Hybrid Federalization in India, Sri Lanka and Nepal

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INTRODUCTION

In 2015 a new constitution in Nepal was promulgated which recognizes Nepal as a secular, inclusive, multi-ethnic and federal state for the first time. It is now at the early stages of implementing its federal structures and institutions. This is a pivotal time for Nepal. The five previous constitutions of Nepal failed and did not manage to avoid discrimination or overcome the domination of the majority ethnic group (Lawoti, 2007), and agreements with and principles for different members of society have not always been adhered to or delivered (Hachhethu, 2009). For more than 60 years Nepal has struggled to find appropriate solutions to problems of development, democracy, peace and equality (Von Einsiedel, Malone and Pradhan, 2012) and its new constitution has proffered a new direction for Nepal, albeit with continued contestation and disagreement.

As will be explained in this chapter, the eventual decision made in Nepal reflects a hybrid federal approach. The final result is a compromise between different interpretations of and proposals for federalism that have largely focused on competing ideas as to the basis of federal borders. The context of Nepal's newly established federation raises questions that we attempt to answer in this chapter: Is there anything we can learn from other countries in South Asia about the likelihood of successful federalism in Nepal? How and why are hybrid federal approaches developing in Asia? And when does federalism not take hold in Asia? In order to begin to answer these questions we take India and Sri Lanka as two case studies of federalism. In India, we observe a state in which federalism has, in its own distinct form, taken hold. Conversely, in Sri Lanka proposals for federalism are met with ongoing opposition, yet as of 2015 they appear to have been tentatively placed on the agenda once again.

Through a critical analysis of India, Sri Lanka and Nepal we find that processes related to a "hybrid" federal type are useful when dealing with

minority issues and national identity questions in South Asia. Importantly, hybrid federalism does not require an either/or response to the question of territorial or multinational federalism (or related concepts such as ethno or ethnic federalism). Within the federalism literature, considerations of whether territorial or ethnic-based federalism is more appropriate have often been a focus. What has emerged from our analysis is that such debates are too conceptually narrow for the phenomena taking place in South Asia as they ignore or underrate the approaches to federalism that are present and emerging in Asia. This is because Western models of federalism have not been widely implemented in this region.

An examination of India, Sri Lanka and Nepal also provides the opportunity to determine certain conditions for hybrid federalism which may be useful for other states which are at a critical decision-making stage and where various proposals are divided along either territorial or ethno-federal lines. Whilst it is the case that there are other states within South Asia and the broader Asian region which are worthy of investigation, such as Myanmar, Pakistan and Malaysia, we restrict our analysis in this chapter to the three aforementioned states for a number of reasons.

Firstly, given the range, but also the frequency, of federal proposals in Asian states that are ethnically diverse, contain minority groups and are tackling issues of national identity, the main research question that drives our investigation is: why have federal solutions been successful in some contexts yet have failed in others? India provides us with a case study of a state which has successfully adopted federalism and Sri Lanka is an example of a state which has failed to implement federal structures. Nepal provides us with a case where a hybrid federal approach has been recently adopted. Therefore, beyond the similarities, such as their geographical proximity, and proposals that have been made at various times in each of these states for the purposes of reconciliation, accommodation and effective governance, it is rather their differences as opposed to their similarities which make them worthy foci of analysis in relation to each other.

The main objective of this chapter is to identify the processes (or lack thereof) of hybrid federalization in India and Sri Lanka, with possible lessons for federalism in the long term in Nepal. With regard to India as a case of hybrid federalism, the question arises as to whether hybrid federalism has evolved reflexively due to certain conditions and decisions made, or if it was a specific proposal, under the aegis of leaders and political figures who were

aware that models of federalism elsewhere were inappropriate for India during the period when it was drafting its constitution and the years that followed. This then requires a similar consideration of Sri Lanka—are explicit proposals for hybrid federalism evident or is a hybrid federal type emerging? (Or, in this case, is a hybrid federal type being rejected?)

To date, much useful research has been undertaken on, for example, "quasi-federal" and "partially-decentralized" states, and whilst valuable, we diverge from these discussions in two important ways. Firstly, we assert that hybrid federalism is present, and emerging within Asia, and, importantly, is unique in relation to previous "federal types" which have been discussed and established, particularly in the West. Secondly, a key element of hybrid federalism is, in fact, a focus on the *process* (federalization) and the conditions that allow this process to take place. This is especially significant given the fact that we have identified that the sequencing of certain federal elements is an important aspect of federalization within the hybrid federal approach.

Debates over federalism, and what type of federalism, are often centred on what model can most successfully contain and reduce ethnic conflicts and facilitate and promote democracy. The power and use of ideas to shape political outcomes such as federalism are acknowledged as imperative considerations by Lecours and Arban (2015). The extent to which political actors support or reject federalism, and indeed a particular version of federalism, can influence whether federalism will take hold. Reflecting this range of ideas in the academic literature, Kymlicka (2005; 2007), for example, argues for a form of multinational federalism (other terms such as ethno-federalism, plurinationalism and ethnic federalism reflect similar ideas), drawn from Canada, Spain and Belgium, where federal constitutions accommodate concentrated ethnic groups; internal boundaries are drawn to coincide with ethnic geography; ethnic minorities can exercise self-determination, and a group's language is recognized as an official language. Brown (2007), in contrast, argues for regional or territorial federalism for Asian countries—one characterized by the universal protection of rights, the neutrality of the state towards different ethnic groups, internal boundaries not coinciding with ethnic groups, diffusion of power within a single national community, and geographic regions rather than ethnicity being the basic unit of a federal polity.

While it is often claimed that multinational federalism is fairer on minority groups, others have claimed that federal states in which component regions are invested with distinct ethnic content are more likely to collapse

(Hale, 2004). In Asia, however, these debates between multinational and territorial federalism are misleading given that neither one nor the other can be evidenced in its pure form. For example, India is often described as an example of multinational federalism yet on closer inspection India's federalism is more complex than definitions of multinational federalism suggest. Instead, India's federalism has blended both regional and multinational elements of federalism. As will be discussed in greater depth below, the achievement of the Indian accommodation of ethnic groups is due to both multinational and regional federal mechanisms. It is this mix which we argue cannot be captured by previous conceptions of federalism and requires new conceptual thinking in the form of hybrid federal approaches.

A hybrid federal approach aims to facilitate compromise and not pluralize, which is essential for deeply divided and diverse states. It is also this element of compromise that distinguishes it from established approaches to federalism. Political and social polarization, as this chapter will demonstrate in the case of Sri Lanka, rarely contributes to workable solutions. Polarized debates in Nepal needed to be overcome in order for the constitution to be promulgated, which suggests that hybridity has been the most workable approach towards a federal solution, even if previous proposals were less hybrid in content. India has shown us that an element of compromise and a certain amount of alternation between federal approaches have been necessary for federalism to be a solution to states that possess ethnic diversity.

Hybrid federalism is distinct from concepts such as "partial-decentralization" and "quasi-federalism" given that its focus is on a mix of processes and outcomes as opposed to a model which is assessed against a predetermined federal type—and the prefix "hybrid", rather than describing the "strength" of federalism, refers to its nuances and variations. Previous conceptions and approaches have tended to be absolutes—multinational, territorial, asymmetrical federalism; or degrees—partial, quasi, semi and so on. The problem with these is the fact that contexts are usually assessed against a predetermined definition, and previous definitions, which have largely emerged from Western, liberal-democratic instances of federalism, do not serve the phenomena taking place in Asia well. Rather than a label, hybrid federalism therefore is an approach that remains open to variation, flexibility and compromise.

This chapter proceeds as follows: in the next section we critically examine hybrid federalization in the context of India and Sri Lanka. The observations

we make regarding these two case studies are then used to examine the recent example of Nepal.

INDIA: A CASE OF HYBRID FEDERALIZATION

A hybrid federal type has emerged in India, which can be attributed to the fact that India's Constitution refers to it as a "Union of States" and provides a significant amount of residual power to the centre whilst still maintaining its federal character, and that there has been a continual renegotiation of state boundaries based on either territorial or linguistic foundations. This political demarcation of state boundaries is also layered with another element of hybridity—on the one hand there are endeavours to create a secular state in order to alleviate and mitigate communal violence and, on the other, the provision by the government of institutions and policies which accommodate different ethnic and religious group demands, albeit with differing results (Narang, 2003).

Before Mughal rule, individual provinces functioned with a high level of autonomy and whilst there was a mode of central power, levels of decentralization were high (Mitra, 2011). During the period of rule by the Mughals, Indian states continued to function with a high level of autonomy until the last Mughal leader, Aurangzeb, attempted to centralize power. After his death in 1707, however, state autonomy and independence began to be reasserted. With the demise of Mughal power, Europeans began to move into the region, with the eventual control of the British emerging through the British East India Company.

As is often the case, remnants of previous eras have had a discernable impact on successive regimes in India. In the case of Mughal rule's influence on the period of British colonization of India, what was evident was the fact that a clear centre of political authority had been established, which had developed administrative capacities for law enforcement and tax collection. This, whilst adapted, was retained during the period of British rule. Nevertheless, despite the ability to establish a centralized political structure, the Mughals were not able to influence or change local institutions or village affairs, something which the British also attempted to accommodate by eventually opting for a federal approach to governance in India (Charlton, 2010).

Under British rule, it eventually became recognized that the diversity within India made centralized rule impossible. The colonization of India had

been achieved by 1858, and leading up to this Britain continued to expand its control by annexing a number of states during this period—Punjab in 1849, Jhansi, Nagpur and Hyderabad in 1853 and Awadhi in 1856. During the Sepoy Rebellion of 1857, Britain came to realise that there were hundreds (approximately 500) of princely states within India which were potential allies of the British. Although there were initial attempts to centralize power, the British soon realized that the devolution and decentralization of powers to regional and local bodies was necessary for effective administration (Narang, 2003). Britain began to develop a mixed system whereby "direct rule" applied to the British Indian provinces, "indirect rule" was used for the princely states, and tribes and groups, especially in remote areas, were allowed to retain a certain amount of autonomy (Mitra, 2011).

These different combinations of rule and the recognized need for a certain amount of decentralization began to be given concrete form in 1861 with the Indian Councils Act, which reversed some of the centralising trends set out in the Charter Act of 1833. This 1861 Act allowed participation by non-officials in the Legislative Council of the Governor-General and also the Legislative Councils of the provinces. Indirect election to these Councils was established in 1892, which happened alongside the widening of the mandates and functions of these Councils to discuss the budget and intervene on issues of public interest (Mitra, 2011).

The Government of India Act of 1919 furthered processes of devolution by proposing not only the delegation of administrative powers but also financial and legislative decentralization. To this end, Central and Provincial Lists of subjects were drawn up, with the Provincial Lists being divided into "reserved" and "transferred" subjects (Mitra, 2011). Elected ministers responsible for provincial legislature were to deal with "transferred" subjects, while "reserved" subjects were to be the responsibility of the governors with the support of their executive council.

Nevertheless, whilst this 1919 Act appeared to establish a more devolved state, the powers remaining at the centre set a precedent for future Indian governance and bore hallmarks of the mixture of federal and unitary elements. Despite the provinces gaining the political mandate to manage the subjects on the "transferred" lists, ultimate responsibility lay with the Governor-General, who answered to the secretary of state for India in Britain. Limited devolved controls over finance were also ensured given the fact that they were designated under the "reserved" subject list. Furthermore, the Indian civil service

and the Indian police were directly answerable to the secretary of state—the governors did not need to act in accordance with or on the advice of their ministers and no bill could become law without the approval of the Governor-General (Mitra, 2011).

Nationalist demands were not met with the 1919 Act and pressure from these groups resulted in Britain forming the Simon Commission (1927-9) in order to establish ways in which power could be further extended to Indians. Yet largely due to the fact that all members of the Commission were British, the Commission was boycotted and demands were made by the National Congress to convene a Roundtable Congress or Constituent Assembly to establish a future constitution for India.

A 1933 British White Paper, the precursor to the 1935 Government of India Act, set out the principles of constitutional reform. The Government of India Act of 1935, in large part to meet the demands of the Congress Party, committed the British government to a federal form of government in India (Narang, 2003). It created three lists to divide subjects—Federal, Provincial and Concurrent. Soon after the Act elected governments took offices in 1937; yet the Congress's continual dissatisfaction with the levels of autonomy and the intrusion of the centre into provincial affairs caused all Congress-led party governments in the provinces to resign in 1939 (Mitra, 2011).

During this time, while the Congress had initially advocated decentralization, growing nationalism and sentiments of independence were swaying some within the Congress towards centralization. In 1942, Sir Stafford Cripps proposed to the Congress a Constituent Assembly which would frame a new constitution for India. A component of this proposal was that the British government would allow any province to opt out and retain its constitutional position outlined in the 1935 Act. Cripps's proposal was rejected by the Congress, in large part due to the increasing preference for centralization in the Congress and the elements of pro-decentralization embedded within the proposal (Mitra, 2011).

Consequently, the British government in 1946 announced a British Cabinet Mission Plan, which envisaged a weak central government and strong provinces which would have all residual powers. Whilst initial reactions within the Congress were not in favour of the Plan, it was eventually accepted by the Congress. According to Mitra (2011), the main reason for this reluctant support was that the Congress believed the Plan would potentially stop the Muslim League from demanding a separate state in the form of Pakistan.

However, this was not to be the case as in 1947 the British government announced that it would partition the country. The resulting constitution that was adopted by the Constituent Assembly in 1949 and which came into force in 1950 is best understood as emanating from this context of British attempts to decentralize whilst maintaining a certain amount of central control and growing demands within the Congress for a strong centre.

Whilst the initial aim of the Congress focused on ensuring greater representation for Indians, the position of the Congress developed into a strong preference for unitary and centralized government as opposed to federal solutions, partially in response to opposition to British rule and also partially as a result of the independence movement which was emerging. The 1935 Government of India Act, with its commitment to a federal approach to governance, has been quoted as being in response to increasing communal antagonism as a result of the Congress party focusing on centralization and also the perception of Muslims that the Congress, whilst it included Muslim members, was predominated by a Hindu agenda (Narang, 2003). In this sense, the position of the Congress and the objectives of the British during this period appeared to propel the other towards either federal or central solutions.

Although the overall position of the Congress was in favour of centralization, Muslims were in fact advocating for federalism given their apprehensions of the emergence of a Hindu-dominated India. It is potentially for this reason that during the early 1900s, the Congress did at times coalesce with the British agreeing, albeit often reluctantly, to federal developments. For example, the Lucknow Pact of 1919 between the Congress Party and the Muslim League, and subsequent negotiations between the two were based on concessions to federalism (Narang, 2003). At the Nagpur Session of 1920, for example, the Congress indicated that India's federal structure would be formed on the basis of language and this approach was also stated as a political objective in the Report of the Nehru Committee of the All Parties Conference in 1928 (Mawdsley, 2002) (see later in this chapter for further discussion on territorial and linguistic state formation).

As discussions of independence and a new constitution were reaching their height, debates were centred on a federal structure and a federal constitution for India. Concessions by the Congress Party were made in order to further the freedom and independence movement. In 1946, despite Nehru's preference for centralization, he suggested to the Constituent Assembly a Republic of India whereby the territories would "possess and retain the status

of autonomous Units, together with residuary powers, and exercise all powers and functions of government and administration, save and except such powers and functions as are vested in or assigned to the Union, or as are inherent or implied in the Union or resulting therefrom" (Constituent Assembly of India, 1946: 1).

However, once independence had been achieved, Congress rhetoric based on federal governance soon gave way to priorities based on unity and centralization. In this context, and especially in the vision of Nehru, the re-structuring and creation of institutions which reflected a consolidated nation state became the priority. During this early independence period, the accommodation of linguistic, ethnic or religious minorities appeared worrying and threatening to the national unity which India's leaders were attempting to achieve. In addition, whilst the Congress Party often spoke of a federal India, and even a federal India based on linguistic groups, when trying to end British rule, once independence had been achieved, the Congress tried everything that it could to ensure that the new constitution would not involve the accommodation of India's diversity through the creation of linguistically-based states (Shneiderman and Tillin, 2015). During the period when the new constitution was being drafted, emphasis was placed on creating an overarching nation state for a diverse group of people as opposed to accommodation of those distinct groups.

Immediately after independence, the partition of Pakistan, a large number of external and internal security threats and the challenge of development greatly influenced the framers of the constitution in terms of supporting but limiting the amount of devolution. Added to this was the integration of India's over 500 princely states, the modernising and nation-building aspirations of politicians within the Congress and the ethnic, linguistic, cultural and religious diversity within India (Mawdsley, 2002). The focus was therefore on a constitution which would not threaten the control of the central government and also an approach which centralized economic planning so as to address development concerns (Mitra, 2011).

Notably, more than half of the provisions were taken from the Government of India Act of 1935 with minor revisions (Charlton, 2010). The referral to the 1935 Act combined with the context in which a strong centralized nation state was being prioritized, resulted in the Constitution setting out a federal system which was designed to establish centralized power complemented by federal arrangements (Narang, 2003). Reflecting this preference for central power

was the way in which the constitution was decided upon—a law made and enforced by the central authority as opposed to negotiation or consent among the constituent federal states. According to Narang (2003: 72) the eventual overall position of the Constituent Assembly was that "a federal governmental structure alone could not work and that a fortified central authority was imperative to maintain the unity and integrity of the nation".

This was to the extent that the Assembly made clear that they did not want to name India a federation, but rather chose to call it a Union, mainly due to the fact that they wanted to emphasize that it was not an agreement among the states and therefore they did not have the right to secede from it (Narang, 2003). The constitution of 1950 ensured that it was the central authority which had the power to determine the governance structure of India, and not the federal states, and thus included a number of provisions which ensured the supremacy of the state. Residual authority remained with the central government, and sweeping powers were given to the centre in times of emergency.

The Constituent Assembly, despite increasing demands for such, did not organize the federal states of India into linguistically-based units; 28 states were formed and split into three categories—A, B and C. A states were based on a federal structure with a clear division of responsibility split between them and the central government, and comprised former British provinces. B states were made up of the larger princely states and large amalgamated unions of states and were essentially under the control of the centre and had to follow directions issued by the president. C states were former small princely states which were under the complete control of the central government, and the president administered them through a chief commissioner or lieutenant governor appointed by the president, or a governor of a neighbouring state (Narang, 2003). During the constitutional set up phase, these states were mainly established with a priority on administrative and territorial divisions, and reflected the divisions and boundaries which had been established during the period of British rule.

Singh (2008) has shown that building nationalism post-independence, especially in the context of a newly created Pakistan, is linked to the preference for a strong centre and also the reluctance of accepting a vision of a multinational India, despite acknowledgement of the country's diversity. It was also the case that economic policy, often referred to as a state capitalist

approach, followed along the lines of centralization during this period, giving a large amount of economic and political power to the centre.

It was not, however, the case that structuring India's federal system along linguistic lines and therefore attempting to accommodate different groups within India had not been raised. For example, during British rule, the idea of restructuring state boundaries to reflect linguistic groupings was raised in 1838 in reaction to the Act XXXIX of 1837 which had replaced local languages for Persian in legal proceedings discussions on revenue (Narang, 2003). Other early examples include the Nagpur Session of 1920, where the Congress agreed to a linguistic principle and also reorganized its own structure in accordance with linguistic groups and the Motilal Nehru Report of 1928, which recommended a reorganization of the country's provinces along linguistic lines. Prior to independence, Ghandi in particular was of the position that India should strive for unity whilst protecting the significance of ethnic identities.

The situation India found itself in at independence and during the drafting of the constitution, is therefore quite a dramatic shift from the proposal and suggestions that were being made even by the Congress prior to independence. During the time when the Constituent Assembly was in place serving as a provisional parliament and constitutional drafting body, a committee, known as the Dar Committee, was set up to investigate the feasibility of creating linguistic-based states. The Committee's report of 1948 argued against the formation of states based on language. Later in the same year a committee comprising Jawaharlal Nehru, Vallabhbhai Patel and Pattabhi Sitaramayya was commissioned to look into the Dar report and present some final recommendations. They too dismissed the idea of linguistic-based states due to the concern that such a structure would have the potential to provoke and encourage separatism (Narang, 2003).

Therefore, rather than basing a newly independent Indian state on language groups, emphasis was placed on political ideas—secularism, egalitarianism, political equality, national integration and democratic participation (Narang, 2003). Yet the promotion of democratic principles and the mobilization and politicization of a large diversity of groups actually made a structure which was not focused on accommodation of ethnic, religious and linguistic groups in India inadequate. Demands began to rise for increased regional autonomy and frustration grew in response to a lack of attention on linguistic issues.

After riots, demonstrations and the death of Patti Siriramulu from a hunger strike, the Congress reluctantly created the first linguistically-based state, Andrah Pradesh (Telegu-speaking), in 1953, with the other part of what was formerly Madras becoming Tamil Nadu (Tamil-speaking) (Charlton, 2010). Following this, demands from other groups began to rise even more, eventually prompting the Nehru government to appoint a State Reorganization Commission to examine the problem (Singh and Saxena, 2011).

The arguments for and against the reorganization of federal states based on language groups were varied. Those who advocated a reorganization believed that linguistically-based units would eradicate the frustrations of minority groups living within heterogeneous states, reduce internal state tensions and assist national unity. In addition, unilingual states would reduce administrative complexity and therefore increase efficiency and linguistically homogenous states would foster the internal cohesiveness necessary for democracy (Singh and Saxena, 2011).

On the other hand, those against linguistically-based units argued that such an undertaking would be very difficult to achieve. They also argued that such a structure could encourage subnational loyalties and even a "balkanization" of India (Narang, 2003: 75), which would threaten federal unity, and many considered that there were issues other than linguistic or ethnic homogeneity which were also important, if not more pertinent, such as "national security, financial viability, the requirements of economic planning, historical loyalties, geographic factors, communications, and administrative convenience" (Narang, 2003: 75).

The Commission, however, eventually reached the position that creating states based on ethno-lingual groups was the most rational and feasible method with which to reorganize the states of India and adopted the principle of linguistic homogeneity. This was accepted by the central government and most states were reorganized in 1956, with the exception of Bombay and Punjab. These two states were later split along linguistic lines, with Bombay being divided into Maharashtra and Gujarat in 1960 and, whilst there was initial reluctance to create a Punjab state as the proposal was considered religiously motivated, it was eventually split into Punjab and Haryana on linguistic grounds in 1966. Since then, Meghalaya has been granted statehood in 1971, Manipur and Tripura in 1972, and Arunachal Pradesh and Mizoram in 1986. In 2001, Chattisgarh, Jharkhand and Uttaranchal were established based on ethno-linguistic groups from Madhya Pradesh, Bihar and Uttar

Pradesh respectively.[1] In 1985 Goa was upgraded from union territory status, as was Delhi in 1998. Oommen (1990) claims that the new states created in the 1960s, and also the more recent states, are examples that ethnicity or religion have become "informally valid" bases for reorganization in some circumstances. For many, insurgencies have also contributed to their success, but for many of those states mentioned above, the fact that they are geographically located on border regions has also had a role.

In general terms this reorganization has been deemed a success, with ethno-linguistic groups being accommodated without any serious threats to federal unity. Nevertheless, it has been pointed out that whilst this policy of accommodation has been pursued in the form of reorganising states and their boundaries, the aim to homogenize India's pluralism has not been absent. This, according to Narang (2003), has been done firstly by attempting to create a homogenous civil society by expanding the market and extending citizenship and also by integrating ethnic minorities into the philosophy and interests of the ethnic majority. It is also the case that there still exist large, heterogeneous states that are not based on linguistic groupings, such as Uttar Pradesh with a population of over 160 million (Mawdsley, 2002).

SRI LANKA: A CASE OF FAILED FEDERALISM

Whilst Sri Lanka remains a unitary state, at different moments both the Sinhalese and Tamil sections of society have either proposed or rejected federal solutions to the deeply divided society in which they live. Even before the end of the colonial period in Sri Lanka, proposals had been made for a federal governance structure. In 1926, S.W.R.D. Bandaranaike, who later formed the Sinhala Nationalist Sri Lanka Freedom Party, advocated for federalism following the Swiss model and also suggested a federal arrangement with India (Bigdon, 2003). During this time Tamils were not in support of a federal proposal and rejected his suggestions. Bandaranaike subsequently abandoned his plan for a federal solution and in the 1950s, when he was prime minister of Ceylon, strongly opposed the demand for a federal constitution by the Tamil Federal Party (Singh and Kukreja, 2014).

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[1] Nevertheless, Mawdsley (2002) argues that Chattisgarh, Jharkhand and Uttaranchal were in fact based on proposals for administrative efficiency rather than the principle of language.

Other proposals in the 1920s and 1930s included one from the Donoughmore Commission, which was sent to then Ceylon to produce suggestions for a new constitution. A delegation from the Kandyan National Association submitted a federal proposal to the Commission, and Leonard Sidney Woolf, similar to Bandaranaike, suggested a Swiss-style model of federalism (Clarance, 2002). These suggestions were rejected, however, partly because during this period the Tamil Congress was more in favour of a unitary approach to governance—the leader of the Tamil Congress Party, G.G. Ponnambalam, supported a unitary structure as long as it provided representation for all the ethnic groups on the island (Edrisinha, 2011). The Ceylon National Congress, however, did not approve of this unitary and centralized power-sharing proposal.

Yet from the mid-1950s on, and especially after the victory of the Sri Lanka Freedom Party and the passing of the Sinhala Only Act in 1956, Tamil demands began to change and Tamil calls for federalism emerged. The then leader of the Federal Party and recognized Tamil leader, S.J.V. Chelvanayakam, put forward federal proposals based on a cooperative model of federalism with a strong centre (Bigdon, 2003). Whilst he at times managed to forge agreements with the prime ministers of Ceylon at the time—S.W.R.D. Bandaranaike in 1957 and Dudley Senenayake in 1965—which were aimed at power decentralization and the introduction of autonomy agreements, these agreements were far from federal arrangements (Singh and Kukreja, 2014) and eventually certain groups within the Tamil community became frustrated with Chelvanayakam. This was reflected in the general election of 1970 when independents in the north espoused their preference for secession and Tamil nationalism, with the Federal Party's federal proposal being rejected outright.

In the parliamentary election of 1970, a government led by Bandaranaike and made up of the Sri Lanka Freedom Party, the Communist Party of Sri Lanka and the Lanka Sama Samaja Party remained in power. They followed pro-Sinhalese polices and produced a new constitution in 1972. Colvin R. De Silva, the Minister of Constitutional Affairs, who was mandated with designing the new constitution, proposed that Sri Lanka be declared a unitary state. This suggestion was opposed by the Federal Party who warned that the Sinhala people should not impose such a constitution on a country that consisted of different ethnic groups and put forward arguments for a federal state and constitution.

The end product of the 1972 constitution seemingly did not take on board the suggestions of the Federal Party and has been described as "a charter of Sinhalese-Buddhist supremacy" (Wilson, 1988: 88) and a "major milestone in the process of national disintegration" (Singh and Kukreja, 2014: 195). Among other issues, the 1972 constitution removed the previous constitution's section that protected minorities, declared it the state's duty to protect Buddhism and continued to uphold the hegemony of the Sinhalese language.

In reaction to the 1972 constitution, the Federal Party attempted to unite Tamil groups into the Tamil United Liberation Front (TULF) in 1976. Federalism was no longer the demand of the Tamils; it was replaced by a demand for the creation of an independent Tamil nation-state, Eelam (D'Costa, 2013). By the time of the general election in 1977 Tamil nationalism had well and truly emerged and prior to the election, younger generations, frustrated with the lack of success of the TULF, had begun to form other groups and movements, namely the Tamil Students Movement (TSM), which split in 1972 into the Tamil New Tigers (TNT) and the Tamil Eelam Liberation Organization (TELO) (D'Costa, 2013). Reflecting sentiments of Tamil nationalism, the Liberation Tigers of Tamil Elem (LTTE) was established in 1976 and eventually came to be a rival of the TULF, who continued to follow a more moderate line (D'Costa, 2013).

The liberal United National Party (UNP) returned to power in the 1977 election, and initially proposed to replace the 1972 constitution. Yet pressure and Sinhalese reaction to TULF demands resulted in a constitution in 1978 which further consolidated the unitary state and the position of the Sinhalese.

Compounding this, in 1983 a "no separation" amendment to the constitution was passed which insisted that all members of parliament take an oath to oppose separatism. The TULF members of parliament that refused to take the oath consequently lost their ministerial seats (Singh and Kukreja, 2014). With the TULF being silenced by this amendment, Tamils soon turned to the LTTE to push their cause. Anti-Tamil riots that had occurred after the 1977 election, the "no separation" amendment of 1983 and the riots and violence that occurred in the same year heralded the end of the moderate TULF party on the one hand and the emergence of Tamil nationalism on the other. Fighting between the Sri Lankan Army and the LTTE continued until 1987 when India sent in peacekeeping forces and implemented the Indo-Lanka Peace Accord.

The Indo-Lanka Peace Accord proposed a 13th Amendment of the constitution which would set up provincial councils. According to the amendment, a governor for each province would be appointed by the president. Under the amendment, the president had the power to dissolve the provincial councils and also remove the governor, ultimately limiting the power of the provinces and ensuring the retention of central power. The Amendment was challenged by some political parties due to the fact that it potentially violated Article 2, which declared Sri Lanka a unitary state, and therefore required a referendum for implementation. It also did not satisfy the demands of the Tamils (Singh and Kukreja, 2014) due to the apparent control the centre maintained and the absence of certain features, such as judicial review, a public service commission and a parliamentary mechanism that allowed for provincial representations.

Nevertheless, the 13th Amendment was certified in 1987 and a Provincial Council System was set up. This was only short-lived, however, with the Provincial Council in the North-East only running from 1988 to 1990. On the one hand, the Tamils demanded more substantial devolution than the 13th Amendment provided and on the other, political parties such as the Janathā Vimukthi Peramuṇa (JVP) believed that the efforts of devolution were already too substantial. The Amendment, whilst recognizing Sri Lanka as a multi-ethnic and multi-lingual society, failed to resolve the ethnic conflict in Sri Lanka (Bigdon, 2003).

Attempting to reach a solution, Chandrika Kumaratunga suggested a devolution package in 1995, a year after having come to power. This package suggested the removal of Article 2 and Article 76 and proposed referring to Sri Lanka as a "Union of Regions". Whilst it attempted to meet the demands of the Tamils, especially by addressing the powers of the police and land issues, it still failed to meet the demands of the LTTE and raised concerns amongst the Sinhalese parties that giving powers to the regions was a threat to Sri Lankan unity, and was ultimately abandoned.

A modified version was proposed in 1996 which was still unacceptable to the TULF and the LTTE. Some Sinhalese politicians such as Mahinda Rajapaksa and Ratnasiri Wickremanayake also opposed the proposal. They considered it a threat to the Sri Lankan identity and thought it had the potential to cause the break-up of the country. Muslims were also critical of the proposal as they did not feel there was enough protection for them in the north and east provinces, especially if they were to be merged as stipulated by

the proposal. The package was finalized in 1997 but failed to pass through the parliament.

Chandrika Kumaratunga again tried to find a solution to the ethnic conflict in 2002 when she invited the government of Norway to take on a mediation role between the Sri Lankan government and the LTTE. The negotiation process resulted in a ceasefire agreement in 2002 and a change of claim by the Tamils, who, rather than demanding a separate state, began to consider self-determination within a united Sri Lanka, bringing discussions of a federal arrangement once again to the fore (Singh and Kukreja, 2014). Negotiations stalled in 2003 and when they were renewed later in the same year, the LTTE returned with a proposal which was effectively a demand for an independent state (Kukreja and Singh, 2008). Discussions on a federal solution had disappeared almost as soon as they had re-emerged in Sri Lanka.

The idea of federalism lost support and when Rajapaksa became president in 2005 it became apparent that he supported a tough and militant response to the LTTE (D'Costa, 2013). Whilst he held talks with the LTTE in Geneva there were no concrete outcomes. He also organized an All Party Representative Committee (APRC) to come up with an approach to a resolution of the conflict. The only suggestion to come out of the APRC, however, was to implement the 13th Amendment that had failed years earlier and was most definitely considered inadequate by the LTTE. The government was not willing to follow through with the suggestion to implement these old proposals, and the ultimate decision was instead to apply military approaches.

The civil war, which ended in 2009 with the defeat of the LTTE by the Sri Lankan government, has contributed to ethnic and political divisions and has weakened democratic governance in Sri Lanka (Samarasinghe, 2010). Singh and Kukreja (2014) explain that the military defeat of the LTTE has moved the federal idea and discussions on constitutional reform and conflict resolution backwards. Federalism and power-sharing has only recently begun to be tentatively discussed again. In the post-civil war era there remains an unwillingness on the part of the dominant Sinhalese nationalists to consider proposals for power-sharing with minorities. Whilst the LTTE has been destroyed, a fragile situation will continue to prevail in Sri Lanka until there are moves to make Sri Lankan politics more inclusive and democratic.

Among many other explanations, a possible explanation for this polarized situation regarding federalism in Sri Lanka was the competing visions and understandings of federalism. The LTTE, for example, called for a form of

regional federalism which maximizes autonomy, where substantial powers are given to the north and east regions, including the right to maintain their military forces (Singh and Kukreja, 2014). Yet Sri Lanka's UNP and the People's Alliance (which later merged into the United People's Freedom Alliance), and the international community, advocated instead an approach that draws the Tamil minority back into the Sri Lankan nation-state. Furthermore, Sri Lankan Muslims have sought to ensure that there is a certain level of autonomy and sufficient avenues for representation for minority groups within a federal structure—to ensure that the Muslim minorities, mostly in the Tamil-majority regions, are protected and represented. Finally, given the presence of non-territorial minorities, there are those that advocate for a flexible federal arrangement where territorial and non-territorial power-sharing are creatively pursued (Uyangoda, 2006).

In addition, power-sharing, since the colonial era, has been a difficult concept to instil within the political mindset. At independence, all power was vested in the centre, with a majoritarian political system established that managed to exclude Tamils from the ruling elite. The Sinhalese political elite were reluctant to consider power-sharing arrangements for Sri Lanka's ethnic groups for numerous reasons, not the least being because the colonial period in Sri Lanka had created a sense of discrimination and alienation of the Sinhalese due to the treatment of the Tamils under British rule and the significant Tamil representation in the civil service (D'Costa, 2013).

Even before the end of colonial rule the Sinhalese had begun to reassert their culture and religion, which they felt had been suppressed under colonial rule. Therefore, in 1956, when the Sinhalese Sri Lanka Freedom Party came into power, the political rhetoric became focused on the concept of "Sinhala-Buddhist Nationalism". With this came the fear that any form of accommodation or power-sharing arrangement would be a threat to the survival of the Sinhalese, lead to the demise of their culture and be a danger to their religion. Nation-building and ethnic-identity politics became closely associated with a Sinhalese-Buddhist state elite (D'Costa, 2013). Such thinking was in part connected to the writings of the 5th-century text, the *Mahavamsa*, which stated that the Sinhalese were the preservers of Buddhism and the island was their sacred home. This, coupled with the fact that whilst the Sinhalese were a majority group in Sri Lanka, were only found on the island as opposed to the Tamils who also had large populations in India, contributed to the Sinhalese and central government's position of centralized rule and discriminatory

practices towards minority groups. Even the entrenched democratic systems in place, not least the "one-man-one-vote" system, ensured Sinhalese supremacy given the demography of the country (Singh and Kukreja, 2014).

The defeat of Rajapaksa in the 2015 presidential election has ended his decade-long rule, with Maithripala Sirisena becoming the new president. A large number of Tamils and Muslims voted for Sirisena; however, according to the media, "Sirisena, from the Sinhala majority, has not signalled any departure from Rajapaksa's hard line on reconciliation with the country's Tamil minority" (*The Guardian*, 2015). The current position of the Tamil National Alliance, which has a considerable following in the north and east of Sri Lanka, is currently a moderate one in which they request federalism within a united Sri Lanka (Newman, 2015). There is recognition that there is a need to meet these moderate Tamil demands; yet the Tamil position to date has been rejected. It is potentially too soon to know the impact the 2015 leadership change may have on Sri Lanka's future governance structures, to what extent the Tamil community will feel that their demands have been met and indeed whether Sri Lanka will have a federal future.

LESSONS FOR NEPAL: A CASE OF RECENT HYBRID FEDERALIZATION

The discussions on India and Sri Lanka offer certain indicators and conditions for hybrid federalism. The overarching lesson which can be drawn from the analysis is that prevailing models of federalism are incompatible with these countries. This has resulted in the unique form of hybridity found in India, and is one of the potential reasons for failed federalism in Sri Lanka thus far, given that proposals for federalism have occurred but have been lacking in the necessary level and type of hybridity. Similarly, for Nepal, a hybrid approach to federalism appears to have enabled a decision on the federal design of the state.

Lesson One: A Mix of Territorial and Ethnic Federalism

India provides an example of hybrid federalism in relation to a mix of territorial and multinational federalism. Three factors contribute to the success of India's federalism in containing ethnic conflicts. Firstly, the language claims of minority nationalities have not been anti-India per se and have not posed a life-threat to the nation-state. The recognition of special language needs

granted a special right to minority people who as a consequence gradually become more involved in political processes. Democratic inclusiveness and participation made people become pro-India and embody civic virtues. Secondly, collective regional identity did not translate into ethnic identity. Overlapping identities changed previously unique ethnic identity into regional identity, thus strengthening the national identity. Thirdly, there is a safeguard enabling the central government to deal with internal suppression when one ethnic group dominates. Federal institutions provided countervailing measures to reduce the domination of one ethnic group; and the centre has been strong enough to protect civic rights in provinces and sub-provinces.

Prior to its new constitution, federal proposals in Nepal were varied, and suggestions for "hybridity", albeit with different terminology, were not absent. As Lecours (2014) explains, whilst all political parties expressed their support for a federal governance structure, they were divided on the form federalism should take, especially with regard to the formation of the federal units. Some political groups, namely the Madhesi parties and leaders of the indigenous nationalities, advocated an "identity-based" federalism based on ethnic groups. The Nepali Congress (NC) and the Communist Party of Nepal-Unified Marxist-Leninist (UML) parties, on the other hand, advocated federalism more along territorial lines. The Unified Communist Party of Nepal-Maoist, meanwhile, supported federalism, but, according to Lecours (2014), was internally divided over whether ethnicity should be institutionalized through federalism. Lawoti (2012) has argued that there is a need for group autonomy and that this should be prioritized over decisions based on territorial or non-territorial federal design or through provisions for small groups.

Nepal's constitution of 2015 has established seven states under a hybrid federal approach. Rather than creating states on the basis of ethnicity, these units are primarily based on viability, with ethnic considerations being incorporated. Previous proposals leant more heavily towards either ethnic or territorial federalism, despite the fact that the first Constituent Assembly had agreed that units would be based on the principles of identity and viability (Bishwakarma, 2015). For example, in 2010, the Committee for Restructuring of the State and Distribution of State Powers of the Constituent Assembly produced a federal map of fourteen units which were based primarily on ethnicity, with capability largely ignored (Karki, 2014). This proposal was rejected by some committee members associated with the NC and UML parties who proposed a six-unit model in response. Subsequent proposals ranged

from six or seven provinces to ten, eleven or fourteen provinces, vacillating in emphasis on identity and capability. Whilst Nepal attempted to instigate hybridity in the form of provinces that incorporate ethnic and non-ethnic principles at the onset of federation, and India has done this through gradual reorganization, it is similar to India in that an application of pure territorial or ethno-federalism has not been feasible.

Lesson Two: Political Parties and Democratization

In addition to the federal design of sub-units, as India has shown, processes of democratization, and in particular the formation and type of political parties that are possible, contribute to the success of hybrid federal arrangements and ultimately the mitigation of ethnic tensions, the fostering of reconciliation and the presence of favourable governance structures. Two factors which are seen to contribute to the success of India's federal model are its parliamentary system and coalitions consisting of polity-wide and regional political parties. Whilst there are those that suggest that the presence of regional parties will lead to instability (see Brancanti, 2006 for example), India appears to prove otherwise. This is because the parliamentary system has allowed regional, and even secessionist, parties to form ruling coalitions at the centre. The ability to form coalitions with polity-wide parties has potentially enabled parties to be "regional-centric" as opposed to "regional-separatist" (Stepan, Linz and Yadav, 2010). The central bias in India's federal design is therefore balanced by its parliamentary system and the ability to form coalitions. In terms of democratization, a key consequence in the Indian case is increased mobilization of different groups within these states. In India this has led to a reorganization of states and also, as was evident in the post-emergency period, a strengthening of regional parties, which potentially contributed to coalitions between polity-wide parties and regional parties. Sri Lanka, on the other hand, created a semi-presidential system in 1978, and since 1956 Tamils have had no opportunity to form coalitions with polity-wide parties. After 1957, no Tamil from the north has become a federal minister and since the 1970s, no major "Tamil-centric" party has existed (Stepan, Linz and Yadav, 2010).

In the 2013 elections in Nepal, 139 political parties registered, 76 of which did not exist at the previous elections in 2008. Many of these parties were regional- or ethnic-based (D'Ambrogio, 2014). How these regional parties will be able to share power at the centre will be crucial to how federalism will take hold. The new constitution will no doubt also spur the creation of

new political parties. Baburam Bhattarai, Nepal's former prime minister and top Maoist leader sympathetic to Madhesis, quit his party soon after the passing of the constitution to form his own political "force" due to differences with the major Nepalese political parties over the new constitution (*The Times of India*, 2015).

India and Sri Lanka present two different cases of democratization. While both states have followed a democratization-mobilization dynamic, the management and reaction to this mobilization has been crucial to the peaceful resolution of ethnic conflicts. In the Indian case, management led to further representation and inclusion of regional parties in the politics of the centre, and thus shared-rule complemented self-rule. In the case of the state reorganization period, negotiation and compromise gave way to the reformation of states that were not considered a threat to the unity of the country. In Sri Lanka, on the other hand, the management of, and reaction to, mobilization led to violence and civil war. A possible contributor to this is the lack of inclusion of regional parties in the centre and the perception that minority groups accommodation is a threat to the unity and identity of the state.

According to Byrne and Klem (2014), the political space for ethnic minority rights remains highly constrained in Sri Lanka. The previous government insisted that there was no ethnic problem, only one of development and poverty, and did not consider there a need to engage in dialogue with the Tamils—it instead requested the all-party mechanisms to reach a consensus before engaging with the government, which effectively reduces suggestions to lowest common denominator ones. It also means that the government could avoid taking a position on issues of ethnicity. This, according to Byrne and Klem (2014: 6), was a "charade of inclusive democracy staged by what [was] in fact a very majoritarian government with authoritarian reflexes".

Byrne and Klem (2014) assert that there are two main post-war effects on politics in Sri Lanka. The first is the silencing effect, which involves the reduction of space for dissent and opposition views. The second consequence is that it increased the space for politicking and in general, an increase in petty politics (see also Uyangoda, 2005).

Lesson Three: Mobilization Demands

The types of demands made during mobilization also contribute to the likelihood of a reduction in ethnic conflict and the chance for hybrid federalism to take hold. Mobilization for autonomy in India has generally been via calls

for greater representation and inclusion and engagement. The presence of certain groups within India that have sought secession during different periods, and the issues surrounding Jammu and Kashmir notwithstanding, it has also largely been the case that rather than pushing for linguistic or cultural separation, it has been the fight for greater access to and power within Indian politics that has been the concern of regional parties. For Sri Lanka, on the other hand, mobilization for autonomy has predominantly been for independence and the maintenance of the Sri Lankan government's power on the one hand and the state created by the Tamils on the other—potentially making a solution more unworkable as both the Sinhalese and Tamils claim statehood. Stepan, Linz and Yadav (2010) refer to cultural nationalists, rather than territorial nationalists, as being more amenable to accommodation and peaceful relations.

In Nepal, the reaction from the Madhesis in particular to the constitution suggests that the implementation of federalism as per the constitution may not resolve secessionist claims at this stage. Ethnic leaders in the lowland regions of Madhes are unhappy with the way their region has been divided and Madhesi leaders such as Sadbhavana Party Chairman Rajendra Mahato have threatened to break away from Nepal (Sangruala 2015).

Nepal's hybrid federal approach is promising, yet it is not absent of ongoing difficulties and its constitution will no doubt require further amendment. Rather than celebrations, there have been strong protests to the constitution which have prompted much violence. Externally India has not reacted warmly to the constitution and nor has the United Nations extended congratulations (Mukharji, 2015). Some commentators have offered that the future of the constitution depends on how the three main political parties include the Tharu and Madhesi parties into mainstream politics (Phuyal, 2015), reflecting Stepan, Linz and Yadav's (2010) regional-centric and regional-separatist dichotomy. Amendments to the constitution will also be necessary, and, similar to the Indian constitution which has had numerous amendments, the Nepalese constitution can also be amended relatively easily, requiring only a two-thirds majority parliamentary approval in all areas except sovereignty (Phuyal, 2015).

Lesson Four: Secularism

Through the reorganization of states in India, emphasis has primarily been on linguistic differences as opposed to religious accommodation, thereby

ensuring that the organization of states into linguistic groups did not threaten the secular ambitions of the state—linguistic units could be justified along administrative and efficiency lines as opposed to conceding to ethnic demands. Religious accommodation instead has been treated as cutting across federal boundaries and applied nationally in the form of personal religious laws. Sri Lanka, on the other hand, does not adhere to the principle of secularism and its 1978 constitution refers to it as a Buddhist state, and state subsidies favour Buddhists.

Proposals for Sri Lanka to "de-ethnicize" negotiations on future proposals also reflect the idea that secularism has the potential to facilitate the adoption of hybrid federal solutions (Uyangoda, 2005: 969). Uyangoda (2005) suggests a contractarian approach for Sri Lanka whereby a new social contract is devised to provide the moral and political bases for the state. Such an approach focuses on ethnic justice and ethnic fairness as opposed to religious rights. In order to do this he suggests to first have a de-ethnic approach to reconfigure groups as equals paralleling the "state of nature" in classical contract theory and "original position" in Rawl's theory of justice (Uyangoda, 2005).

Bolstering the argument for a link between secularism and federalization is Nepal's new constitution which refers to it as a secular state. This inclusion has not been free from protest or strong opposition, yet has managed to remain within the preliminary articles of the constitution. It is, however, accompanied by explanatory text that states that, "for the purpose of this article (Article 4), 'secular' means protection of religion and culture being practiced since ancient times and religious and cultural freedom" (Constitution of Nepal, 2015), prompting concern by some religious groups that this implies protection and preferential treatment of Hinduism (*The Economist*, 2015).

Lesson Five: Sequencing

In terms of the sequencing of hybrid federalization, there are two main lessons to be drawn. The first is that India's positive example and the challenges in Sri Lanka demonstrate that there needs to be a certain strength at the centre which enables minority and peripheral groups to be drawn into, but the centre cannot be domineering so as to hinder an appropriate level of autonomy for different groups. Secondly, the cases of Sri Lanka, India and Nepal all suggest that a certain level of renegotiation of values with reference to identity, religion, culture and ethnicity is required to take the first steps of hybrid federalization. Once this has occurred, the likely reaction is for demands to

increase for ethnic representation, rights and autonomy. At this stage, renegotiation which blends secularism and ethnic and religious accommodation occurs in the form of hybrid approaches to federal structures. To borrow Uyangoda's (2005: 969) term, a form of "de-ethnicization" of issues must take place before accommodation based on equality, integration and participation can be fully realized.

Secondly, a hybrid federal approach involves different modes of progression, and new constitutions may create watershed moments for change, yet progressive and incremental progress is also discernable, especially in states such as India where its constitution has gone through a plethora of amendments. An additional type of progress is a pendulum model. Like a pendulum, Indian politics has been, and continues to be, characterized by ongoing negotiations and power arrangements which sway between centralized rule and federal arrangements. Moments in history have seen preference for a strong, unified nation with significant powers being held by the central, national government and also proposals for federal and even confederal solutions to India's governance challenges. Where federal solutions have been pursued, the type of federal structure which should be implemented has also been contested and redesigned during the period since India's independence, with another pendulum swinging between preferences for territorial or linguistic-based federal units.

The pendulum model allows for the recognition that a hybrid federal approach is inherently unstable—both progression and regression are possible and both will occur until a consensual level and type of hybridity is achieved. Federalism has rarely been settled at the point of constitutional promulgation, and a certain amount of "muddling along" and revision is typical of federations and federal-type states such as India and Spain. In Nepal, there was substantial determination to find answers to many of its federal questions before the constitution was decided. A flexible approach may prove to be valuable to Nepal in the future and recognizing that future revision and change is possible, and in many cases inevitable, may aid future developments.

Lesson Six: The Nature of Diversity

Finally, the nature of diversity within a state, and how diversity is regarded and approached, is also an indicator of where and when hybrid federalism will take hold. India, with a high level of diversity, has managed to adopt federalism, while Sri Lanka, which has two main ethnic groups, has failed to reach

an acceptable solution—federal or otherwise. A high level of diversity in Nepal is, in fact, an indicator of high prospects for hybrid federal solutions, despite the difficulty it has gone through to create a new constitution. Hale (2004) supports this argument as he claims that the presence of a "core ethnic region" can increase the likelihood of federal failure, and Adeney's (2012) discussion on Punjab in Pakistan as a core ethnic region also reflects this argument. A high level of diversity is also an indicator that purely territorial or multinational solutions are unworkable and in need of hybrid federal solutions.

CONCLUSION

This comparative study of India, Sri Lanka and Nepal has identified some conditions and obstacles to hybrid federalization, and the value of hybrid federal arrangements in the divided and diverse states of South Asia. India's mix of territorial and multinational units, its political system comprising regional and national parties that can participate in the centre and its secular approach are just some conditions which serve its federal system well. Key to hybrid federalism is room for compromise and negotiation, and mechanisms that seek to overcome the polarization of demands, debates and ideas. Conditions for these elements are present at least to some extent in India and are generally lacking in Sri Lanka, where debates on federalism have been present but continue to be contested. Notably, many of the conditions in India that appear to foster federalism are conspicuously absent in Sri Lanka at this stage.

The challenge of implementing federalism in Nepal, whilst unique, can benefit from lessons arising out of India and Sri Lanka. At this stage Nepal's federal design involves a mix of territorial and ethnic federal elements which have the potential to allow for the Nepalese to be represented at both the local and federal level according to their location and potentially numerous identities. This may allay fears that minority groups within federal units would not be represented nor have their voices heard; yet not all groups in Nepal are satisfied with the arrangements under the constitution, including the Madhesis and the Tharus, a sizeable minority in western Nepal (Mukharji, 2015). Minority representation and accommodation has been a concern in all three countries under scrutiny in this chapter and while the implementation of hybrid federalism may be the best way in which to address this unease, its exact nature and the broader constitutional and institutional context in which it will be embedded is crucial to its success.

In addition, reactions to democratization and the subsequent mobilization of groups within the state need to include political processes whereby regional parties and national parties can form coalitions and interact. Group representation at the centre, as India has shown, is crucial to creating "regional-centric" as opposed to "regional-separatist" parties (Stepan, Linz and Yadav, 2010). Also, secularism, and the forging of common values and overlapping identities and loyalties, contribute to the "holding-together" dynamic noted as being intrinsic to Asian federalism (Stepan, 1999) and can facilitate further negotiation, hybridization and federalization. The long-term results of Nepal's constitutional and federal developments remain to be seen. Time will tell whether hybrid federalism takes hold in Nepal and contributes to a peaceful and inclusionary state.

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