute for Democracy and Electoral Assistance*. URL: <http://www.idea.int/sod/worldwide/state-of-democracy-in-south-asia-india.cfm> (November 10, 2014).

litical system to protect their identity through “genuine recognition and active support” publicly. Religious conflict has taken on the character of a zero-sum game, as exemplified by the dispute over the Babri mosque in Ayodhya.<sup>44</sup>

Fearing that India might become a ‘Hindu Pakistan’, Gandhi had sought to suppress the latent will in the majority by calling on native traditions of peace and tolerance. The most significant – and worrisome – aspect about the recent communal violence is the broader public reaction, or rather, inaction. Religious conflict has not been susceptible to an inclusive solution for reasons beyond politicians’ playing ‘the ethnic card’. The violence has tested the resolve of political actors generally and found it wanting. Incidents have not led to marked resurgence of such native traditions, substantial protest and opposition, or massive mobilization behind a national commitment to secularism.

### c) Framework of Governance

The following discussion of federalism as a strategy for managing diversity confirms the preceding finding of political culture’s importance in the governance of a culturally diverse political entity. It shows how an exclusive focus on the entity’s rules, institutions, and procedures (especially constitutional) would be misguided.

A particular point of contact between the Indian Republic and the European Union regards their federal undertakings. In both political entities, ‘federalization’ is one – demanding – response to the challenge posed by cultural diversity: indeed, “most of those who believe in the suitability of a balance between unity and diversity still consider federations – or some other type of federal system – as one of the most valuable options”.<sup>45</sup> The general direction of the process has differed – ‘holding together’ vs. ‘coming together’ of constituent units / Member States. Nonetheless, the Republic and the Union approximate ‘multi-national’ rather than ‘mono-national’ federations, i.e. federations concerned with whether there is a nation at all (the sense of self) and not with the kind of government the nation should have (its balance of powers).<sup>46</sup> The goal thereby is to create a sense of overarching political community on one hand and to recognize and accommodate different identities on the other<sup>47</sup> through providing for shared and self-

44 Mitra (2006), 222. Further see Mitra who argues that the notion of unity in diversity in India “lies in the rubble of the Babri mosque”. Subrata K. Mitra: *Collective Violence and the Making of Civil Society: India in European Perspective*, Working Paper No. 19, Heidelberg Papers in South Asian and Comparative Politics, October 2003, 27.

45 Dimitrios Karmis/Alain-G. Gagnon: *Federalism, Federation, and Collective Identities in Canada and Belgium: Different Routes, Similar Fragmentation*, in: Alain-G. Gagnon/James Tully (eds.): *Multinational Democracies*. Cambridge UK 2001, 137.

46 Further see John Erik Fossum: *Why Compare Canada and the European Union – and How?*, in: Patrick M. Crowley (ed.): *Crossing the Atlantic: Comparing the European Union and Canada*. Aldershot UK 2004, 12 et seq.

47 Exemplary see Preamble, Charter of Fundamental Rights of the European Union, Notice No. 2012/C 326/02, 55, Official Journal of the European Union (26 October 2012).

rule in different governance orders. It may be said, as it has been of culturally diverse Switzerland, that India and Europe must be federal or they won't be at all. Federalism allows diversities to have 'say' and 'control', i.e. to participate in common decision-making as well as to govern themselves, and is the basis of their agreement to be parts of a whole.

For its part, India's federation has so far proven surprisingly viable and vital. Predictions of the failure of federalization have been legion. Neither the word "federation" nor any variant appears in the Indian constitution,<sup>48</sup> and the 560-odd principalities and reconstituted states lacked experience of government in common. Moreover, intense debates and even violent agitation have accompanied the undertaking. (For example, the redrawing of constituent units' boundaries along linguistic lines (supra) was the subject of fury and murder in the 1950s.) Finally, the Republic may be said to be a 'quasi' rather than 'pure' federation, a combination of unitary and non-unitary features of state organization. Nonetheless, conflicts today are treated within its governance framework rather than the framework being put into question or avoided outright, and federalism in Indian governance maintains strong legitimacy among constituent units. It is now argued that "the main locus of ethnic conflict and discord" in the Republic has been "where the institutions of federalism could not function effectively and freely".<sup>49</sup>

An explanation for the seemingly remarkable provisions, reactions, and foremost outcome is found in the fact that federalization here is not a matter of everyday politicking but of existential politics. It concerns not the making of policy but the making of the polity – and thereby questions of collective identity. If, as argued, identities are expressed in the values, attitudes, and goals that inform governance, the way that the Indian Republic (or the European Union) has to date developed federally reflects the political culture prevailing in the respective jurisdictions. The direction in which and the degree to which these entities have federalized testify to the existence of solidarity and of willingness to compromise for other citizens<sup>50</sup> as well as to the existence of respect, consideration, and support between government orders.<sup>51</sup>

A fundamental reason for the relative success of Indian federalization lies, I believe, in the roots of this governance framework, deep in local society. The significance of federalism was long ago appreciated

48 Nor for their part do the EU's constitutive documents use the word 'federal' to define its multi-order political system: "Ein anderer Begriff schob sich dafür nach vorne und bekam sogar die Weihe eines Verfassungsbekenntnisses: die Subsidiarität." Georg Kreis: Europa-konzeptionen: Föderalismus, Bundesstaat, Staatenbund (January 31, 2012), in: *European History Online*. URL: <http://www.iegego.eu/kreisg-2012-de> (November 10, 2014).

49 Mahajan (2005), 308.

50 "A desire for federal union among communities is a first and obvious factor which produces in them the capacity to make and work a federal union." K.C. Wheare: *Federal Government*. Oxford 1951, 45.

51 "[A] stable multinational federation requires 'a very peculiar state of sentiment' among its citizens, since 'they must desire union, and must not desire unity'". A.V. Dicey cited by Will Kymlicka: Social Unity in a Liberal State, in: *Social Philosophy and Policy* 13 (1996) 1, 136.

and realized in India, and its “small, self-sustaining rural communities ha[ve] been primarily republican and federal”.<sup>52</sup> Prospectively, federalism’s capacity to manage cultural diversity will continue to be determined more by its social embeddedness than by its framework. Federalism is in effect “as much a social-psychological attitude on the part of government decision makers as a strictly juridical condition.”<sup>53</sup>

## 7. Findings

India’s experience helps to explain what brings and holds culturally diverse political entities together as well as what drives them apart. Examination of the strategies used in the Republic to manage diversity can therefore stimulate learning elsewhere. The insights and lessons that I draw are grouped as ‘how not to’s and ‘how to’s and applied as regards political integration in the EU.

The former include strategies (military, development, technocratic, and élite) that do not support unity in diversity. Their common denominator is that strategies to ignore or more, to suppress identities cannot be effective in a diverse political entity, especially if non-democratic and illiberal. Such strategies will not help to transform intercultural conflict but will provoke a legitimacy crisis.

One strategy used in the Indian Republic to ‘manage’ cultural diversity should not be adopted by the EU. It is questionable whether the central government’s resort to force to meet unrest in the North East, in areas of Naxalite insurgency, as well as in Jammu and Kashmir – rather than to alternatives involving empowerment – is effective in treating grievances around identity. In any event, coercion rather than persuasion would be incompatible with the European understanding of democracy and human rights.

Another ‘how not to’ may be drawn from Indian experience, namely that achieving unity in diversity is not primarily a matter of development, but of identity-politics. Wealth redistribution, job creation, economic growth, etc. alone are unlikely to change the feelings of group members toward the polity, since such a strategy does not treat claims for recognition and accommodation of cultural diversity, let alone promote a ‘we feeling’. The ‘output legitimacy’ that government may earn through performance will not, in other words, compensate for a lack of ‘input legitimacy’ arising from political alienation or exclusion.<sup>54</sup> That said, Europhiles need not be advised against placing real hope in a development strategy: they seem to

52 Amitabha Pande cited by Maclaren (2011), 126. Also see Khilnani (2003), 17. I do not mean to be determinist, let alone suggest that “federalism is part of the DNA of the Indian people”, as declared by an ICF organizer. Pande cited by Maclaren (2011), 127.

53 Edward McWhinney: *Comparative Federalism: States’ Rights and National Power*, 2<sup>nd</sup> ed. Toronto 1965, 69.

54 As regards the failed application of “developmental logic” to Muslims see Ranabir Samaddar: *The Paradox of Sovereignty: The Indian Experience of Governing the Minorities*, in: Samir Kumar Das (ed.): *Minorities in South Asia and Europe*. Kolkata 2010, 133 et seq.

have already realized the limits of basing the Union's popular *raison d'être* in the promotion of 'a zone of prosperity'.<sup>55</sup>

Government attempts to secure legitimacy in diversity conflicts through so-called technocratic policy-making are also futile. This strategy misguidedly denigrates the conflicts as "retrograde phenomenon[a]" to be diminished through reason, science, and reform<sup>56</sup> rather than acknowledging them as highly political concerns to be provided for by citizen inclusion and participation in the state. Likewise, policies made by bureaucrats in Brussels, as 'progressive' as they may be, have not engendered and are unlikely to engender, loyalty to a European polity from the political actors concerned.

Finally, it should be asked whether elite dominance of the political system on the Subcontinent can be relevant in the Continental context. A comparable strategy of regional integration – i.e. executive-led and intergovernmental – will not be tolerated by EU citizens, but deemed illegitimate. A bottom-up governance strategy is needed instead. Europeans must have opportunities to pursue their respective identities, a means to make themselves heard, a 'voice', or they will feel alienated, excluded from policy-making, and look to 'exit' by reforming or renouncing the polity.<sup>57</sup>

Considered now from the opposite perspective, does post-colonial India's experience of governance offer insights and lessons for coping with difficulties of difference, any 'how to's' as to managing cultural diversity successfully? Upon inspection, the Republic's specific strategies show themselves to be inappropriate for transfer to the Union. They do, however, highlight preconditions for achieving unity in diversity.

The Indian strategies should be not be considered exemplary, since their effects have not been entirely salutary and the Republic has not been as successful in integrating politically as some commentators (especially Indian officials) contend. Moreover, the target conditions of diversity themselves are protean, and recent trends and events suggest that popular support for this liberal democratic federation may fluctuate dangerously.<sup>58</sup>

55 "[E]in Europa, das sich nichts weiter als rechnen muss, verliert seinen Boden als Solidargemeinschaft." Adolf Muschg: 'Kerneuropa': Gedanken zur europäischen Identität, in: *Neue Zürcher Zeitung* May 31, 2003.

56 Narang (2010), 7.

57 The rejection in the French and Dutch referendums of the draft constitutional treaty (*infra*) in spring 2005 was partly a rejection of its top-down nature (especially in the form of the Convention). It exemplified for many voters how European integration has to date been largely driven by the *classe politique* in the Member States and the European Commission.

58 As regards state reorganization success is not complete: the Republic's map looks to continue to change, most notably with the current central government's plan to carve out a new state of Telangana from Andhra Pradesh to recognize territorial identity. *Inter alia* see N.N.: Telangana: India's New State, in: *The Economist* August 3, 2013. As regards secularism what success there has been may be transitory; communal tolerance risks being tested again soon. Were the Hindu nationalist Narendra Modi to become Indian Prime Minister after the upcoming elections, tensions in communal relations would rise severely. *Inter alia* see N.N.: Narendra Modi: Steamroller, in: *The Economist* April 13, 2013. Modi, current chief minister of Gujarat, has been implicated in the 2002 anti-Muslim riots in that state that left 2,000 dead.

In fact, the language of political discourse, the content of political ideology, and the sources of political mobilization in the Republic have been increasingly dominated by particularistic identities rather than a collective identity.<sup>59</sup> Desai's claim that since 1989 there has been no one national purpose uniting citizens<sup>60</sup> is, if accurate, foreboding. Without on-going widespread commitment to the freedom struggle's ideal of an independent, strong India, provision for internal self-determination may be abused in subsequent political practice. Forming and reforming units constantly to meet the diversity demands would resurrect the specter of 'balkanization'. Similarly, without secularist sentiments, the contemporary phenomenon of "a growing tide of intolerance and violence that is sweeping across much of India"<sup>61</sup> may be a harbinger of worse to come. Other commentators point already to the prevalence of the politics of identity and criticize contemporary India as a democracy of communities rather than citizens.<sup>62</sup> As regards federalization several issues are outstanding. Decisive in the Republic's (dys-)functioning long term may be, as current Prime Minister Singh argued at the ICF, the distortion of the national vision and collective purpose by narrow political considerations based on regional or sectional loyalties and ideologies.<sup>63</sup>

I make this key finding of non-transferability also for fundamental reasons. India's praxis highlights the decisive role of political culture in constitutive constitutional politics. The Republic's success (Mitra's orderly conduct of affairs) is not the automatic result of specific strategies (e.g. the accommodative strategy of negotiation followed by Indian élites that he specifies). Accordingly, using its strategies elsewhere will not necessarily lead to the same results (that 'high level of governance').

What the Subcontinent teaches above all is that law as well as politics matter in managing diversity, but that political culture matters most. There may be difficulties in a political entity relating to identity and collective self-perception that a strategy of managing diversity, however cleverly designed and adroitly implemented, cannot handle alone. The legal provisions and political frameworks of the entity in question are embedded in the society and are unable to come into existence or to operate autonomously. The concept of unity in diversity requires the support of the political culture prevailing if it is to serve as the principle constituting the polity. Support – or lack thereof – is manifested in the legitimacy that the entity

59 Similarly see Narang (2010), 6, 15.

60 He sees cohesion in the population no longer in the struggle for freedom or in the realization of secularism, only in Bollywood and cricket. Meghnad Desai: Unity in Diversity (revised), in: *Indian Express* November 29, 2007.

61 Zoya Hasan: Majoritarianism, Institutional Erosion and the Challenge of Governance, in: Balveer Arora/Peter Ronald deSouza/Angela Liberatore (eds.): *Cultures of Governance and Conflict Resolution: A Euro-Indian Workshop*. Brussels 2009, 40, at: *Community Research and Development Information Service*. URL: [ftp://ftp.cordis.europa.eu/pub/ftp7/ssh/docs/euro-indian\\_workshop\\_2009\\_en.pdf](ftp://ftp.cordis.europa.eu/pub/ftp7/ssh/docs/euro-indian_workshop_2009_en.pdf) (November 10, 2014).

62 D.L. Sheth cited in State of Democracy in South Asia: Dialogue on Democracy, Imphal India, 26-27 February 2004, 57, at: *Democracy Asia*. URL: <http://www.democracy-asia.org/Imphal.pdf> (November 19, 2014).

63 Cited by Maclaren (2011), 119.

enjoys – or in the deficit thereof it suffers from – in the population.

The Indian Republic's praxis points thereby to why the European Union has yet to and will remain unable *ceteris paribus* to achieve unity in diversity. The EU does have a definite population (its 500 million citizens) and a definite political system (however classified scientifically). It is not, however, a political community.

The political culture prevailing has already proven insufficient for the political integration attempted. Above all, the spectacular failure of the Treaty Establishing a Constitution for Europe<sup>64</sup> several years ago made clear that requirements for a European polity have yet to be satisfied, least of all that of an idea that encourages popular attachment to it. It may well be that "Europe understands itself as something specific" and that "this 'Europeanness' is worth preserving and developing".<sup>65</sup> However, experience in writing the Treaty's preamble demonstrated that there is no consensus about what exactly that something consists of: garnering support was very difficult even for universalist conceptions of a European identity. The Treaty's rejection in national referendums in 2005 demonstrated a weak identification in the population with 'Europe' as conceived by the Convention. National, regional, and local identities (understood in territorial terms alone) continue to be promoted and to vie with each other within the EU. It seems fitting that the official motto "United in diversity", proposed in Art. I-8, was rejected along with the Treaty and was not included subsequently in the Treaty of Lisbon, which was duly ratified.<sup>66</sup>

The EU's future as a federation is in principle uncertain and open: *Bundesstaat*, *Staatenbund*, or *tertium quid*? Assuming, however, that Europe's democratic governments express faithfully their citizens' will, the perpetuation of central institutions limited in competences and power is more likely than federal integration.<sup>67</sup> Federalism's emergence and functioning require a certain "attitude and thinking of the people", or put another way, the fate of a federal project in a political entity depends on a common desire of citizens and groups of citizens to live together harmoniously. Mechanisms of negotiation,

64 Treaty establishing a Constitution for Europe, Notice No. 2004/C 310/01, 47 Official Journal of the European Union (16 December 2004).

65 Armin von Bogdandy: Preamble, in: Bruno de Witte (ed.): *Ten Reflections on the Constitutional Treaty for Europe*. Florence I 2003, 7 et seq.

66 In another instance of differential integration, sixteen Member States had declared as of 26 October 2012 that "united in diversity" serves for them as the EU's motto.

67 Federalism became 'the F-word' in discussions about the Maastricht Treaty, and the cultural identities of its nation-state members remain too strong for a Fischer-ian *finalité* to be realized in the foreseeable future. Joschka Fischer: Vom Staatenverbund zur Föderation: Gedanken über die Finalität der europäischen Integration, Address, Berlin 12 May 2000, in: *Die Zeit*. URL: [http://www.zeit.de/reden/europapolitik/200106\\_20000512\\_fischer?page=all](http://www.zeit.de/reden/europapolitik/200106_20000512_fischer?page=all) (November 10, 2014).

conciliation, and compromise have then to be crafted to realize self- and shared rule simultaneously.<sup>68</sup> Federalism cannot create its own preconditions.<sup>69</sup>

## 8. Outlook for the European Union

In the above text, I have not argued that there is an Indian archetype for success in overcoming difficulties of difference and achieving political unity amid cultural diversity. Nor have I argued that the Indian Republic provides tried and true strategies for use in the EU. The working of its governance has proven to be relevant but not directly applicable for other integration projects. What it offers scholars and decision-makers abroad is a perspective on constitutive constitutional politics. The Republic's experience confirms that culturally diverse political entities cannot be integrated on the basis of constitutional clauses, institutional routines, or common practices alone. Instead, values, attitudes, and goals prevailing in the population (in short: political culture) prescribe the parameters of the political community. The role of political culture and more, of 'narratives' that shape it is central, and traditional perceptions and received ideas of 'oneself', the 'other', and of inter-relations contribute crucially (constructively or destructively) to that culture.<sup>70</sup>

As evident as the preceding might seem to some readers, related concepts and facts are often overlooked in commentary, especially legal and on the EU. Achieving unity in diversity is not merely a matter of using the right 'tools' to 'fix' particular problems (a metaphor common at the Treaty Convention), and law-makers' ability therefore to 'engineer' outcomes in areas of public life rooted in collective identities and inter-relations should not be overestimated. The oft-underestimated influence of the political culture prevailing and the prerequisites for any strategy's success must be taken full account of when considering its adoption. When these are, the consequences for the European political integration project are profound and real.

<sup>68</sup> Further see Maclaren (2011), 132. N.B.: an important corollary is that "[a] people may have the desire and the capacity for a closer union than one merely [con-]federal, while yet [i.e. though] their local peculiarities and antecedents render considerable diversities desirable in the details of their government. But if there is a real desire on all hands to make the experiment successful, there needs seldom be any difficulty in [...] preserving these diversities". John Stuart Mill: Chapter XVII – Of Federal Representative Governments, in: Id.: *Considerations on Representative Government*. London 1861, at Projekt Gutenberg. URL: <http://www.gutenberg.org/files/5669/5669-h/5669-h.htm> (November 19, 2014).

<sup>69</sup> It is possible that federalism as concept and praxis might enhance our ability to understand different ways of doing things and to accept different ways of contributing to the life of a society. Federalism might also support a sense of the common good and compassion for our fellow citizens. Stéphane Dion: The Ethic of Federalism, Presentation, Toronto 15 November 1996 (with author). For such a feedback loop to operate, however, federalism as a public philosophy and an institutional framework must already be present and be accepted in a given culturally diverse society.

<sup>70</sup> Further see Balveer Arora: Cultures of Governance in Pluricultural Civilisations, in: Balveer Arora/Peter Ronald deSouza/Angela Liberatore (eds.): *Cultures of Governance and Conflict Resolution: A Euro-Indian Workshop*. Brussels 2009, 31, at *Community Research and Development Information Service*. URL: [ftp://ftp.cordis.europa.eu/pub/ftp7/ssh/docs/euro-indian\\_workshop\\_2009\\_en.pdf](ftp://ftp.cordis.europa.eu/pub/ftp7/ssh/docs/euro-indian_workshop_2009_en.pdf) (November 10, 2014).

For proponents of ‘ever closer union’ the first consequence is that a European polity will not enjoy as much success as the Indian in managing cultural diversity as long as its own idea and more, vision remain contested and thus underdeveloped. While some values and attitudes current among citizens in the EU may be supportive, its political culture as a whole looks unable to support further political integration. The dominant narrative remains the Treaty of Rome’s from 1958, which concerns peace and prosperity.<sup>71</sup> While this may be a sufficient basis for deep economic integration, it is not for comparable political integration.<sup>72</sup> Additional justification is needed, namely a compelling story of why the EU is a polity with a cohesiveness that is authentic and representative.<sup>73</sup> At the outset of the ongoing project of integration, Churchill noted that “Europe is a spiritual conception.” Its population must keep that conception in their minds and feel its worth in their hearts, if Europe is to exist.<sup>74</sup> Today, if the already low popular support is not to drop further, a clearer, more attractive narrative of the future must take hold.

A corollary of the preceding is that if governance initiatives are undertaken in the absence of such a political culture to alleviate the EU’s notorious democracy deficit, the result might paradoxically be less rather than more total public support for the Continental integration project. As noted on the Subcontinent, democratic mobilization in a culturally diverse political entity can encourage identity-politics,<sup>75</sup> and European citizens are consistently more skeptical about European integration than are élites.

Third, the evidently deep well-springs of political culture advise would-be constitution-makers to take the *demos / demoi* as these are at the given moment. Political culture is not ‘natural’ or ‘essential’. It must be open to public evaluation in keeping with protean socio-political conditions and where felt necessary, be subject to renegotiation through dialogue and deliberation among political actors. That said, emphasizing the contingent, voluntarist, and malleable nature of the underlying values, attitudes, and goals, as many EU politicians and scholars do, is also mistaken. Proponents of greater integration must be sensitive

71 Could it be that constant reference to the past – to historical antagonisms and hostilities – is counter-productive, that it actually hinders political integration? This paradox is captured by Muschg in a play on words: “[d]er Kern des alten Europa ist ein Riss, der zum Grundriss eines neuen wurde.” Id. (2003).

72 Similarly see Johan P. Olsen: *Unity and Diversity – European Style*, ARENA Working Paper 24 (September 2005), 28 et seq. URL: [https://www.sv.uio.no/arena/english/research/publications/arena-publications/workingpapers/working-papers2005/wp05\\_24.pdf](https://www.sv.uio.no/arena/english/research/publications/arena-publications/workingpapers/working-papers2005/wp05_24.pdf) (November 19, 2014); Reflection Group on the Spiritual and Cultural Dimension of Europe of the European Commission (ed.): *What Holds Europe Together*, in: *IWM Newsletter* 86 (2004) 4, 2.

73 “Der europäische Kontinent sollte eine diskutierbare Vorstellung von sich selbst haben, die über die Summe der einzelnen Nationalgeschichten und über das Nebeneinander transnationaler Teilaspekte hinausgeht.” Kreis: *Geschichte* (2012). Generally see Dieter Grimm: *Die größte Erfindung unserer Zeit*, in: *Frankfurter Allgemeine Zeitung* June 16, 2003.

74 Winston Churchill: *United Europe. The Fourth Pillar of World Government*, Speech, London 14 May 1947, in: *Vital Speeches of the Day* 13 (1947) 16, 482.

75 “[B]ring the ‘people’ into political life and they will arrive, marching in tribal ranks and orders, carrying with them their own languages, historic memories, customs, beliefs, and commitments”. Michael Walzer: *Notes on the New Tribalism*, in: Chris Brown (ed.): *Political Restructuring in Europe. Ethical Perspectives*. London 1994, 183.

to and reckon with citizens' actual sense of and potential for belonging to the political entity, rather than attempt to redefine this form of attachment on their own ideal terms.

Put otherwise, a specific political culture (including a dominant narrative) cannot be imposed in Europe: the *faktische Kraft der Normative* is weak in this context.<sup>76</sup> (Arguably, it should not be attempted either.<sup>77</sup>) Ideal as an impetus for integration are legal provisions and political frameworks that on one hand accord essentially with the contemporary culture of the diverse entity in question and that on the other motivate the entity to strive for greater unity and then that facilitate its achievement. The success – or failure – of such an attempt to achieve unity in diversity depends ultimately on the degree to which it is societally meaningful, i.e. its constitutive terms correspond to the various identities and politicized differences prevailing.<sup>78</sup>

76 "Die offiziellen Bemühungen um eine europäische Identität reichen zurück bis zum Beginn der siebziger Jahre. [...] Gleichwohl ist die Identitätspolitik bisher nur mässig erfolgreich gewesen." Armin von Bogdandy: *Wir Europäer*, in: *Frankfurter Allgemeine Zeitung* April 27, 2004.

77 Häberle argues that "die Politik eine *begrenzte* Informationsaufgabe hat, mit dem Ziel, europäische Identifikationsprozesse in Gang zu setzen. Mehr aber nicht. [...] D]er europäische Bürger natürlich nicht mehr erzogen werden will und werden soll; das verträgt sich nicht mit einer freiheitlichen Gesellschaft. Die Kinder soll man erziehen [...]. Die Bürger hingegen gilt es zu informieren." Martin Beckstein/Frank Beckstein: 'Wir brauchen Strukturen und Verfahren einer europäischen Republik': Ein Interview mit dem Verfassungsrechtler Peter Häberle, in: *Jusletter* February 5, 2007.

78 Rohe terms a political system that is not societally meaningful a "doppelte politische Verfassung", an example being an official constitution that prescribes a parliamentary democracy, but that has no roots whatsoever in popular political attitudes and orientation. Karl Rohe: *Politik. Begriffe und Wirklichkeiten*, 2<sup>nd</sup> ed. Stuttgart 1994, 65 et seq. The more practical outcome is that the system is prone to conflict, e.g.: "a hiatus between values held as sacred by the society, and the core institutions of the state, creates the potential for communal conflict." Mitra (2003), 6.

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